

In Attendance:

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

Also in Attendance:

Attorney S. Riffle, Administrator S. Klein, DPW Director M. Wagner, Park & Recreation Director N. Phalin, 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 7:00 p.m. and requested everyone to stand for the Pledge of Allegiance.

2. Public Comment - None.

3. Consent Agenda

- 3.1 Approval of the Common Council Meeting Minutes Dated September 8th, 2020
- 3.2 Approval of the Common Council Meeting Minutes Dated January 4th, 2021
- 3.3 Approve Special Common Council Meeting Minutes Dated January 20th, 2021
- 3.4 Approval of the Accounts Payable Listing Dated February 1st, 2021

A motion was made and seconded (B. Bergman, R. Grosch) to approve the consent agenda. Motion Passed: 6-For, 0-Against

4. Discussion and Possible Action to Waive Special Event Fees for the Farmers' Market to be Held at Christ Lutheran Church Located at W240 N3103 Pewaukee Road on Wednesday Afternoons from May 12, 2021 through October 13, 2021

Ms. Tarczewski stated the event was typically held by the Pewaukee Chamber of Commerce. Since they are no longer in business, Christ Lutheran Church has offered to host the event. Per the application, it is a class 2 event. The church was looking at 23 Wednesdays, which computes to \$150.00 per day, totaling \$3,450.00. Ms. Tarczewski mentioned that in the past the fees have been waived for the Chamber of Commerce, and the Church was looking for the same consideration.

Pastor Richard Warnecke of Christ Lutheran Church, Activities Director Katie Neuman and City resident Norm Bruce were present for this item.

Mr. Kara asked what their financial projections were and why they were doing this. He also asked why the City should give them a break on the normal fees we would charge for special events.

Pastor Warnecke stated the church was asked by the Chamber of Commerce to host in 2016 and 2017. With the expansion of the church they were unable to continue hosting. Pastor Warnecke stated the church loves the opportunity of connecting with the community and would like to be able to do it again. Mr. Kara stated there is an annual \$450.00 per stall fee and he asked what happens to the money that is raised and where it was going. Mr. Bruce stated there was a budget for marketing. He would like to enhance small businesses and possibly waive fees for them as well.

Mayor Bierce asked if Waukesha waives their farmers market fees. Mr. Bruce stated they are located on private property, so they do not have that type of commitment. He said fees used and money collected as a downtown business association running the farmers market are used to enhance events that take place in downtown area.

Mr. Kara asked if the church were projecting to make a profit and where the money would go. Pastor Warnecke stated they are not planning on making a profit, but they do not want to incur debt. Pastor Warnecke said he had been in touch with the Park and Recreation Department about partnering with them to beautify the City with some of the profits. He was also hoping to expand advertising to invite and build a network to make Wednesdays Pewaukee family day.

Mr. Kara stated the Waukesha Convention and Visitors Bureau is approximately 65 percent supported by the City of Pewaukee. He felt the farmers market was a wonderful thing, but he did not feel \$3,450.00 in fees represents what the cost would be to the City. He felt the City could not throw it away without breaking even. Mr. Kara stated the Park & Recreation Department does not allow vendors to come in and make a profit off park property and felt there were similarities between the two. Pastor Warnecke stated the church opens the gym to the Park and Recreation Department so they can run their basketball camps at the church. Mr. Kara stated he would like things to be open and fair to both sides.

Mr. Dziwulski asked what costs the City would incur to have it on church property. Mr. Grosch suggested police services were possible. Mr. Dziwulski did not have a problem with what the church was asking for and felt if it would benefit community businesses, it would be a great idea.

Mr. Wamser felt it was great that the church was stepping up to do this without the Chamber in place and he felt the community event outweighed the small cost the City would incur if there were any and he supported it. Mr. Grosch felt they would be providing a good public service. Ms. Brown stated they could have come to the Tourism Committee to request grant money which would have covered some of the fees. Ms. Brown felt the fees should be waived.

Discussion took place regarding different events and cost associated with special event applications.

Mr. Bergman recommended waiving fees after the first event.

Mr. Wamser recommended waiving the fee entirely.

Mayor Bierce asked the church staff if they were aware of what percent of the vendors were City of Pewaukee residents. Pastor Warnecke stated they were not aware of that number, but they will be approaching nonprofits and businesses in Lake County and Pewaukee. It will be the Pewaukee Lake Country Farmers Market and the entire community will benefit.

