

In attendance:

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

Also in Attendance:

Attorney V. Anderson, Administrator S. Klein, DPW Director J. Weigel, Assistant Engineer M. Wagner, Park and Recreation Director N. Phalin, City Assessor J. Siebers, and Clerk/Treasurer K. Tarczewski.

1. Call to Order and Pledge of Allegiance

In the absence of Mayor Bierce, Council President C. Brown opened the meeting at 7:00 p.m.

2. Public Comment

Kathy Guetenkunst stated her client is the High Point Center Church and would be part of the closed session discussion this evening. She referenced the letter she sent to the City Clerk dated January 25, 2019. She said this property has historically been a church. It was tax exempt up through and including 2017 and on August 23, 2018 her client received a letter stating it was going to be reassessed. The land was going to residential acreage and building improvements / new construction (addition to residence) and would no longer be exempt. Ms. Guetenkunst stated the property remains consistent to its original use; a church.

3. Introduction of the New Joint Park and Recreation Director Nick Phalin

Mr. Klein introduced Nick Phalin to the Members of the Common Council. He said they had a very strong group of applications for this position and Nick was everyone's top choice.

Mr. Phalin stated he is already in week four and Kelley has been a great resource for him. He stated previously he worked the communities of Greendale and Shorewood. He said he was excited to be here and looks forward to serving the community.

4. **PUBLIC HEARING** for Steeplechase Phase Two Road Paving Project

4.1 Discussion of the Engineer's Report and Proposed Special Assessments

Mr. Weigel stated there are two public hearings on tonight's agenda. He said he would talk about them separately even though they were bid out as one large project to save costs. He said the second phase of the Steeplechase subdivision includes Deer Haven Drive, Woodburn Court, part of Coachman Drive, and Crestview Drive. He called attention to the assessment roll and noted that it included all of the members of Steeplechase phase one and two due to the commonly owned outlot. Mr. Weigel stated the homeowner's association representative reached out to him and asked that it be spread out among all the property owners in the area, so the original phase would be adjusted to add the prorated portion of the outlot.

He said the project was bid out on February 27th and two bids were received and Payne and Dolan was the low bidder. He said there are 54 lots in the Engineer's report. The total cost for the project is approximately \$562,000 which would equate to \$10,408 per parcel but the current

City road paving cap for 2019 is only \$2,639. There is additional charges for the outlots; phase one properties will be charged \$83.54 and phase two properties will be charged \$114.74. He said there are additional infrastructure costs such as sanitary sewer at the cost of \$35,505 covered by the Sanitary Sewer Utility, water utility costs of \$30,975.10 paid for by the Water Utility, and storm water utility costs of \$38,726 paid for by the Storm Water Utility. The overall cost of the project, including administrative costs, is \$662,284.

Ms. Brown asked for an explanation of the different charges for the outlots.

Mr. Bergman questioned the budgeted amount vs what the proposed project totals were. Mr. Weigel stated different portions of the project were coming out of different accounts within the budget, such as Storm Water, Sewer and Water Utilities as well as the road budget. Mr. Bergman suggested all future outlot assessments be automatically charged to the various property owners. Attorney Anderson stated that is usually determined by declaration of restrictions for the subdivision.

Mr. Kara recalled an issue with Steeplechase phase one. Ms. Wagner stated there was a workmanship issue with the curbs and they were all replaced. She said it was the fault of the sub-contractor. Mr. Kara asked if Engineering had any reservations about using Payne and Dolan again. Ms. Wagner had no concerns. Mr. Kara asked how the interest rate was determined. Ms. Tarczewski stated it is based on the amount the City was charged the last time they borrowed funds plus an additional 1%.

Mr. Dziwulski asked if Payne and Dolan was still able to complete the work since they just received a large paving project for Foxconn. Mr. Weigel stated he did not think we could ask them to withdraw their bid. Mr. Dziwulski stated there were issues with the Springdale Estates paving job, where the road remained unfinished for a long period of time. Ms. Wagner stated the City's contracts require additional milestones to keep the project moving. Mr. Weigel stated overall the completion dates are contractual. Attorney Anderson stated the City could activate the bond and hire whoever they'd like to complete the work if needed.

Ms. Brown opened the public hearing. Michael Johnson (N28 W26391 Crestview Drive) stated he was willing to pay for the repairs to Crestview Drive but not necessarily for the outlot in the Steeplechase subdivision. He asked if he was actually paying for his fair share. Mr. Weigel stated Mr. Johnson was only paying for one home's worth. Mr. Johnson also asked if the Galilee Lutheran Church was exempt from the assessment charges. Mr. Weigel stated no and they would actually be charged at the full amount of \$10,408. Mr. Johnson asked if the people on Crestview Drive could be given a different rate than those in Steeplechase. Mr. Weigel stated he can't change a contract arbitrarily the contract would have to be rejected and rebid it. Ms. Wagner stated this road project has met the cap, she said he would most likely be paying the same amount if it was bid out separately.

