

In Attendance:

Mayor S. Bierce, Aldermen I. Clark, B. Dziwulski, P. Vetterkind and J. Wamser. C. Brown and R. Reinbold were absent and excused.

Also in Attendance:

Attorney S. Riffle, Administrator S. Klein, DPW Director M. Wagner, City Planner & Community Development Director N. Fuchs, and Clerk/Treasurer K. Tarczewski.

1. **Call to Order and Pledge of Allegiance**

Mayor Bierce called the meeting to order at 6:30 p.m. and asked everyone to stand for the Pledge of Allegiance.

2. **Public Comment**

Bill Winters (W271 N2622 Pear Tree Lane) asked about getting a bill for a special assessment.

3. **Consent Agenda**

3.1 Approval of the Common Council Meeting Minutes Dated February 20, 2023

3.2 Approve the Accounts Payable Listing Dated April 4, 2023

A motion was made and seconded (B. Dziwulski, J. Wamser) to approve the items in the consent agenda. Motion Passed: 4-For, 0-Against.

4. **PUBLIC HEARING**, Discussion and Possible Action Regarding a Conditional Use Permit for Keith Tubin for Property Located at N37 W26745 Kopmeier Drive (PWC 0894-014) for the Purpose of Constructing a Boathouse

Mr. Fuchs stated the construction of the new boat house was denied and the applicant did not attend the last Common Council meeting. Mr. Fuchs noted it is being resubmitted and it was recommended for approval by the Plan Commission. Mr. Fuchs noted the applicant is agreeing to replace the metal siding with wood or composite type material and remove impervious service to comply with the requirements. Mr. Fuchs added staff is recommending approval with the conditions.

Mayor Bierce opened the public hearing.

Dan Rieck on behalf of Charles and Claire Schwitzer (N37 W26731 Kopmeier) as their son-in-law stated the action shouldn't be here because of Chapter 24 of the City of Pewaukee Municipal Code and 68 of Wisconsin statutes. He said filing the exact same thing 20 days later does not follow those rules. He added it is not a boat house, it is a shed. He said you need to look at the Ordinance's intent and per administrative code NR320503:2, it states a boat house is a permanent structure used for the storage of watercraft and associated materials. Mr. Rieck stated this is more of a variance, opposed to a Conditional Use Permit. He said placement of a 14-foot shed that is 10 feet tall by the water would act as a detriment to his in laws property. He asked why the boat house/shed could not be placed on the other side of the property and asked that Common Council deny the request.

Deb Petersen (N27 W27104 Woodland Drive) stated many people have boathouses and they could be called an outbuilding. She asked where she could find information about regulations and setbacks. Mayor Bierce directed her to contact the City Planner.

Keith Tubin (N37 W26745 Kopmeier) said he was confused about the neighbor and son-in-law being upset and the comments he mentioned. He said he received compliments from the neighbors and has been doing everything to follow the rules and do it right. Mr. Tubin added the neighbors have stopped him several times to ask about the shed. He noted he hopes the Common Council approves it.

Mayor Bierce closed the public hearing.

Mayor Bierce asked the City Attorney to weigh in on the legal aspects of Mr. Riecks statements.

Mr. Reinbold asked if there is a waiting period before he can re-apply since it had already been declined. Mayor Bierce advised him there is no waiting period.

Attorney Riffle noted he had not analyzed the pictures and stated an argument could be made that it is not a boathouse, and an argument could be made that it is a boathouse. He stated if Common Council was looking for a legal opinion as to “as proposed it fits the definition of boathouse,” he would not do that until he looks further into the information.

Mr. Reinbold asked if it would impact the scenario since it is a moveable structure. Mr. Fuchs noted it does need to be anchored and the applicant has been working with the building inspectors on anchoring. Mr. Reinbold asked about the current brown shed. Mr. Tubin stated the current brown shed belongs to the Schwitzers and the two boathouses would butt up to each other.

Mayor Bierce stated picture #4 shows how far down it drops, and the feeling at Plan Commission was that it would not be impeding views. Mayor Bierce asked Attorney Riffle if he was concerned with the procedural concerns that were brought up. Attorney Riffle said if it were not a boathouse it would go before the Zoning Board of Appeals for a variance. If it is a boathouse, it needs a Conditional Use Permit. If it is a shed, it’s an unreasonable hardship in front of the Zoning Board of Appeals. Attorney Riffle stated Plan Commission has determined this is a boathouse. He added there is no provision in the code that says an applicant can’t come back after making some changes. Attorney Riffle stated he still doesn’t know if it is a boathouse or not.

A motion was made and seconded (B. Dziwulski, J. Wamser) to approve the Conditional Use Permit for the property located at N37 W26745 Kopmeier Drive for the purpose of constructing a boathouse. Motion Passed: 4-For, 0-Against.

