

**PROCEEDINGS FOR REGULAR COMMON COUNCIL MEETING
SUPERIOR, WISCONSIN
Tuesday, June 18, 2019**

The Regular Meeting of the Common Council was called to order by Mayor Jim Paine at 6:30 p.m. in the Government Center, Board Room 201.

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL

Present: Dan Olson, Jenny Van Sickle, Warren Bender, Jack Sweeney, Brent Fennessey, Tylor Elm, Ruth Ludwig, Craig Sutherland, Keith Kern, Esther Dalbec – 10

Youth Councilors: Jeffrey Newman

Also Present: Mayor Paine, City Attorney Prell, City Clerk Kalan

MOTION by Councilor Bender, seconded by Sweeney and carried, to suspend the rules and move item 8.5 to beginning of agenda.

3. PROCLAMATIONS AND COMMENDATIONS

3.1 SELECTION OF COUNCIL PRESIDENT

Opinion from City Attorney.

MOTION by Councilor Fennessey, seconded by Sutherland and carried, to approve a one-time action of the body to move forward with a cutting of the cards to determine the president of the council, ace being high.

Mayor stated the motion is out of order, but recognized there is a division and would turned the decision to the council and requested a roll call vote as to whether his ruling was out of order. Roll call vote taken and failed.

AYE – 4 Van Sickle, Bender, Elm, Ludwig

NO – 6 Olson, Sweeney, Fennessey, Sutherland, Kern, Dalbec

The motion by Councilor Fennessey to cut cards as a one-time action carried by roll call vote:

AYE – 6 Olson, Sweeney, Fennessey, Sutherland, Kern, Dalbec

NO – 4 Van Sickle, Bender, Elm, Ludwig

City Attorney Prell stated that the Ace was high and no hierarchy by suits. In the event of a tie, the councilors would redraw.

Councilor Ludwig stated she will would not go against her integrity and principal by drawing a card, however she asked Mayor Paine to draw in her place.

Councilor Fennessey drew a 4 of hearts; Mayor Paine drawing for Councilor Ludwig drew a 2 of spades.

City Clerk Kalan declared Councilor Fennessey Council President by cut of the cards.

4. APPROVAL OF MINUTES June 4, 2019 - Regular Council meeting.

MOTION by Councilor Fennessey, seconded by Bender and carried, to approve.

5. PUBLIC HEARINGS

5.1 R19-13439 Resolution introduced by the Community Development Division to amend and approve the 2019 Action Plan; authorizing staff to submit plans to U.S. Department of Housing and Urban Development.

No one spoke in favor of or opposition to.

MOTION by Councilor Dalbec, seconded by Bender and carried, to adopt the resolution.

5.2 Public Hearing to consider non-renewal of applicants in Part 2 of the 2019-2020 Alcohol Report.

	Corp Name	Trade Name	Address	Delinquent
a	RamCorp, Inc.	Aces on 29th	2827 Oakes Avenue	Special Assessments
b	Charlie Brown's of Superior, Inc.	Charlie Brown's	1828 Iowa Avenue	Special Assessments
c	IKIS Inc.	Izzy's BBQ Lounge	1506 N 3 rd Street	Special Assessments Personal Property
d	Mencel Corporation	Landmark Lanes	1914 Broadway Street	Special Assessments Personal Property
e	Atypical Enterprises, Inc.	Main Club	1217 Tower Avenue	Special Assessments
f	Tower Avenue Tavern, Inc.	Tower Avenue Tavern	405 Tower Avenue	Special Assessments

City Clerk Kalan noted that all delinquents have been paid except for the Special Assessments for Landmark Lanes. She believes this was an oversight and is recommending council approve all licenses contingent upon delinquents being paid by Wednesday, June 19, 2019.

MOTION by Councilor Olson, seconded by Bender and carried, to approve.

6. CONSENT AGENDA

MOTION by Councilor Fennessey, seconded by Sutherland and carried, to approve the Consent Agenda.

Communications and Reports Received and Filed:

- 6.1 Wisconsin Point Committee minutes, May 22, 2019.
- 6.2 Parks & Rec Commission minutes, May 23, 2019.