Mark Schmiedel (N27 W26270 Crestview Drive) asked the Engineering Department how they determine when a road actually needs to be replaced. He said most of Crestview Drive is in good shape. He admitted the entrance could use some resurfacing. Mr. Weigel stated the roads are rated and if we go into a neighborhood they want to get it done all at once.

Ms. Brown closed the public hearing at this time. Mr. Weigel asked Common Council to hold off on their determination until after the next public hearing.

5. **PUBLIC HEARING** Regarding the Fox View Court Road Paving Project

5.1 Discussion and Possible Action Regarding the Engineer's Report and Assessment Roll

Mr. Weigel stated this was right off Springdale Road. He said this is a single cul-du-sac and the curbs are breaking apart. The whole center island curb needs to be removed and replaced along with the outside curbs. The pavement showed numerous cracks as well. He said the pavement costs are running approximately \$4,000 per unit, with the cap of \$2,600 and the curb costs is also running about \$2,600 per unit. The storm water utility will pay for half of these costs. He said the City's policy is to assess each element of repair.

Mr. Bergman asked why the owner of the property off of North Avenue is being assessed. Mr. Weigel stated the owner of the property that accesses the driveway that serves the other parcels. He said he and Ms. Wagner discussed it and decided to make them part of the project. It would be easier to take him out if it was determined that should be done. Mr. Weigel stated there are four duplex buildings with two units each. So each parcel is looking at paying \$5,278.00.

Ms. Brown opened the public hearing. Tom Weghorst (N19 W22075 Fox View Court – Unit 1B) stated he was the president of the Fox View condominium association. He said there are only eight members of this group. He said the owner are in favor of the work because the road is in such ill repair. He said he believes the damage is due to the snow plows. Mr. Weghorst stated the road is only 25 years old and has very little traffic. He said they would be paying 57% of the project. Mr. Weghorst asked when the project would start. Ms. Wagner stated it takes approximately 30 days to award the contract and could move forward at that point. They will send notification to the property owners when a schedule is set and would be providing a point of contact if issues come up. Mr. Weghorst stated they want to make sure they can get in and out during the construction and get to their mailboxes. Ms. Wagner stated they will have access to their driveways and mailboxes, but at times there may be delays. There was discussion about blending the curb. Mr. Weghorst asked about the payment plans and interest that would be charged. Mr. Weigel stated it would be detailed and provided when the project is closed. Mr. Weghorst state he thought the property that was being discussed earlier should not be required to pay the assessment. Mr. Weigel stated the Common Council could make that determination, but stated that only three of the duplex owners would be paying for the project and the fourth one would not. Mr. Weghorst asked if the assessment amount would change for the remaining properties. Mr. Weigel stated it would not.

Ms. Brown closed the public hearing at this time. Mr. Kara stated percentage of cost seems high compared to the Steeplechase project. Mr. Bergman stated it is a product of math; the total number of homes in the project.

Mr. Bergman stated he does not feel the property off of North Avenue should to be assessed since they won't reap any benefits of the cul-du-sac being paved. Mike Kreiter (N20 W22133 North Avenue – Unit 4A) stated he'd be willing to bear some of the assessment costs.

6. Discussion and Possible Action to Award Steeplechase Phase 2 and Fox View Court Paving

Contracts to the Lowest Qualified Bidder, Payne and Dolan Based on the Lowest Qualified Bid of \$565,978.84.

A motion was made and seconded, (J. Kara, B. Dziwulski) to award the Steeplechase Phase 2 and Fox View Court paving contracts to Payne and Dolan in the amount of \$565,978.84.

Motion Passed: 5-For, 0-Against.

7. Consent Agenda

- 7.1. Approval of the Common Council Meeting Minutes Dated March 4, 2019
- 7.2. Approval of the Common Council Meeting Minutes Dated March 18, 2019
- 7.3. Approval of Accounts Payable Listings
- 7.4. Approval of Bartender License

Ms. Brown noted that the minutes from March 4th, 2019 have not been completed and should be removed from the consent agenda. Mr. Kara stated he would be abstaining from the March 18th, 2019 minutes.

A motion was made and seconded, (J. Wamser, B. Dziwulski) to approve the remaining items on the consent agenda. Motion Passed: 5-For, 0-Against, 1-Abstain (J. Kara) from the February 18, 2019 meeting minutes only.

