

In Attendance:

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

Also in Attendance:

Attorney S. Riffle, Administrator S. Klein, DPW Director M. Wagner, 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 6:30 p.m. asking everyone to stand for the Pledge of Allegiance.

2. Public Comment

Judge Fred Strampe introduced himself to the Common Council members and stated he was running for election next month as Circuit Court Judge in Branch 7.

3. Discussion and Possible Action to Approve the Accounts Payable Listing Dated March 6, 2023

A motion was made and seconded (B. Dziwulski, J. Wamser) to approve the accounts payable listing dated March 6, 2023. Motion Passed: 5-For, 0-Against.

4. Discussion and Possible Action Regarding **Resolution 23-03-02** Authorizing Amendments to \$2,900,000 City of Pewaukee, Wisconsin Midwestern Disaster Area Revenue Bonds, Series 2012 (Building Service, Incorporated Project) Issued on September 21, 2012

Attorney Riffle stated this was previously issued, but the index used to calculate interest has changed and this resolution is a formality to recognize that.

A motion was made and seconded (I. Clark, R. Reinbold) to approve Resolution 23-03-02.
Motion Passed: 5-For, 0-Against.

5. Discussion Regarding the Court Decision in the Excessive Assessment Lawsuit by Richard Carr and Joanne Braam (W268 N2433 Meadowbrook Road - PWC 0931-972)

Attorney Riffle stated the court agreed with Mr. Carr and the City is responsible for refunding excessive taxes. He stated no action by the Council is needed.

Mr. Carr (W268 N2433 Meadowbrook Road) stated he came before them previously stating he was 100% right over this claim which took two years and \$50,000.00. He said more litigation is in the works.

He said in speaking with the Mayor and his Alderman, he got the impression that they were not aware that his attorney sent a notice of claim to the City at the end of December. He said he is suing the City for abusive process. He said they are asking for \$200,000 in punitive damages plus court costs.

Mr. Carr stated if the Council isn't getting the information from staff or attorneys, he is happy to provide it to them. He handed the Council members a copy of the claims notice his attorney filed in December, the order granting the plaintiff's motion for summary judgement and a condensed summary of the hearing transcript Mr. Carr put together. He told the Council that the City got severely "God smacked".

Mr. Carr stated the current litigation is not quite finished and the sanctions hearing is set for March 17th. He said they are asking for the last portion of case. He went on to say the first part was the declaration of pasture acreage.

Mr. Carr asked when he could get his check. Ms. Tarczewski stated she could have it available as soon as tomorrow.

6. Discussion and Possible Action to Award Hill n Dale Drainage Improvements to the Lowest Qualified Bidder, Musson Brothers, in the Amount of \$1,239,955.82

Ms. Wagner stated this has been a proposed project since the inception of the Storm Water Utility in 2010. She said this project will assist with the flooding issues that occur within Hill N Dale subdivision. She said the water ponds at the rear of these homes and goes around the homes to the right-of-way through the ditches down to the wetlands on the other side of Capitol Drive. Ms. Wagner stated they are proposing a dry pond with a clay lining which will collect the water and prevent it from infiltrating down into the ground and to the nearby sump pumps of the adjacent properties. She said there will be ditch improvements as well.

Ms. Wagner stated five bids were received and Munson Brothers was the lowest qualified bidder in the amount of \$1,239,955.82 and she recommended Common Council award the bid to them.

Mr. Clark asked if Musson Brothers have done similar projects and what has been their quality of work. Ms. Wagner stated they have done inlet projects for the City in the past and have been a good contractor.

Mr. Dziwulski asked if the path is directed towards the church across Capitol Drive. Ms. Wagner stated this is the same drainage path it always did but it will now be controlled. It will not pond in one location verse behind multiple homes and delay the discharge so it will offset the peaks of discharge.

Mr. Dziwulski voiced his concerns that the church could potentially change their topography and hinder the drainage. Attorney Riffle stated there is an agreement with the church that would prevent that.

A motion was made and seconded (B. Dziwulski, P. Vetterkind) to award the Hill n Dale drainage improvement project to the lowest qualified bidder Musson Brothers in the amount of \$1,239,955.82. Motion Passed: 5-For, 0-Against.

There was discussion on whether or not funds should be reallocated right away, but it was determined it could wait. Ms. Wagner stated there is a potential to get a State grant for the Busse Road bridge project if she prolonged it for another year, which would cause a surplus of funds to be utilized elsewhere if needed. A resident from the audience voiced his concerns that the bridge wouldn't last that long, but Ms. Wagner stated it had low volume usage and could be delayed a year.

7. Discussion and possible action regarding the Shady Lane/Shady Nook Paving and Utility Extension

Project and Possible Assessments.

Ms. Wagner stated this project includes road improvements, water and sewer extensions. She said this project was bid last year but the City decided to reject all bids due to the anticipated assessments. She stated they did reach out to the contractors to try to determine what their concerns were over the project.

