

In Attendance:

Mayor S. Bierce, Aldermen C. Brown, I. Clark, B. Dziwulski, R. Reinhold, P. Vetterkind and J. Wamser.

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 - None.**

3. **Consent Agenda**

- 3.1. Approval of the Accounts Payable Listing Dated September 19, 2022
- 3.2. Approval of Common Council Meeting Minutes Dated July 18, 2022
- 3.3. Approval of Common Council Meeting Minutes Dated August 1, 2022

A motion was made and seconded (J. Wamser, I. Clark) to approve the items on the consent agenda. Motion Passed: 6-For, 0-Against.

4. **Public Hearing**, Discussion and Possible Action Regarding the Conditional Use Permit for Bridger Tower Corporation for the Property Located at W229 N2467 Redford Boulevard (PWC 0915-994-004) for the Purpose of Constructing a Monopole Cell Tower

Mr. Fuchs stated the proposal is for a 120-foot tower within a 50x50 leased area on the east side of the property. He said it will resemble a pine tree. He said the Plan Commission recommended approval but thought a regular tower would be better. Mr. Fuchs stated the owner prefers the pine tower.

Harrison Keys (W229 N2467 Redford Blvd) stated he likes thing to look more natural and prefers the mono-pine, but would not be opposed to a regular tower if needed.

Michael Long a representative from Bridger Tower Corporation was present to answer any questions.

Mayor Bierce closed the public hearing.

Ms. Brown asked if the tower could be changed, in the event mono-pine was put up and it was determined that nobody liked the look.

Mr. Long stated by removing the branches, it would look a lot different than a regular monopole. He would not recommend that.

Mr. Fuchs stated there was a picture of the site and some sample photos of what the mono-pine pole did look like. He said the site was near Jerry's Automotive.

Mr. Vetterkind stated it is in an industrial area, and there are some trees in the area that are shorter than the mono-pine but it will probably blend in the area.

A motion was made and seconded (J. Wamser, B. Dziwulski) to approve the conditional use permit for Bridger Tower Corporation for constructing a mono-pine cell tower. Motion Passed: 6-For, 0-Against.

5. **Public Hearing**, Discussion and Possible Action Regarding the Conditional Use Permit for Hydro-Thermal Corporation for Property Located at N22 W23977 Ridgeview Parkway (PWC 0954-994) for the Purpose of Constructing a Demonstration Brewery

Mr. Fuchs stated this is an existing building. The tenant space is approximately 14,317 square feet. The applicant is proposing a couple of exterior changes, including roof top ventilation equipment and a fifteen-foot-tall carbon dioxide vessel on the south side of the building. He stated staff and the Plan Commission have recommended approval with conditions. The conditions are the following: the conditional use permit is not transferable, potential annual review, if initiated by the Common Council, brewing operations be limited to 8:00 a.m. to 6:00 p.m. Monday through Friday only, the roof top equipment must be fully screened, and the applicant must obtain any other licenses required by the State. Mr. Fuchs stated the applicant did not have any objections to these conditions.

Mayor Bierce opened the public hearing.

Jim Zaiser, President and CEO of Hydro-Thermal Corp., was present for any questions.

Mayor Bierce closed the public hearing after no one expressed an interest in speaking.

Ms. Brown stated the applicant told the Plan Commission that the operations would produce a sweet smell. There was some concern over this, and that is why there is a condition to bring it back to the Common Council if any complaints are received.

Mr. Zaiser stated this is a demonstration brewery and beverages are brewed in a completely different manner than a typical brewery. He said when they are boiling the wort (or mash) it will have a sweet smell because the sugars are being extracted. He said at a traditional brewery, hops are added during this process which would create an entirely different smell. He said they add the hops during a different process.

A motion was made and seconded (I. Clark, J. Wamser) to approve the conditional use permit for Hydro-Thermal Corporation with the recommended conditions. Motion Passed: 6-For, 0-Against.

6. **Public Hearing**, Discussion and Possible Action Regarding the 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 Plan Commission meeting that was scheduled for September 15th was cancelled due to a lack of quorum. He said it is rescheduled to go before the Plan Commission on October 20th.

Attorney Riffle suggested tabling this item to a specific date and time.

A motion was made and seconded (B. Dziwulski, P. Vetterkind) to adjourn the public hearing related to the Tubin boathouse until November 7th, 2022 at 6:30 p.m. Motion Passed: 6-For, 0-Against.

7. Discussion and Possible Action **Resolution (22-TBD)** and **Ordinance (22-TBD)** Regarding a Recommendation to the Common Council for a Comprehensive Master Plan Amendment to Change the Year 2050 Land Use/Transportation Plan Use Designation for the City of Pewaukee for Lake Pewaukee Sanitary District for Property Located at N25 W27675 Prospect Avenue (PWC 0935-981) from Medium Density Residential (6,500 sq. ft. – 1/2 ac./d.u.) to Government/Institutional

Mayor Bierce stated this was also scheduled to go before the Plan Commission on September 15th and has generated a great deal of interest. Mayor Bierce stated they will be on the November 21st agenda.