5. **PUBLIC HEARING**, Discussion and Possible Action Regarding a Conditional Use Permit for Mark and Jodi Olson for Property Located at N27 W27204 Woodland Drive (PWC 0933-136) for the Purpose of Constructing a Boathouse

Mr. Fuchs stated the Olson boathouse is 140 square feet and the Plan Commission did not make a recommendation. He said there was discussion at the meeting regarding the use and adding windows. He noted staff is recommending approval with three conditions; the mitigation plan receive final approval, the boathouse be located a minimum of five feet from the side property line and the ordinary high-water mark, and since the boathouse has electricity, they will need to obtain an electrical permit from the Building Services Department.

Mayor Bierce opened the public hearing. After no one indicated an interest in speaking the public hearing was immediately closed.

Mayor Bierce stated the issue with this boathouse is the building itself. He noted there was concern at Plan Commission which is why it was not passed. Mayor Bierce said he did not think it was appropriate to have walls without breaks and no windows on the side walls.

Attorney Riffle asked Mr. Fuchs if there was evidence in the hearing that would indicate the petitioner met the objective criteria for receiving a Conditional Use Permit. Mr. Fuchs stated the boathouse meets technical standards but did not address the Plan Commissions concerns regarding aesthetics. He said there was no formal action at Plan Commission besides a failed motion.

Attorney Riffle noted the applicant did not testify at the public hearing during the Common Council meeting.

Mr. Fuchs noted construction of a new boathouse requires a Conditional Use Permit. He said the Plan Commission did not take action and the correct path would be to bring it to the Common Council for their decision.

Mr. Clark stated the City has established a reputation of wanting applicants to attend meetings to advocate for their positions.

A motion was made and seconded (I. Clark, J. Wamser) to deny the Conditional Use Permit.

Motion Passed: 4-For, 0-Against.

6. **PUBLIC HEARING**, Discussion and Possible Action Regarding a Conditional Use Permit for Quattro Development/Higher Ground Education for Property Located on Highfield Court (PWC 0906-994) for the Purpose of Constructing a Childcare Facility [Fuchs] - *Postpone to 5/1/2023*

A motion was made and seconded (I. Clark, R. Reinbold) to postpone the public hearing for Quattro Development / Higher Ground Education to May 1, 2023 at 6:30 p.m. Motion Passed: 4-For, 0-Against.

7. **PUBLIC HEARING**, Discussion and Possible Action Regarding a Conditional Use Permit for Better Cowork, LLC for Property Located at W239 N3490 Pewaukee Road (PWC 0907-992) for the Purpose of Developing a Shared Office Space

Mr. Fuchs stated the request is to use the building and operate it as a co-working space. He said it would be membership based for individual businesses to utilize the different office space. He said the Conditional Use is drafted and businesses would not have to go through the Business Plan of Operation step.

Michael "Alex" Simic, owner of Better Cowork said this office building will not require any changes except signage. He said the building was used as an office setting and he wanted to continue that. He noted the modern work world has changed to hybrid working and coworking spaces are expected to increase to 30 percent by 2030. He noted they are selling memberships and the businesses are not tenants.

Mr. Dziwulski asked about a business having its own office and locking their doors. Mr. Simic explained the different settings and options businesses would have.

Mayor Bierce closed the public hearing.

A motion was made and seconded (I. Clark, J. Wamser) to approve the Conditional Use Permit for Better Cowork. Motion Passed: 4-For, 0-Against.

8. **PUBLIC HEARING**, Discussion and Possible Action Regarding **Ordinance 23-TBD** and **Resolution 23-05-TBD** Related to the Comprehensive Master Plan Amendment to Change the Year 2050 Land Use/Transportation Plan Use Designation for the City of Pewaukee for the Courtyard at Pewaukee for Vacant Land Located at the Northwest Corner of Golf Road and Meadowbrook Road (PWC 0940-999-001) from Low-Medium Density Residential and Floodplains, Lowland & Upland Conservancy and Other Natural Areas to High Density Residential and Floodplains, Lowland & Upland Conservancy and Other Natural Areas [Fuchs] - *Postpone to 5/1/2023*

A motion was made and seconded (B. Dziwulski, I. Clark) to postpone the public hearing for Ordinance 23-TBD to May 1, 2023 at 6:30 p.m. Motion Passed: 4-For, 0-Against.

9. **PUBLIC HEARING**, Discussion and Possible Action Regarding the Highlands Subdivision (Apple Tree Lane and Pear Tree Lane) Road Reconstruction Project
- 9.1 Accept the Preliminary Engineers Report
 - 9.2 Award the Contract to the Lowest Qualified Bidder, All Ways Contractors, in the Amount of \$837,736.00
 - 9.3 Approve a Drainage and Vision Corner Easement on PWC 0936-052

Ms. Wagner stated Apple Tree Lane and Pear Tree Lane located in Highland Subdivision have a PASER rating of a low 3 out of 10. She said the project was to remove existing asphalt and base, undercut the subgrade by a foot, install geogrid, install new stone base, new asphalt pavement, regrade the swales and some culvert replacements. She said the hydrants in the subdivision are also going to be replaced since the manufacturers are no longer making parts for them. She said they are replacing the hydrants and salvaging the existing hydrants to use for other hydrants the City has of the brand. Ms. Wagner added some sanitary work will be done on behalf of Lake Pewaukee Sanitary District and noted the cost will be reimbursed upon completion.

