



MINUTES OF THE WHITEWATER LANDMARKS COMMISSION

SPECIAL MEETING – July 13, 2017 – Municipal Building, 312 W. Whitewater St., Whitewater, WI

The special meeting of the Whitewater Landmarks Commission was called to order at 6:00 p.m. on July 13, 2017. MEMBERS PRESENT: Blackmer, Helmick, Kienbaum (Ken), Richardson, Haselow, Grady. MEMBERS AB SENT: Haselow. (NOTE: There is currently one open position on this Board). OTHERS PRESENT: Michele Smith, City Clerk; Mariann Scott, Peter Disley Linda Loomer, Kori Oberle, Brian Oberle, Elizabeth Oberle.

It was moved by Grady and seconded by Helmick to approve the agenda and to waive the 72-hour minimum notice requirement for the meeting. AYES: Blackmer, Helmick, Kienbaum, Richardson, Grady. NOES: None. ABSENT: Haselow.

LANDMARKS / BIRGE FOUNTAIN COMMITTEE CHANGES AS PRESENTED BY COUNCILMEMBER GRADY.

Landmarks Chairperson Blackmer explained that the special meeting was called for discussion and comment on the ordinances proposed to the Common Council by Councilmember Grady, who also serves as Council representative to the Landmarks Commission.

Blackmer addressed Chris Grady confirming that Grady has proposed the changes. She indicated she believed it was customary that when an ordinance change is proposed that affects a Commission, that it be discussed with fellow Commission members. Blackmer questioned whether this has occurred. Grady responded that over the last three months, it has been requested of him by another councilmember. Blackmer questioned whether this discussion occurred in an open meeting. Grady indicated it had not,

but he indicated that it was not a problem, because not more than three people were involved in the discussion.

Blackmer asked Grady who authorized him (Grady) to contact the City Attorney to draft the ordinances. Grady responded that as a Councilmember, he has the authority to contact the City Attorney and have an ordinance drafted for proposal. He indicated this option was available to any councilmember.

Blackmer indicated that Grady has been a member of the Landmarks since May, has attended all meetings except July, when Grady was on vacation and the meeting was taped at his request and for his information. She stated that Grady never once brought the ordinance change matter up to the board. She indicated this intrigues her because he serves as the Council representative to the Landmarks Commission. Chris Grady responded that he was not going to get into an argument about it – he indicated there is difference of opinion as to which body is responsible for the Birge Fountain. Grady indicated that the manner in which the current ordinance is written may assign duties for the fountain to two different bodies, and it is not working.

Commissioner Helmick indicated that the original intent of the Birge Fountain Committee is that they would take full control of maintenance. Resident Mariann Scott, past Landmarks Commission chairperson, indicated the intent as noted was correct, and it was handle in this manner because the Landmarks Commission was not meeting regularly at that time. Scott served for eleven years on Landmarks Commission, and she indicated that both groups worked together during that time period. She believes the current arrangement works well. Councilmember Grady indicated that some Birge Fountain Committee members do not feel that way.

Ken Kienbaum, who serves on both the Landmarks Commission and the Birge Fountain Committee stated that two people on the Birge Fountain Committee claim it is “their” fountain. Kienbaum’s opinion is that maintenance is not being kept up.

Commissioner Helmick inquired whether this ordinance was brought up before the Birge Fountain Committee. Grady indicated it was not.

Blackmer indicated that Councilmember Grady took this proposal before the Common Council prior to informing either the Landmarks Commission or the Birge Fountain Committee.

