

In Attendance:

Mayor Steve Bierce, Aldermen C. Brown, B. Dziwulski, R. Grosch, J. Kara and J. Wamser. Alderman B. Bergman was absent.

Also in Attendance:

Attorney S. Riffle, Administrator S. Klein, DPW Director M. Wagner, Utility Manager J. Mueller, City Planner & Community Development Director N. Fuchs, City Assessor R. Tuff and Clerk/Treasurer K. Tarczewski.

1. Call to Order and Pledge of Allegiance

Mayor Bierce called the meeting to order at 6:33 p.m. and asked everyone to stand for the Pledge of Allegiance.

2. Public Comment - None.

3. Consent Agenda

- 3.1. Approve Common Council Meeting Minutes Dated February 15th, 2021
- 3.2. Approve Common Council Meeting Minutes Dated March 15th, 2021
- 3.3. Approve Accounts Payable Listing Dated April 5th, 2021

It was noted that the original agenda had a typo in the year of the consent items and it has been corrected. **A motion was made and seconded (B. Dziwulski, R. Grosch) to approve the consent agenda.** Motion Passed: 5-For, 0-Against.

4. **PUBLIC HEARING**, Discussion and Possible Action Regarding the Class A - Beer License Request for Smokey's LLC Located at N27 W27250 Woodland Drive and Naming John Heimsch as Agent

Ms. Tarczewski stated Mrs. Laimon was retiring and Mr. Heimsch was taking over the business. He was requesting the same beer license that is good until the end of June and will renew in June.

Mayor Bierce opened the public hearing and immediately closed it.

A motion was made and seconded (B. Dziwulski, J. Kara) to approve the Class A-beer license for Smokeys naming Tom Heimsch as Agent. Motion Passed: 5-For, 0-Against.

5. **PUBLIC HEARING**, Discussion and Possible Action Regarding the Conditional Use Permit for Zeilhofer Properties, LLC for Property Located at N4 W22540 Bluemound Road (PWC 0963-997) for the Purpose of Constructing a New Freestanding Two-Story Storage Building

6. **PUBLIC HEARING**, Discussion and Possible Action Regarding the Conditional Use Permit for Octane Coffee for Property Located at W229 N1400 Westwood Drive (PWC 0959-988-004) for the Purpose of Installing and Operating a Drive-Thru Coffee Business

Mr. Fuchs stated items 5 and 6 were tabled at the last Plan Commission meeting and will be going back to the April 15th, 2021 Plan Commission meeting. He is recommending the item and hearing be postponed until the April 19th Common Council meeting. Attorney Riffle asked if there had been

any feedback from the applicants from a procedural standpoint. Mr. Fuchs noted they are cooperating and working through how to best to address concerns.

Motion was made and seconded (B. Dziwulski, J. Wamser) to adjourn both public hearings until April 19th at 6:00 p.m. Motion Passed For-5, 0-Against.

7. Discussion and Possible Action Regarding **Resolution 21-04-10** Revising the Fee Schedule for Commercial Plan Reviews for Building, HVAC, Fire Alarm, Fire Suppression and Plumbing

Mr. Fuchs stated the City has been delegated through the State of Wisconsin to conduct plan reviews and needs to adopt the State Plan Review fee schedule. He said the City is delegated for building and HVAC. They are still waiting on the final decision for fire alarm and fire suppression delegation. Mr. Fuchs recommended amending the fee schedule so the City can charge the review fees.

A motion was made and seconded (C. Brown, J. Kara) to approve the fee schedule. Motion Passed: 5-For, 0-Against.

8. Discussion and Possible Action Regarding Well #1 Motor and Pump Rehabilitation Project
 - 8.1 **Resolution 21-04-11** Declaring Official Intent to Reimburse Expenditures for Well #1 Motor and Pump Rehabilitation.
 - 8.2 Award the Project to the Lowest Qualified Bidder, Municipal Well & Pump, in the Amount up to \$90,591.00.

Ms. Mueller stated there are several projects going on. She said well #1 at City Hall has failed and is looking to put together a bid proposal to award the lowest qualified bidder Municipal Well and Pump in the amount of \$90,591.00. Ms. Mueller stated the well has been out of service since the end of February.