She said the project was rebid this year giving consideration to the feedback they got last year. Ms. Wagner said they added a secondary access road to allow for residents to have access while the contractor is working. She said Shady Lane is a cul-de-sac with only one way in and one way out.

Ms. Wagner said the City received only one bid. It was high but it was similar to what they were last year. She said even though it was high it was still within what is currently seen in the industry. She said there are approximately twenty-five properties within this project area, and it is estimated that sanitary sewer, lateral, water main, and water service would cost the homeowner in total approximately \$66,000.

Ms. Wagner voiced the following concerns related to this project. One, the bid prices were basically the same as last year. Two, there is well contamination in the area that has been in that area since the early 1990s. She said the City wants to make sure they have reliable and safe drinking water. She said this area is completely surrounded by properties that have municipal sewer and water, so they are their own “island” consisting of septic and wells. She estimated the homes were originally constructed in the 1950s or 1960s and said she is not aware of the current conditions of the septic fields. She said those records are maintained by the County. Finally, Ms. Wagner stated the pavement on Shady Lane and Shady Nook is beyond its life. She said a few years ago the City did do an asphalt overlay to give us more time to find a solution.

Ms. Wagner asked the Council to consider some sort of assistance. She suggested possibly a longer payment plan option or perhaps using City funds to offset the utility cost. She stated her department did try to find some programs to assist with this project but they are mainly offered to individuals and these homeowners need to have an annual income less than \$100,000 and have a contaminated well. Ms. Wagner stated the last idea she has is using the City ARPA funds to offset the project costs.

Ms. Wagner stated the typical range for a sanitary sewer assessment would be \$18,000 to \$24,000. A watermain extension assessment is typically \$8,000 to \$10,000. Ms. Wagner stated the 2023 street repairs are capped at approximately \$3,200.

Mr. Klein stated he doesn't want this to be an adversarial discussion. He said Ms. Wagner is just presenting the information in hopes to find a suitable solution to assist the residents if possible.

Mayor Bierce stated no decisions would be made tonight. He said the Council decided that the best time to look at water and sewer is at the time the City is repairing the roads. He said it is the hope of the Council to bring services to the people that don't have them so there would be no “islands” left in the City. He said the projected costs are quite high. He asked the Council members whether or not they thought we should stay on this course.

Mr. Dziwuski stated he hasn't heard anything that would lead him to change the City's plan. He voiced his concerns about the possible contaminated water and said if we wait, prices will most likely go up. He said we should continue with the project.

Mr. Vetterkind asked if this was needed. Mayor Bierce stated he thought the people with tainted wells would think so.

Mr. Vetterkind asked if the City knew which homes have contaminated water. Ms. Wagner stated she was contacted by homeowners asking “when” and “if,” but never got any specifics on who actually needed water.

Mr. Clark stated if the project would go through he would not be opposed to using ARPA funds specifically directed to help the individuals with contaminated wells. He’d like to see the City help with the process. Ms. Wagner stated she had concerns about that because the property owner would have to provide financial information, which would become public record, and she wouldn’t want to disclose that if anyone made a public records request.

Cindy Kopecky (N31 W22087 Shady Lane) stated she has lived at that house for 8 or 9 years. She asked if the City has the information on which wells are actually tainted. Ms. Wagner stated the City does not have that information. She said Quad Graphics is the current owner of the property the plumb was originally tracked back to. She said she thinks the Department of Natural Resources (DNR) would have those records.

Mr. Klein stated he would have thought they would have received something from the title company when they purchased the home.

Ms. Kopecky stated her well is tested every 6-months and receive a stack of documents you could only read if you were a micro-scientist.

Ms. Wagner suggested they should be reaching out to the person who wrote the report for clarification as well as reaching out to the DNR representative. She said her understanding is they will continue to monitor until the plumb is no longer an issue and no more contaminants are in the ground water.

Ms. Wagner stated the City has two wells on the property we purchased, and they have been testing the wells quarterly.

Ms. Kopecky asked if Quad Graphics could potentially be asked to “pitch in money” to solve the water issue. Ms. Wagner stated she does not know if that was explored at the time the issue was discovered. She said she never saw the reports. She said it is between the DNR and Quad Graphics at this point.

Ms. Kopecky asked what the access road would look like. Ms. Wagner stated the access road would come down the land just west of the subdivision near the radio station and come out of the Hill n Dale subdivision. She said it would be a gravel roadway, twelve foot wide with a few bulbs to allow for through traffic in those certain areas.

Rhonda Ziegler (N31 W22095 Shady Lane) asked where the road would exit. She said Green Road was easier to access.

Ms. Ziegler stated she looked up possible grants on her phone while she was sitting there and found 10 – 12 federal programs and asked if anyone researched those.

She stated she does not feel the proposed assessment costs are fair compared to what the other houses in the area paid for water and sewer. She said when the other portion of the Hill n Dale subdivision was

bid their assessments were only \$5,000 and Shady Lane and Shady Nook were \$21,000 due to bedrock and now it is up to \$66,000.