Ms. Wagner noted the City received three bids for the project ranging from just under \$838,000 to up \$1.2 million. She stated All Ways Contractors was the lowest bid at just under \$838,000. She said the Engineer's report and assessment role have been mailed to the property owners. Ms. Wagner noted the City has been assessing for road projects since 1984 and residential properties are capped, and nonresidential properties pay 100 percent. She added all properties are residential and will fall under the cap.

Ms. Wagner noted the assessments for this project are allocated by four criteria: road assessment, storm water, sanitary sewer and water utility, which equates to \$16,515.60 per unit or residential property and is capped at \$3206 per property. She noted the assessments can be paid over ten years as an annual charge on the tax bill with an interest rate of approximately 5.5 percent. Ms. Wagner noted the City anticipates construction to be completed this summer. She said notices will be sent to property owners once the City determines a start date. She noted items in the right-of-way will need to be removed including fencing, landscaping and lighting. She said dog fences, sprinklers or private electrical lighting needs to be marked or it will be the property owner's responsibility to repair.

Ms. Wagner stated access to the properties will be available during construction with possible delays. She added the City is seeking approval of an easement to provide a better turning radius for buses and trucks, which will also provide a vision quarter. Mayor Bierce asked where the easement will be located. Ms. Wagner noted the corner of Pear Tree Lane and Prospect Avenue. She added the hydrant will also be moved back.

Mayor Bierce opened the public hearing.

Mr. Winter (W271 N2622 Pear Tree Lane) asked why the cost of the road repair isn't taken out of a general fund.

Attorney Riffle stated the developers put in the streets and over time as they deteriorate, the City wanted the people who are particularly affected to pay a fair share of their benefit of using the road. He added property owners are only responsible for paying \$3,200 of the cost due to the cap, instead of the full \$16,515.60, unless you are a commercial enterprise.

Kate Marlin (N26 W27066 Prospect Avenue) asked if City water runs through those streets. Ms. Wagner said yes.

Jason Siehr (W272 N2581 Apple Tree Lane) stated construction communication is going to be key when the project starts. He asked how the cap amount is figured annually. Ms. Wagner stated the rate was originally \$1500 and in the early 2000's the rate wasn't keeping up with inflation. She said the City goes off a Construction cost index and the rate goes up based off what the construction cost index is for the year.

Mayor Bierce closed the public hearing.

Mr. Wamser asked if there was any objection to the vision corner. Ms. Wagner stated she spoke with the owner prior to making the radius wider.

Mr. Dziwulski asked if the City has worked with All Ways Contractors before. Ms. Wagner said yes and has no concerns about awarding the contract to them.

A motion was made and seconded (R. Reinbold, B. Dziwulski) to accept the preliminary Engineers Report and special assessments, award the contract to All Ways Contractors in the amount of \$837,736.00, reallocate the funds as recommended and approve the easement agreement. Motion Passed: 4-For, 0-Against.

10. Discussion and Possible Action Regarding the 2022 MS4 Annual Report

Ms. Wagner stated the City of Pewaukee has to complete an annual report showing what the City has done to comply with the MS4 permit for the community. She noted Mr. Wirtz completed the report which includes things like salt usage, activities the City has done in the community and the City's partnership with Waukesha County. It also summarizes budget information and what the City has done on erosion control inspections. She noted no action was needed and the report will be posted on the City's website.

Mr. Reinbold recommended that next year a summary page be included in the report before all the details.

11. Discussion and Possible Action to Establish April 28, 2023 as Arbor Day

Ms. Wagner noted there were four criteria the City needed to meet in order to be part of Tree City USA, one of those being a proclamation establishing Arbor Day on April 28, 2023. She recommended approval of the proclamation and noted the City would be planting a new tree on the DPW grounds on April 28. Ms. Wagner suggested buying seedling trees from the Arbor Foundation and noted there are a lot of options.

A motion was made and seconded (J. Wamser, B. Dziwulski) to establish April 28, 2023, as Arbor Day. Motion Passed: 4-For, 0-Against.

12. Discussion and Possible Action to Appoint Ann Wright to the Joint Pewaukee Library Board as Recommended by Mike Cady Superintendent of the Pewaukee School District

Mayor Bierce noted the motion needs to be effective May 2, 2023.

A motion was made and seconded (B. Dziwulski, I. Clark) to appoint Ann Wright to the Joint Pewaukee Library Board. Motion Passed: 4-For, 0-Against.

13. Public Comment – None.

14. 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)(e): Deliberating or negotiating the purchasing of public properties, the investing of public funds or conducting other specified public business, where competitive or bargaining reasons require a closed session. In this instance the Closed Session is specifically related to the acquisition of easement and or property related to the Bluemound Water Main Extension Loop.

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 (B. Dziwulski, I. Clark) to go into closed session at 7:39 p.m. Motion Passed via Roll Call Vote: 4-For, 0-Against.

15. Adjournment

A motion was made and seconded (B. Dziwulski, I. Clark) while in closed session to adjourn at 7:51 p.m. Motion Passed: 4-For, 0-Against

Respectfully Submitted,

Kelly Tarczewski
Clerk/Treasurer