Mr. Kara stated this is outside of the scope of the 2021 budget and asked if it would be part of the next borrowing. He said the City will have to use sewer utility funds to fund the project. He asked how this factors into the water and sewer utility financial assessment project with consultants. Ms. Wagner stated the City signed off on the agreement a week ago and a kickoff meeting is scheduled for next week with the financial consultant. Ms. Wagner noted this is a comfort resolution for the project. She said the City will be borrowing for this.

Further discussion took place regarding the funding and how to create a payment schedule to sewer utility based off what was allowed in the rate case. Ms. Wagner stated there have been some initial discussions regarding the assessment policy. She will take the feedback and formalize the policy and bring it back to Common Council for final review.

A motion was made and seconded (J. Kara, R. Grosch) to approve comfort Resolution 21- 04-11. Motion Passed: 5-For, 0-Against.

A motion was made and seconded (B. Dziwulski, R. Grosch) to award the contract to the lowest qualified bidder, Municipal Well & Pump, in the amount not to exceed \$90,591.00. Motion Passed: 5-For, 0-Against.

9. Discussion and Possible Action Regarding **Resolution 21-04-12** Declaring Official Intent to Reimburse Expenditures for North Avenue Well #3 Motor Control Center Project

Ms. Wagner addressed the issue with electrical surges and spikes damaging the pumps in well #3. She noted an electrical motor control upgrade needs to be done to protect the system better. Ms. Wagner stated there is money in the budget for the project, but she is not sure if the bids will come in higher or when the City will get the final bids. She said the City is moving forward with passing the comfort resolution in the event the City would need to borrow for it. She noted this is a back-up plan.

Mr. Grosch asked if this is the well that has had previous problems with motor burnouts and if the City has an estimate. Ms. Mueller stated this is the same well. She said the estimate is \$220,000.00 and there is \$220,000.00 in the budget.

Discussion took place regarding preventative maintenance and emergency repair costs. Ms. Wagner stated she does not have the exact numbers as to repairs over the last few years for well #3. She noted that the asset management program the City is stepping into will be able to give that information and the City is taking steps to be able to answer those questions on an immediate basis.

A motion was made and seconded (B. Dziwulski, R. Grosch) to adopt a Comfort Resolution for well #3 Motor Control Center Project. Motion Passed: 5-For, 0-Against.

10. Discussion and Possible Action to Approve **Resolution 21-04-13** Declaring Official Intent to Reimburse Expenditures for the Joseph Road Reconstruction, Water Main Extension, Sanitary Sewer Extension and Storm Sewer Project

Ms. Wagner stated this is another comfort resolution recognizing that the City's budget did not specifically borrow for roads. This comfort resolution declares we can reimburse any expenditures prior to borrowing for a project. Mr. Wamser asked if there has been any feedback from property owners. Ms. Wagner stated the City will know more in a couple of weeks when the assessment notices go out to the parcels. She is currently preparing assessment rolls and notices along with the notice for the public hearing. Ms. Wagner noted there are six businesses impacted by the assessment roll. Ms. Wagner noted the public hearing for the projects will be at the April 19th Common Council meeting at 6:00 p.m.

A motion was made and seconded (B. Dziwulski, R. Grosch) to approve Resolution 21-04-13 declaring official intent to reimburse expenditures for the Joseph Road reconstruction, water main extension, sanitary sewer extension and storm sewer project. Motion Passed: 5-For, 0-Against.

11. Discussion and Possible Action to Approve **Resolution 21-04-14** Declaring Official Intent to Reimburse Expenditures for the Meadowbrook Farms Subdivision Phase 1 Road Rehabilitation Project

Ms. Wagner stated the City did not specifically budget for road projects. This comfort resolution allows the City to reimburse expenditures.

A motion was made and seconded (J. Kara, R. Grosch) to adopt a Comfort Resolution for well #3 Motor Control Center Project. Motion Passed: 5-For, 0-Against.