8. Discussion and Possible Action Regarding **Ordinance (22-TBD)** Rezoning the Property Located at N25 W27675 Prospect Avenue (PWC 0935-981) from Rs-1 Single-Family Residential to I-2 Rural Institutional for the Purpose of Constructing a New Building as Requested by the Lake Pewaukee Sanitary District

There was no discussion on this item. It will be placed on the November 21st Common Council agenda.

9. Discussion and Possible Action to Waive Fees in the Amount of \$800 for Rezoning and Comprehensive Plan Amendment Applications at the Request of the Lake Pewaukee Sanitary District

There was no discussion on this item. It will be placed on the November 21st Common Council agenda.

10. Discussion and Possible Action Regarding **Ordinance 22-21 (First Reading)** Amending Section 6.02 of the Municipal Code Related to an Exception to Allow for a Geese Management Program

Mr. Fuchs stated he was approached by a representative from the Pewaukee Golf Club asking for permission to be able to hunt within the P-1 Park District of their property. He said hunting is already allowed on the F-1 Floodplain and LC Lowland Conservancy portions of their property. Staff has drafted a proposed amendment to the ordinance allowing an alternative if the Council approves the change. Mr. Fuchs stated it essentially mimics the deer management exemption. Mr. Fuchs stated the setbacks would be 100 yards for shotguns and 35 yards for crossbows. He did voice concern for the adjacent condominiums and residential areas nearby.

Mr. Fuchs stated the Department of Natural Resources (DNR) website does have alternatives for this type of management including scare tactics, chemicals and conducted round-ups.

Attorney Riffle stated the State standard is 100 yards from a habitable building.

Ms. Brown asked if there were specific times designated for this. She said on the surface she doesn't have a problem with this but is uncertain if the residents will have an issue. She would want the goose carcasses contained to the property somehow.

Mr. Fuchs stated they do attempt to reference the DNR requirements for the hunting season.

Attorney Riffle stated he has not had the opportunity to review this ordinance and was unsure what a geese management program entails. He said he was not aware of any DNR program.

Mr. Fuchs stated there are standards for hunting, including hours.

Mr. Clark asked that the ordinance language be tighten up a bit and be reviewed by the City Attorney.

Ms. Brown stated she was not ready to approve right now and would like it to come back with more detail.

Mr. Klein asked the Council to consider how involved they want to be with this process. He said for the deer management, the DNR issues the tags to the City and we distribute them to the hunters. He said he thought the goose hunting is directly through the DNR, not the municipality.

Mr. Fuchs stated the use of the P-1 land is the issue at hand. Hunting is currently not allowed in this zoning.

11. Discussion and Possible Action Regarding Changes Related to Accessory and Temporary Uses and Structures Within the Zoning District Standards, Sections 17.0208, 17.0209, 17.0902, and 17.1400

11.1 **Ordinance 22-17** Pertaining to Definitions Related to Accessory Uses and Structures (17.1402)

11.2 **Ordinance 22-18** Pertaining to Site Restrictions (17.0208)

11.3 **Ordinance 22-19** Pertaining to Accessory Uses and Structures (17.0209)

11.4 **Ordinance 22-20** Pertaining to Temporary Uses and Structure Regulations (17.0902)

Mr. Fuchs brought forth changes to accessory and temporary structures. He said he is not trying to majorly change the ordinance but instead provide more detail to be able to manage the code more effectively. He said the Plan Commission reviewed the changes and have recommended approval. He said one of the changes was adjusting the duration of temporary parking for recreation vehicles (RV). He said RV parking was reduced from 60 days to 45 days. Mr. Fuchs said another notable change was reducing the size of boathouses to be more comparable to the County's requirements. He did note that it was still larger than what the County allows but much smaller than what was in the City's code. Mr. Fuchs said the City will allow for the boathouse to be up to 600 square feet, where the County only allows 450 square feet. Mr. Fuchs stated there were changes made to the setbacks of decks and patios.

A motion was made and seconded (C. Brown, B. Dziwulski) to approve Ordinances 22-17, 22-18, 22-19 and 22-20.

Mr. Klein state he disagrees with the allowable size of the boathouses. He felt 600 square feet was too large. He indicated something that size could significantly block the view of the lake, especially if it was built on a narrow lot. He also expressed that he thought something that size would be used as a party room.

Ms. Brown stated the Plan Commission didn't feel that strongly, one way or another, regarding the size of boathouses. She said it was originally 800 square feet, so they felt good about lowering it down to 600 square feet. She stated she'd support a further reduction in size if the Council wanted to entertain such a change. Ms. Brown said she empathizes with the neighbors whose views are blocked.

Mr. Vetterkind said determining what a fair square footage is difficult since there are some very large lots and some very small lots. He said he'd hate to limit someone with a large lot to a small boat house.