Resident Kori Oberle indicated she has served on Landmarks Commission twice – once in the 1980s and a second term that she resigned from recently. The ordinance states that the Landmarks Commission is responsible for ***oversight and safekeeping of local landmarks***. The Landmarks Commission is also responsible for city-owned historically significant property. She stated that the Fountain was given to the residents of the City in 1904 and it belongs to everyone. She indicated that it is unfortunate that certain members of the Birge Fountain Committee are not willing to work with the Landmarks Commission. Oberle noted that two members of the Birge Fountain Committee members reported to the Landmarks Committee in May of 2016 stating they were not successful in arousing concern amongst the Birge Fountain Committee to meet. Oberle continued by stating that on March 17th a special Landmarks meeting was held as Birge Fountain Committee was not going to meet. At that time, Birge Fountain Committee member Allen attended that meeting, and during that meeting, showed that he was extremely ineffective in carrying out his role as a Birge Fountain Committee member. At that meeting, there was a unanimously approved motion to contact the City Manager to request mediation between the two groups. Even after more than one attempt to get this moving forward, Oberle noted that we are now in mid-July, and nothing has been done within the last several months. Oberle requested that personal conflicts be resolved so that work can move forward on the Fountain.

Councilmember Grady responded that the events as noted are exactly why some members want the ordinance changed. You state it is your opinion that it is not being well maintained. Grady is hearing other opinions to the contrary. Grady indicated that the conservator representative came to view the Fountain and indicated it will need maintenance *in the future*. Kori Oberle disagreed, indicated that several people were there in person, and there are different perspectives of the comments that were made by the conservator.

Commissioner Helmick indicated that the request was to sit down and mediate concerns. Grady responded that the Birge Fountain Committee has compromised, and has agreed to the hiring of a consultant. Helmick indicated that the purpose of the mediation was to work on the Birge Fountain Committee and the Landmarks Commission being able to work more efficiently together. Oberle added that the mediation was requested to help repair the damage that occurred as a result of one BFC member's unprofessional behavior in an open and public meeting of the Landmarks Commission.

Chairperson Blackmer wanted to be sure that Councilmember Grady knew that she had to convince members of the Landmarks not to start legal action against the Birge Fountain Committee attendee because of his behavior at the meeting, and it had been suggested that this behavior be brought before the Ethics Committee. Blackmer indicated that the group has not done that and in fact Landmarks has offered some protection to that Birge Fountain Committee member in terms of a summarized set of

minutes. Blackmer suggested that Grady may not be aware of the history. Blackmer continued by stating that Landmarks is not attempting to overtake anything, but the Commission has been charged with overseeing Landmarks, and the Birge Fountain is a local Landmark. If Birge Fountain Committee believes Landmarks is trying to take over, it has been misinterpreted.

Blackmer asked Councilmember Grady to withdraw his ordinance changes from the Council agenda. Councilmember Grady was not willing to do so, as he is looking for clarification about the Committee responsibilities. Grady indicated that the Landmarks Commission should contact **Councilmembers** if they believe the Fountain is not being properly maintained. Resident Kori Oberle indicated the group tried, but that did not go anywhere. Oberle thought proceeding through mediation first, then changing ordinances as needed makes more sense. Chairperson Blackmer agreed that this makes sense. Blackmer again asked Councilmember Grady to commit to withdrawing his ordinances from the Council Agenda and expedite the mediation. Grady indicated that the ordinances as they stand do not make sense. He re-iterated his instructions about complaints should be brought to **Council**. Oberle indicated Landmarks leadership **have brought concerns to the City Manager** several times over the last year. Councilmember Grady explained that talking to the City Manager is not the same as talking to an elected representative. Oberle explained that they are talking to a councilmember at this very moment.

Resident Mariann Scott asked why mediation is being resisted. Councilmember Grady indicated that he does not object – mediation is not out of the question. Scott suggested that Grady withdraw his ordinances until mediation can occur, indicating it is an entire area that has not been tried yet.

Commissioner Kienbaum indicated that the Streets Superintendent could be more helpful with regard to fountain matters. Councilmember Grady cautioned people to be cautious of what they say. He indicated that the group is not covered by city insurance. Kienbaum indicated that the Streets Superintendent is lax about maintenance of the fountain. The Commission indicated that Grady “surprised” the Commission with these ordinances, and Commissioner Haselow asked Grady to pull the ordinances from the council agenda. Grady indicated that the issue between the Birge Fountain Committee and Landmarks has been festering for awhile, but Grady did express agreement that the mediation as requested by Landmarks should have occurred by now.