12. Discussion and Possible Action for the Roundy's Industrial Park Including Roundy Drive, Roundy Circle, and Paul Road Rehabilitation Project
 - 12.1 Approve Preliminary **Resolution 21-04-15**
 - 12.2 Approve **Resolution 21-04-16** Declaring Official Intent to Reimburse Expenditures for the

Roundy's Industrial Park Including Roundy Drive, Roundy Circle, and Paul Road Rehabilitation and Water Main Relay Project

Ms. Wagner noted Resolution 12-04-16 is a comfort resolution borrowing to repay funds when they come in. Ms. Wagner stated when going through assessments for the property there was no preliminary resolution for the project. Resolution 21-04-15 authorizes the City to move forward with the project.

A motion was made and seconded (J. Wamser, B. Dziwulski) to approve Resolution 21-04-15 and Resolution 21-04-16. Motion Passed: 5-For, 0-Against.

13. Discussion and Possible Action to Re-Allocate Funding for the Design of the Lindsay Road Trail

Ms. Wagner stated this item comes out of the discussion regarding the agreement with Waukesha County for the intersection improvement, and whether the City would move forward with the Lindsay Road trail to entice discussion with the County to put a pedestrian crossing in the intersection improvement. Ms. Wagner noted this would authorize the transfer of funds from the Fieldhack Trail project to the Lindsay Road project for \$50,000 to start preliminary design and engineering on the trail.

Ms. Wagner stated the Bike and Pedestrian Committee met and supported an off-road trail from Duplainville Road to the park. West of the park would be an on-road trail system.

Discussion took place regarding reallocating the funds and the impact on the Fieldhack project.

Mr. Grosch asked if the consultant would make other recommendations for crossing or a speed limit reduction. Mr. Dziwulski stated the County would not support a reduction in the speed limit.

Ms. Brown stated she thought this was a dangerous intersection and it will be a waste of money. She felt it was a safety issue and felt it makes the City liable. Further discussion took place regarding the safety concerns of pedestrians and bikes crossing.

A motion was made and seconded (B. Dziwulski, R. Grosch) to reallocate \$50,000.00 of the 2021 budget from the Fieldhack Trail project to the Lindsay Road Trail project for design in 2021. Motion Passed: 4-For, 1-Against. (C. Brown)

14. Discussion and Possible Action to Waive the Second Reading and Approve **Ordinance 21-02** to Repeal and Recreate Section 5.05(3)(a) Pertaining to Regulating Heavy Traffic

Ms. Wagner stated the spring weight limits have a condition stating you have to take the shortest route possible to get to a destination. It is not in the current ordinance and Ms. Wagner would like to amend the current ordinance to include it. Ms. Wagner felt adding this language would make it clearer and more enforceable.

Dan Teske (W244 N4512 Swan Road) stated he is confused and frustrated. A year ago when construction started in the Swan Farms subdivision, he was told trucks would go south out of the subdivision. He says a great deal of construction vehicles are turning the wrong way out of the construction site. He has contacted the Sheriff's Department several times. If this is not going to be reinforced, he will stop calling and wasting the Deputy's time. He would like to know what he needs to do or what the City is going to do.

Attorney Riffle stated the City will post the road and the Sheriff's Department needs to issue citations. He said we are doing this to fix a technical glitch in the City's ordinance. Attorney Riffle recommended talking to the Sheriff's Department regarding issuing citations in this area.

Mr. Wamser stated he has the same issue in Still River Subdivision and understands Mr. Teske's frustration.

A motion was made and seconded (J. Kara, B. Dziwulski) to approve Ordinance 21-02 and waive to repeal and recreate Section 5.05(3)(a) pertaining to regulating heavy traffic. Motion Passed: 5-For, 0-Against.

15. Discussion and Possible Action Regarding The Waters Development

15.1 Approval of the Grading Agreement.

15.2 Approval of the Value of the Guarantee as \$126,000.00 for the Grading Agreement.

Ms. Wagner stated The Waters development is struggling to get final approval of their plans. She said to secure funding and avoid losing their investors, the developers are asking the City to review and approve a grading and erosion control only plan while they work on finalizing their full development plan. Ms. Wagner noted that she has worked on the grading agreement and feels it is finalized. She said the grading plans are in the office and are being reviewed. Ms. Wagner recommended approval of the grading agreement contingent on approval of the City Engineer and Attorney. She also recommends approval of the value of the guarantee at \$126,000.00 for the development.