Mr. Clark suggested if the proposed boathouse is 5-feet from the property line it should be at least 15-feet off of the other.

Mr. Vetterkind suggested making it based on a certain percentage of property owners' frontage being covered.

Mr. Fuchs stated the side-yard setback for boathouses is 10-feet.

Mayor Bierce stated the property owner could request a variance.

Mr. Reinbold stated he'd prefer to keep the footprint smaller to keep the integrity of the lake.

A motion was made and second (C. Brown, R. Reinbold) to approve the ordinances with the one exception of changing the size of the boathouses to 450 square feet to match Waukesha County requirements. Motion Passed: 6-For, 0-Against.

12. Discussion and Possible Action Regarding **Resolution 22-09-29** to Amend the City's Fee Schedule to Add a Temporary Use Permit Application Fee of \$50.00

Mr. Fuchs stated the temporary use ordinance that was just approved requires a permit be issued to certain temporary uses. He said this resolution sets the fee.

A motion was made and seconded (B. Dziwulski, I. Clark) to approve Resolution 22-09-29. Motion Passed: 6-For, 0-Against

13. Discussion and Possible Action Regarding Revisions to the City's Needs Assessment Study and Impact Fee Analysis for Parks, Fire Department, and Trails

Mr. Fuchs stated these proposed changes were not incorporated in the final draft. Staff felt it was important to note these changes and references to the bicycle facility plan and the pedestrian capital plan. He said this just adds language in the impact fee analysis. It broadens the language to use impact fees for trails, even though they may not specifically be listed in the plan.

A motion was made and seconded (B. Dziwulski, I. Clark) to approve the revised City Needs Assessment Study and Impact Fee Analysis for Park, Fire Department and Trails. Motion Passed: 6-For, 0-Against.

14. Discussion and Possible Action Regarding Appointments to Various Board, Committees and Commissions

Mayor Bierce recommended the appointment of Phil Vetterkind to the Tourism Commission.

A motion was made and seconded (J. Wamser, C. Brown) to appoint Phil Vetterkind to the Tourism Commission. Motion Passed: 6-For, 0-Against.

15. Discussion and Possible Action to Establish the 2023 Garbage and Recycling Fee Rate

Ms. Wagner stated this year the adjustments allowed per the contract exceeded the cap of 2.65% and Johns is requesting the increase of the 2.65% cap. Ms. Wagner recommend setting the 2023 garbage rate at \$178 per unit.

Ms. Brown inquired about the residents who have paid for an extra garbage can and whether or not the City charges them more. Mr. Wamser stated Johns annually bills these residents for the extra garbage can. Ms. Brown asked if that is fair since the City also pays for the tonnage going to the landfills. She indicated she didn't want to see some residents supplement the others by not charging enough to those that benefit, nor did she want to see Johns be paid by both the City and the resident for the extra waste picked up weekly. She asked if the City was accounting for that in some manner. Ms. Wagner stated she does not believe that we are.

A motion was made and seconded (B. Dziwulski, I. Clark) to set the 2023 garbage and recycling fee to \$178 per unit. Motion Passed: 6-For, 0-Against.

16. Discussion and Possible Action to Approve the First Reduction of The Waters of Pewaukee Letter of Credit from \$1,309,209.84 to \$595,672.84 (A reduction of \$713,537.00)

Ms. Wagner stated this is the first letter of credit request for the Waters. They have completed grading, sanitary sewer, storm sewer and water main. She stated they requested a larger reduction, but the pavement has not been completed yet, so she is reserving some of the funds to ensure the utilities are protected during that operation.

A motion was made and seconded (I. Clark, J. Wamser) to reduce the letter of credit for the Waters of Pewaukee down to \$595,672.84. Motion Passed: 6-For, 0-Against.

17. Discussion and Possible Action Regarding the Highlands Subdivision Road Reconstruction and Related Improvements
 - 17.1 Preliminary **Resolution 22-09-30** Declaring Intent to Exercise Special Assessment Powers Authorizing the Construction of Highlands Subdivision Reconstruction and Related Facilities Under Section 66.0703 Wisconsin Statutes
 - 17.2 Comfort **Resolution 22-09-31** Declaring Official Intent to Reimburse Expenditures

Ms. Wagner moved this project up because the conditions warrant it. She stated the City did borrow funds for this project already. Ms. Wagner stated the resolutions are standard preliminary resolutions.

A motion was made and seconded (B. Dziwulski, I. Clark) to approve Resolution 22-09-30 and 20-09-31. Motion Passed: 6-For, 0-Against.

18. Public Comment

Daniel Rieck (N37 W26731 Kopmeier Drive) stated he was here for the boathouse conditional use hearing that was scheduled tonight. Mayor Bierce asked him to stay after the meeting and someone will address it.

19. Adjournment

A motion was made and seconded (C. Brown, I. Clark) to adjourn the meeting at 7:25 p.m. Motion Passed: 6-For, 0-Against.

Respectfully Submitted,

Kelly Tarczewski
Clerk/Treasurer