A motion was made and seconded (J. Wamser, C. Brown) to waive all fees this year only. Motion Passed: 5-For, 1-Against (J. Kara).

5. Discussion and Possible Action to Approve the Third Reduction of the Swan View Farms Phase 1 Letter of Credit from \$1,930,234.37 to \$1,128,975.56 (Reduction of \$801,258.81)

Ms. Wagner stated all sanitary sewer, water main, storm sewer ponds, grading work, curb and gutter and the first lift of asphalt have been installed. They were just waiting for final work on the lift station. She mentioned that the Parade of Homes has started applying for building permits. Ms. Wagner recommended a reduction in the letter of credit.

A motion was made and seconded (B. Dziwulski, R. Grosch) to approve the third reduction of the Swan View Farms Phase 1 Letter of Credit from \$1,930,234.37 down to \$1,128,975.56.
Motion Passed: 6-For, 0-Against.

6. Discussion and Possible Action Regarding the Public Works Mutual Aid Agreement Contingent on the Village of Pewaukee Executing the Agreement

Ms. Wagner stated this was discussed by the Common Council back in December. The motion was to let the Village take action on it first, which they did. She mentioned the Village was pleased to see the communities working together in a cooperative manner. There were a few minor changes to the agreement and there were no objections. Ms. Wagner recommended approval for the length of the COVID-19 emergency. Ms. Brown questioned the possible financial impact on the City.

Discussion took place on how tracking will take place. Ms. Wagner stated everything will be tracked separately. Further discussion took place regarding the difference in staff and plow routes between the two municipalities.

A motion was made and seconded (C. Brown, B. Dziwulski) to approve the Public Works Mutual Aid Agreement with the Village of Pewaukee until the Covid Pandemic is over. Motion Passed: 6-For, 0-Against.

7. **PUBLIC HEARING**, Discussion and Possible Action Regarding the Conditional Use Permit for Benjamin Chudy to Operate a Chiropractic, Personal Training and Fitness Class Business Within an Existing Multi-Tenant Space Located at N8 W22520 Johnson Drive Unit D (PWC 0961-997-010)

Mr. Fuchs stated the application is for a chiropractic office that offers personal training and fitness classes. The space includes 640 square feet of office space and 1,920 square feet for personal training and fitness classes. Mr. Fuchs stated the applicant is not proposing any exterior building changes or site improvements. Mr. Fuchs did note there have been multiple emails from condo owners with concerns about parking, noise, traffic, crime and vandalism and maintenance and property values. The Plan Commission recommended approval of the indoor use only. Mr. Fuchs stated the applicant mentioned he would like to do some outdoor training or classes, but the Plan commission did have concerns with traffic congestion and safety. The applicant did revise the submittal for outdoor use stating it would only be during June, July and August with three clients at a time. The applicant was still looking for outdoor use and was asking the Common Council to consider it. Mr. Fuchs stated staff was recommending approval of the conditional use.

Benjamin Chudy was present for this item.

David Glaser (4607 N 109th St, Wauwatosa) stated he was the Real Estate Broker who helped find the location. He said Dr. Chudy runs a very professional operation. He felt traffic would not be an issue and fitness classes would be limited in size. He stated this was not a typical gym and he wanted to address some of the negative emails.

Mayor Bierce closed the public hearing.

Mayor Bierce stated this topic generated a lot of conversation at the Plan Commission meeting but most of the concerns revolved around the outdoor activities.

Ms. Brown stated she was confused by the hours of operation and felt they appeared to vary. She also questioned why so many of the complaints revolved around rezoning, when clearly that was not being proposed. Mr. Fuchs surmised that the confusion may be because the notice for the conditional use lists what the current zoning is. Ms. Brown asked why there were no conditions listed in the conditional use permit. Mr. Fuchs stated no conditions were warranted, and if Common Council wanted to allow outdoor use, then it would be included.

Mr. Kara asked if they excluded outdoor use on the site. Mr. Fuchs stated this was what was being proposed by the applicant, and if the Common Council follows the Plan Commission recommendation not allowing outdoor use, then the document will be revised to indoor use only.

Ms. Brown voiced her concerns related to the outdoor exercise classes. She did not feel they were safe and felt they should only be held indoors.

Mr. Dziwulski commented that he was against having anything outside.

A motion was made and seconded (B. Dziwulski, J. Wamser) to approve the conditional use permit excluding the outside use. Motion Passed: 6-For, 0-Against.