7. STANDING COMMITTEE RECOMMENDATIONS FOR APPROVAL

8. BUSINESS BY DEPARTMENT HEADS

City Clerk Kalan

- 8.1 Recommending approval of miscellaneous licenses.
MOTION by Councilor Dalbec, seconded by Elm and carried, to approve.
- 8.2 Recommending approval of an original Class B Liquor and Beer application by Piper Hospitality Group, Trade Name: Who's Bar and Grill, 1114 Tower Avenue, Agent: Darlene Lindberg, for the license period, expiring June 30, 2020.
MOTION by Councilor Kern, seconded by Dalbec and carried, to approve.
- 8.3 Recommending approval of an original Class B Liquor and Beer application by New China Inc., Trade Name: New China, 15 Belknap Street, Agent: Wei Min Ye, for the license period, expiring June 30, 2020.
MOTION by Councilor Fennessey, seconded by Sutherland and carried, to approve.
- 8.4 Recommending approval of an application by Fraternal Order of Eagles #80, Trade Name: Eagles Club, to appoint Patricia Sloan as Agent for the remainder of the license period, expiring June 30, 2020.
MOTION by Councilor Bender, seconded by Fennessey and carried, to approve.

Finance Director Vito

- 8.5 Requesting approval of the management agreement with Kemper Sports Management, Inc. for operation and management of the City's Nemadji Golf Course for the period December 1, 2019 through November 30, 2024.
MOTION by Councilor Dablec, seconded by Bender and carried, to approve.

Fire Chief Panger

- 8.6 Recommending approval to designate unit #205, a 1997 Spartan Gladiator tanker pumper, as surplus City property and to be eligible for auction to the highest bidder.
MOTION by Councilor Sutherland, seconded by Elm and carried, to approve.

Public Works Director Janigo

8.7 Recommending approval of the State Municipal Agreement with the Wisconsin Department of Transportation for the installation of new Interchange Signal at the intersection of STH 35 (Tower Ave) and STH 105 (Central Ave) scheduled for the 2020 construction season.

MOTION by Councilor Olson, seconded by Bender and carried, to approve.

9. BUSINESS BY THE MAYOR

9.1 Appoint Dave Miller to the Superior Business Improvement District Board of Directors for a three-year term, Thomas Janicki to the Communications & Information Technology Committee for a three-year term, and re-appoint Rebecca Wilberg to the Mayor's Commission on Disabilities for a three-year term.

MOTION by Councilor Bender, seconded by Elm and carried, to approve.

10. BUSINESS BY COUNCILORS

11. RESOLUTIONS

11.1 R19-13440 Resolution introduced by Councilor Sutherland calling for censure of Councilor Van Sickle for recent social media comments relating to the City Attorney.

Kym Young stated she was very disappointed in the city council exclaiming they were not voted into office to slander each other, attack each other on social media and build an air of hate. She questioned how the public can continue to work with the council when the council cannot work together and she encouraged them to get it together.

Parrish Jones spoke to the matter of what he considered Councilor Van Sickle's defamatory remarks concerning City Attorney Frog Prell. He has practiced law with Mr. Prell for 14 years and stated without equivocation Mr. Prell is one of the most knowledge municipal attorneys in Wisconsin. His representation of the city, knowledge of it policies, and Wisconsin Chapter 66 are unsurpassed. A number of attorneys present at the meeting have reviewed Mr. Prell's opinion and agree with its findings and conclusions. Councilor Van Sickle's statements impugning the reputation of Mr. Prell are beyond the pale. Statements that attack the integrity and reputation of an employee of the City of Superior in good standing reflects badly on this institution. It also sends the wrong message to the city's 100 plus employees. That message being, that if you dare to disagree with Ms. Van Sickle, you can expect to be called "repugnant" and "incompetent" and that employee can't defend themselves, otherwise they risk retaliation, isolation or further public harassment. He called on Councilor Van Sickle, to apologize to Attorney Prell and retract her statements, if not for self-preservation, then for all of the employees of the City of Superior who can only conclude she'd do the same to them if they disagree with her agenda.

Stephan Witherspoon stated the council has an obligation to our community to fight for the community as they were voted in to hear concerns not slander each other. He urged councilors to come together over disagreements talk about them. He stated this democracy not dictatorship and implored all to fight for every single person in the community.