Mayor Bierce asked what would happen if they came in to appease the investors, striped the land bare and the investors say it is not enough and pull out. He questioned if \$126,000.00 would be enough to make it look the way it did before. Ms. Wagner stated the City would come in to stabilize it and put it back to grass. Ms. Wagner stated that is what the \$126,000.00 guarantees.

Ms. Wagner stated the developers storm water management plans do not meet ordinances or state standards.

Ms. Brown asked how many years the City let developers sit and struggle to get their plans approved. Further discussion took place regarding developer's agreements and end dates.

Mayor Bierce asked if the City should take cash only if they are having money issues. Attorney Riffle stated the City's letter of credit is as good as cash.

A motion was made and seconded (B. Dziwulski, J. Wamser) to approve the grading agreement and value of the guarantee at \$126,000.00 contingent on the City Engineer and City Attorney approval. Motion Passed: 5-For, 0-Against.

16. Discussion and Possible Action to Approve **Resolution 21-04-17** Supporting Strong State & Local Partnership Related to Shared Revenue Funds

Mr. Klein stated the League of Wisconsin Municipalities has asked for support of their lobbying efforts related to State funding from the various municipalities.

Mr. Grosch stated he proposed eminent domain to the Council and the Council denied it.

A motion was made and seconded (J. Kara, B. Dziwulski) to approve Resolution 21-04-17 supporting strong state and local partnership related to shared revenue funds. Motion Passed: 5-For, 0-Against.

17. Discussion and Possible Action to Appoint Members to Various Committees, Commission and Boards

Ms. Wagner asked the Council to reaffirm Dave Swan and Jeff Tormey to the Public Works Committee.

A motion was made and seconded (B. Dziwulski, J. Wamser) to reappoint Dave Swan and Jeff Tormey to the Public Works Committee. Motion Passed. 5-For, 0-Against.

Mayor Bierce recommended the appointment of Walter Christianson to the Board of Review, and stated that Laura Smiley, Jim Jaeschke, Gwenn Robinson and Joshua Figurski need to be reappointed to the Board of Review.

A motion was made and seconded (B. Dziwulski, J. Wamser) to appoint Walter Christianson, Laura Smiley, Jim Jaeschke, Gwenn Robinson and Joshua Figurski to the Board of Review. Motion Passed: 5-For, 0-Against.

18. Public Comment - None.

19. Closed Session – You are hereby notified that the Common Council and staff of the City of Pewaukee will convene into closed session after all regular scheduled business has been concluded and upon motion duly made and seconded and acted upon by roll-call vote as required under §19.85(1)(a), Stats. The purpose of the closed session is for the following:

- §19.85(1)(g): Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved specifically related to the High Pointe Center Church located at N45 W25338 Lindsay Road (PWC 0877-996-004), Parkside of Arbor View located at W232 N3471 Hunters Ridge Road (PWC 0908-996) and Parkside Legacy located at N26 W26511 College Avenue (PWC 0931-999-014).

You are further notified that at the conclusion of the Closed Session, the Common Council may convene into open session pursuant to 19.85(2), Stats., for possible additional discussion and action concerning any matters discussed in closed session and for adjournment.

A motion was made and seconded (J. Wamser, J. Kara) to go into closed session at 7:33 p.m. Motion Passed: 5-For, 0-Against via roll call vote.

A motion was made and seconded (B. Dziwulski, R. Grosch) to go back into open session. Motion Passed: 5-For, 0-Against.

A motion was made and seconded (B. Dziwulski, R. Grosch) to approve the proposed settlement agreement for the High Pointe Center Church. Motion Passed: 4-For, 1-Against (J. Wamser).

20. Adjournment

A motion was made and seconded (C. Brown, J. Kara) to adjourn the meeting at 7:56 p.m.

Motion Passed: 5-For, 0-Against.

Respectfully Submitted,

Kelly Tarczewski
Clerk/Treasurer