8. **PUBLIC HEARING** Regarding the Class B (Beer) and Class C (Wine) Licenses for Battle House MKE LLC Located at W229 N1400 Westwood Drive Unit C and Naming Stacy Gonzales as Agent

Ms. Tarczewski stated the liquor license for this location was originally issued to Sabr Tag and they have recently gone out of business. She said Battle House wishes to take over and they are only requesting a beer and wine license. They have submitted all the other necessary paperwork. At this time Ms. Brown opened the public hearing and no one indicated they wished to speak on the matter. The public hearing was immediately closed.

A motion was made and seconded, (J. Wamser, R. Grosch) to issue the beer and wine licenses to Battle House and name Stacy Gonzales as the Agent. Motion Passed: 5-For, 0-Against.

9. Discussion and Possible Action Related to the 2018 DNR Storm Water Report

Mr. Weigel stated every year a NR216 report needs to be prepared. He said Rich Wirtz provided a brief synopsis of accomplishments. He said the report will tell you what the storm water fees are actually being used for. The report also indicated areas that need attention. No action was needed on this item.

10. Discussion and Possible Actions to Approve a Developers Agreement, Letter of Credit, and Wellhead Protection Special Permitted Use Agreement as Necessary for the Planned Development of Parcel PWC 0962-998-005 Located on Northmound Drive Attendant to the Development Proposal of Briohn Building Corporation to Construct One Multi-Tenant Building as Recommended by the City Plan Commission

Mr. Weigel stated the property owner is currently looking to have the City vacate a portion of right-of-way on Northmound Drive, which they want to acquire to create a cul-du-sac. He said this single building development construction will require a public road to be constructed with large drainage

pipes underneath it and moving of a hydrant. This will require a developer's agreement and letter of credit. He said what is rare about this site is that it is adjacent to one of the City's drinking water wells and wellhead protection areas and there are certain setbacks that need to be followed under state and local code. He added there is a provision within our code also to allow it. He said specifically related to the detention ponds. The setback prohibits holding ponds.

Mr. Weigel provided a report by Strand Engineering which stated the proposed design is appropriate in that location and therefore the City would consider a special permitted use for it. Per the recommendation of the City Attorney it was discussed that the permitted use permit should be folded into the developer's agreement. The signing of the document should be contingent upon the final approval of by the City Engineer, City Administrator, and the City Attorney.

Mr. Kara stated his concern is making sure the well is being protected. Mr. Klein stated that is why they asked for a report from Strand Engineering. Mr. Kara asked if the City did a cost analysis on this project. Mr. Klein stated the City has never weighed one project over another based on what the City will receive in return. Mr. Siebers stated he has worked in different municipalities with TIF districts and developers are required to offer a minimum value guarantee. Mr. Weigel stated taxpayers should not pay for the development and that is why certain costs are billed back to the developer.

Ms. Brown stated one of the concerns she has is that the tenant that wants to go into the building uses various chemicals and she worries about the closeness of well. Mr. Klein stated the chemicals will be discharged to sanitary sewer. Mr. Weigel is also concerned but doesn't have enough knowledge to make a judgement. He said most households use the same chemicals but not at the amount of the proposed tenant.

Mr. Kara asked if the fire chief had any concerns on a hazmat level. It is reasonable to assume that extra precautions should be made since they are potentially dealing with carcinogens. Mr. Weigel stated the property owners need to report the chemicals they use.

Mr. Grosch stated the storm water pond is proposed to be within the wellhead projection and asked what the setbacks were. Mr. Weigel replied 400 feet and the property owner wants to be just beyond 50 feet. Mr. Grosch then asked if it was a shallow or deep well. Mr. Weigel responded it was in between, he said it was a fractured limestone well.

Ms. Brown asked if there were going to be any issues with the construction of the building being so close to the wells. Mr. Weigel stated he was more concerned about the dynamic compaction method to pound the ground. He said particular attention will be paid to the construction oversight and testing and monitoring.

A motion was made and seconded, (J. Kara, B. Bergman) to approve the developers agreement, letter of credit and the wellness protection permit and authorize signature upon the approval of City Administrator, City Engineer and City Attorney. Motion Passed 5-For, 0-Against.

11. Public Comment - None.
12. 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 Excessive Assessment Claims for the following:
 - W232 N3471 Hunters Ridge Road (PWC 0908-996)
 - N26 W24511 College Avenue (PWC 0931-999-014)
 - N17 W24300 Riverwood Drive (PWC 0949-991-001)
 - N45 W25338 Lindsay Road (PWC 0877-996-004)

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, R. Grosch) to go into closed session at 7:51 p.m. Motion Passed by Roll Call Vote: 5-For, 0-Against.

13. Adjournment

While still in closed session, a motion was made and seconded, (J. Wamser, B. Dziwulski) to adjourn the meeting at 8:15 p.m. Motion Passed: 5-For, 0-Against.

Respectfully Submitted,

Kelly Tarczewski
Clerk/Treasurer