Councilor Sutherland's statement: Putting together a public resolution like this was the last thing I wanted to do. When I first was made aware of the comments Councilor Van Sickle made on Twitter I reached out to Mayor Paine, who brushed it off stating "people are allowed to criticize public officials....why is that a problem." This is more than criticizing a public official, this is a personal attack at one of the city's employees. Attorney Prell was simply doing what this council asked him to do, give his expert opinion. In fact, it was the suggestion of Mayor Paine at the May 21st council meeting, that Attorney Prell do this research and bring us back his findings. You can disagree with those findings, but that disagreement can come rooted with civility, that didn't happen here. This resolution isn't meant to shame the person responsible for this attack, this resolution is us, as a body, coming together and saying that kind of behavior is unacceptable. As elected officials, we have a code of conduct we need to follow. Verbally attacking one of our city employees is a violation of that code. It was a couple short months ago, our city clerk sent out our code of ethics as a reminder to this body, yet here we are today. A vote in support of this resolution is a vote of support towards civility. A vote against this resolution simply condones this kind of behavior.

Councilor Van Sickle's statement – I will not apologize for the legitimate criticisms of the work, not to be confused with a personal attack, but the work Attorney Prell produces, especially when it comes to his opinion about card-cutting in these chambers, which has now been thoroughly debunked. It is well within my right to speak out against substandard practices at City Hall. Prell takes home a hefty salary thanks to tax payers. Elected officials are effectively his only oversight. I want to thank the 2nd District for their calls and messages over the last few days. To quote just one message yesterday, "...it has been too long since we've had someone willing to fight for us- we're still with you...thank you." Change to a city comes at a cost. I want to thank my colleagues up here who have offered their support. I know that isn't always easy. And I want to recognize very deeply what is happening today. With that said, I have reached out to Councilor Sutherland with no response. So here I will echo that same message: It is my primary interest to serve this City and continue doing the work what matters to people and improves the lives of residents. I'm asking Clerk Kalan to withdraw my resolution, however serious the content, from consideration in order to prioritize the needs of Superior. This censure will not deter my right, my responsibility, my duty to speak out. I will not back down. I told the truth. I have no regrets and I am not sorry.

MOTION by Councilor Sutherland, seconded by Fennessey, to adopt the resolution carried by roll call vote:

AYE – 6 Olson, Sweeney, Fennessey, Sutherland, Kern, Dalbec

NO – 4 Van Sickle, Bender, Elm, Ludwig

Mayor Paine’s statement: City Clerk Kalan and Superior City Council, the purpose of resolution R19-13440 to censure a named member of the City Council is to both punish this councilor for political speech and to foster an environment in which the City Council formally and legally opposes political speech with which it disapproves. This is a violation of the first amendment of the constitution of the United State and contrary to the values of a representative democracy. Government must not punish political speech. The speech in question is generated by a public elected official and is directed towards the City Attorney, a statutory officer of the City, and the content of the speech is criticism of the performance of his official duties. In to order adequately and fairly represent the citizens of Superior, this City must foster an environment of free debate. This resolution, if allowed to take effect, denies that the freedom of public debate among its members exists and does nothing to improve relationships on the City Council or with the City Staff. This resolution is in itself a violation of the standards of ethics and civility it seeks to uphold. This resolution would establish that the City of Superior has the power to regulate speech and punish speech with which its officers or representatives disagree. It is a violation of the core ideals of American Democracy and the values of the people of Superior. I have vetoed this resolution and strongly condemn those councilors who have embarrassed themselves and the City of Superior by voting for it its passage. Councilor Jenny Van Sickle is not censured and remains a member in good standing of the Superior City Council.

11.2 R19-13441 Resolution introduced by Councilor Van Sickle to censure Councilor Sutherland on grounds of violating this Council’s code of conduct and ethics violation regarding personal attacks.

Resolution withdrawn by Councilor Van Sickle.

12. ORDINANCES

12.1 O19-4151 Ordinance introduced by the Common Council of the City of Superior amending City Code Chapter 112 – Traffic Code, Schedule J, Disabled Parking Zones, by adding 1215 Lincoln Street, both sides.

MOTION by Councilor Kern, seconded by Ludwig and carried, to adopt the ordinance.

13. BUSINESS BY PUBLIC

Meeting adjourned at 7:04 p.m.

Respectfully submitted,
Terri Kalan, City Clerk
Superior, Wisconsin

Approved this 2nd day of July, 2019.

Attest:

Mayor

City Clerk