Chairperson Blackmer provided a history of the Birge Fountain maintenance. In 1983 when the cherub was stolen, there was a united effort by a committee to move forward and raise funds for restoration. From 1983-1985 funds were raised. After the repairs, funds were left over. From that situation the need to have someone accountable for the money was raised, and the Landmarks Commission suggested that the Birge Fountain Committee be created. Dr. Roy Nosek took the reins. A group of

citizens worked diligently to paint and maintain the Fountain so the City did not have to be responsible for everything. When Dr. Nosek retired from the Birge Fountain Committee, the maintenance work transferred to the already overworked city workers. Blackmer explained that her purpose is not to criticize, but to offer to assist. The Landmarks Committee urges that something be done. Blackmer questioned whether Grady was aware of a pending Birge Fountain meeting. She noted that they met in December of **2015**, and Landmarks attended that meeting to express their concerns and to offer assistance. Blackmer noted there was only one Birge Fountain Committee meeting in **2016**. She noted that the original ordinance indicated that the Committee should meet monthly or as needed. In 2017, at the request of the Landmarks Commission for a joint meeting, they met in January. At that meeting, the next meeting was scheduled to be held in March, 2017. Birge Fountain Commissioners cancelled that meeting then met in April.

Ken Kienbaum, who also serves on Birge Fountain Committee, indicated that meetings have even been requested by Birge Fountain Committee members, and the requests have been ignored.

Councilmember Grady indicated that this is exactly the point where Landmarks should have gone to the **Common Council** and brought these concerns to them. He noted that the Common Council oversees all city business.

Resident Mariann Scott indicated that the council representative's responsibility is to report these matters to the Council and keep them informed. Councilmember Grady acknowledged that he has not informed the Common Council of the Landmarks concerns regarding the maintenance of the Birge Fountain. Scott indicated that Grady is not relieved of responsibility for this problem. Grady explained that he is waiting for the conservator's report to arrive before going any further. Resident Scott indicated that he did not have to resolve the problem, but merely report it to the Council, and that has not occurred. Landmarks Commissioner Richardson stated "hence the need for the oversight." Councilmember Grady agreed that there is great confusion over who oversees what. Councilmember Grady stated that he is not aware of the status of the conservator's report.

Chairperson Blackmer again asked Grady to table or to remove the changes to the Birge Fountain ordinance from the Council Agenda, at least until after mediation. She indicated that fuel is being added to the fire, and that mediation is necessary. Councilmember Grady responded that he does not have knowledge why the mediation has not happened, and that is a matter to be taken up with Council President Singer and City Manager Clapper, and they must have a reason.

Chairperson Blackmer said, as our councilmember representative, you need to take a hold of this issue and take it to them. She reminded him that he is the mentor for the Landmarks Commission and he is not helping them. She said that he is, in fact, acting contrary to the Commission.

Councilmember Grady indicated that the scheduled Council meeting on July 18th will determine which direction the Councilmembers want to go. He agreed the ordinances may fail, and if that is the will of the Common Council, so be it. He indicated that this consistent bickering is insane.

Commissioner Helmick asked what bickering has Grady heard from Landmarks? Grady responded that he is hearing concerns from both sides, including councilmembers, and it has to end. Thus the reason for council input and possible action. Helmick questioned why the matter wasn't taken to Council previously if you say you are hearing from both sides, and why no response to the requested mediation? Why go to the embarrassment of having this come out in a public forum. He stated that Landmarks is trying to find a professional way to deal with this and to eliminate disagreements.

The second proposed ordinance, requiring Council ratification of any Landmarks Commission designated Landmark will also be going forward to the Council. The Landmarks Commission overall disagreed with this, stating that if this were to be adopted, there would be no need for a Landmarks Commission.

It was determined that the Landmarks Commission would not be able to convince Councilmember Grady to withdraw his ordinances from the Council Agenda.

It was moved by Helmick and seconded by Richardson to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 7:19 p.m.

Respectfully submitted,

Michele R. Smith, City Clerk