8. **PUBLIC HEARING,** Discussion and Possible Action Regarding a Conditional Use Permit for Property Located at N16 W22420 Watertown Road (PWC 0957-986) for a 72-Unit Multiple-Family Apartment Use and an Amendment to the Existing Conditional Use Permit Granted to DBTM Associates, Dated February 24, 1993 and Amended June 25, 1999, to Remove the Property Located at N16 W22420 Watertown Road and the Existing Residential Planned Unit Development Use of 72 Condominium Units Used by the General Electric Medical Systems Division in Exclusive Conjunction with the Training Center

Mr. Fuchs stated this was a new conditional use and amendment. GE wants to sell the condominiums across from their facility. They are not proposing any site changes except a possible fence. Mr. Fuchs mentioned the existing conditional use permit covers GE, the training facility and 72-condominiums and will need to be revised and amended to eliminate the condominium use from the document. Mr. Fuchs stated GE was planning on filling the tunnel on Watertown Road to disconnect the two developments, which will require Engineering Department review. Mr. Fuchs stated Plan Commission and staff were recommending approval.

Paul Jonas, Attorney for Michael Best and Friedrich was present for this item. He stated he was representing Rivers Edge LLC affiliate of Katz Property Inc. as a potential buyer of the property.

Public hearing is closed at this time.

Mr. Wamser asked if anything changes as far as changing from condos to apartments. Mr. Wamser did not support this. Attorney Riffle stated GE was moving their operations from Pewaukee to the Village of West Milwaukee and they are trying to release the property. He stated they were not condos; they were used for people to stay in when they were in town doing training and were not owner-occupied.

Mr. Jonas stated he has never seen the condo documents for this property. The actual conditional use that was approved was for the sole purpose of housing GE employees that were staying at the training facility. By definition, the use will change. He mentioned that the facility is very well laid out for multi-family use.

Mr. Kara was concerned that there was no public attendance at public hearings. He was also concerned with the impact on the neighborhood.

Mr. Fuchs stated he did not consider it a major change or shift in use. It is essentially multi-family, but just happened to be tied to and used for GE's purpose. He said it was set up for people to live in for an extended period of time. The development will have no exterior or site changes. It was used for multi-family living and that is what it will continue to be used for.

Mr. Kara asked if traffic changes could impact anyone. Mr. Dziwulski stated he does not see traffic as an issue. It is surrounded by open space and businesses. Mayor Bierce did not feel that the current use was anything comparable to what was being recommended. He felt the City was going to add huge amounts of traffic to the most dangerous intersections in the City. He felt it would bring in people who do not have the pride of home ownership. He asked if the City would approve a 72-unit multi-family unit if this land was empty and he questioned if this was what was best for the City and residents of Pewaukee. Mr. Dziwulski stated the City cannot stop GE from selling the property. He felt not all renters trash where they rent. He felt Mayor Bierce's comments were not valid.

Mr. Wamser stated he preferred these units be owner occupied and not rental units.

Attorney Riffle discussed New Law Act 67 and stated if anyone is inclined to take any other action that is based on information outside of this public hearing, this item should be tabled.

A motion was made and seconded (R. Grosch, J. Wamser) to table this item. Motion Passed. 5-For, 1-Against (Bergman).

9. Discussion and Possible Action Regarding the General Electric Training Center Development
 - 9.1 Approve **Resolution 21-02-07** Accepting the Public Improvements and terminating the Developer's Agreement for the General Electric Training Center Development with DBTM Associates.

Ms. Wagner stated the City periodically runs into these with older developer agreements, when the municipality did not take the official adoption. This resolution is to accept the public improvements that were done as part of the developer's agreement. Discussion took place regarding the improvements that were made at that time. Attorney Rifle stated this is just cleaning up the fact that it was done.

A motion was made and seconded (B. Dziwulski, J. Wamser) to approve Resolution 21-02-07. Motion Passed: 6-For, 0-Against.

- 9.2 Approve the City Waiver of Lift Station Assessment Agreement.

Attorney Riffle stated the Council could not discuss this item, and it has been tabled.

10. Public Comment

Attorney Jonas asked for items 9.1 and 9.2 to be on the agenda and cleaned up as much as possible. It has caused a lot of hassle with the Conditional Use Permit that was tabled.

11. Adjournment

A motion was made and seconded (J. Kara, R. Grosch) to adjourn the meeting at 8:24 p.m. Motion Passed: 6-For, 0-Against.

Respectfully Submitted,

Kelly Tarczewski
Clerk/Treasurer