Ms. Ziegler also voiced her concern about the City only receiving one bid for this project.

Mayor Bierce stated the City prefers more bids because the pricing is more competitive.

John Kopecky (N31 W22087 Shady Lane) asked if the \$66,000 assessment for the sewer, water and road includes the hook up from the house to the street. Ms. Wagner responded it does not.

Mr. Kopecky asked what the time frame was to complete the hook up. He added this would not give any added value to his property.

Mr. Reinbold stated there is value to having City water and sewer.

Ms. Wagner stated the current policy is to pay for the assessment within 10 years and it is a mandatory connection to hook up to sewer in 15 years. The water portion connection can be at any time or at the time of sale of your home.

Attorney Riffle stated there is an annual cap of the road assessments. Ms. Wagner stated that can be paid over a 10 year period as well.

Ms. Ziegler asked if the City would consider just putting in water.

Ms. Wagner stated the City could consider that, but the project would have to be rebid. She stated if the City would just install a water lateral and if a need presented itself later for sewer, the water laterals would have to be braced because the sewer pipes are installed lower than the water. It would not be cost effective.

Ms. Ziegler asked what Quad Graphics' liability is for the ground water containments. She asked if it was in a sealed document. She asked if the City was receiving a payoff. Ms. Ziegler stated most of the people in this area live on a hill and are below Quad Graphicsm

Mr. Klein stated their wells most likely is not.

Ms. Wagner stated she wanted to be clear. The contamination was done prior to Quad Graphics owning the property. She said she does not know any of the details because it is between the DNR and Quad Graphics. She suggested reaching out to the DNR to get a copy of those records. Ms. Wagner stated the City received no payments from Quad Graphics regarding the contamination.

Ms. Ziegler asked for contact information for the DNR. Ms. Wagner again recommended looking at the well testing documents they received for that information.

Mayor Bierce asked the Council members if anyone wanted to stop the project before it went to a public hearing. The Council stated they were willing to do a public hearing.

Attorney Riffle stated Ms. Wagner presented an option to use ARPA funds that could be dedicated to this project. He recognized the Council was not in favor of using these funds for a project such as this in the past. He asked if they were willing to change their mind. He said this is a unique situation.

Mayor Bierce stated the Council has held the line to ensure the funds help everyone in our community, not just one area of our community.

Ms. Wagner stated perhaps the City would consider extending the 10 year payback period or perhaps would consider using the 2023 general tax base to offset the costs even though it is not in the budget.

Mr. Wamser stated he'd like to see an option for just water pipes.

Ms. Wagner stated the streets could potentially be teared twice, if the sewer would fail. She said the sewer is much deeper than the water laterals so we'd have to brace the watermains to be able to put in sewer. The Council members stated that really isn't an option.

Mr. Vetterkind asked how far the payments could be extended.

Ms. Wagner stated it is a policy decision. The Council could determine whatever they feel was reasonable.

Mayor Bierce stated the interest rate over a long period of time could be cost prohibited.

Mr. Klein stated the City determines what interest rate is charged. The Council members voiced their concerns over this option.

Attorney Riffle stated the City would not be creating a precedent because every situation is different.

The Council decided to move forward with the public hearing. It was set for March 20th at 6:00 p.m.

Mr. Wamser stated he was not in favor of this project. He wanted to know how many wells were affected. He said the costs are overwhelming.

Ms. Ziegler asked if the City would know the contamination areas by then to request federal funding.

Ms. Wagner stated the City will not know that information and stated the City does not qualify for most of the programs because the community's annual income is too high.

8. Discussion and Possible Action Regarding **Resolution 23-03-03** to Amend the 2023 Fee Schedule Pertaining to Impact Fees

Mr. Fuchs stated per the zoning code, the impacts fees are determined annually based on the Midwest Region All Items CPI. He said this year they increased 6%.

A motion was made and seconded (B. Dziwulski, I. Clark) to approve Resolution 23-03-03 amending the 2023 fee schedule. Motion Passed: 5-For, 0-Against.

9. **PUBLIC HEARING**, Discussion and Possible Action Regarding a Conditional Use Permit for Quattro Development/Higher Ground Education for Property Located on Highfield Court for the Purpose of Constructing a Childcare Facility (PWC 0906-994)

Mr. Fuchs stated this item was supposed to be discussed at the March Plan Commission meeting, but it was cancelled. He asked the Council to table this item to the April 3rd Common Council meeting.

A motion was made and seconded (I. Clark, B. Dziwulski) to table this item to April 3, 2023 at 6:30 p.m. Motion Passed: 5-For, 0-Against.

10. Reminder: Common Council Meeting to Start at 6:00 p.m. on March 20, 2023.
11. Public Comment - None.
12. Adjournment

A motion was made and seconded (B. Dziwulski, I. Clark) to adjourn the meeting at 7:42 p.m.

Motion Passed: 5-For, 0-Against.

Respectfully Submitted,

Kelly Tarczewski
Clerk/Treasurer