

In Attendance:

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

Also in Attendance:

Attorney L. Martell, 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 5, 2023

3.2 Approval of **Resolution 23-09-13** Committing to Required Funding for the Pewaukee Public Library and Requesting Exemption from the 2023 Waukesha County Library Tax Levy for 2024 Purposes

A motion was made and seconded (I. Clark, B. Dziwulski) to approve the consent agenda.

Motion Passed: 4-For, 0-Against.

4. Highlights Regarding the 2022 Audit Report from Paul Frantz - Baker Tilly

Mr. Frantz stated they issued an unmodified audit opinion which is basically a clean bill of health. All necessary accounting principles have been adopted and applied consistently year after year and all necessary disclosures within the document have been made. He said there are no material misstatements that have been identified.

Mr. Frantz went over the financial highlights and said the general fund ended the year with just under \$7 million in fund balance with \$6.4 million falling into the unassigned, which is the largest piece. He said after dividing the unassigned balance by the budget he came up with a percentage of 36 percent. Mr. Frantz said he wants to see it between 10 to 25 percent. He noted the City has a healthy reserve in the general fund and well positioned for purposes moving forward. He said the City budgeted to use \$1.3 million of fund balance and ended the year only using \$153,000 of fund balance.

Mr. Frantz stated water utility and sewer utility both had operated income as of year-end. He said water had roughly \$270,000 and sewer was just under \$500,000. He said the rates continue to support the operations, but they do not factor in future infrastructure needs. Mr. Frantz noted that in April, the City forgave a portion of the debt. There is a footnote in the audit and the transaction will take place in 2023.

Mr. Frantz stated there is \$55 million of general obligation debt outstanding as of December 31, 2022, split between the City and utilities. He said the City can borrow up to 5 percent of equalized value, and the City is 27 percent extended on debt. He said there are no concerns about a debt limit.

He added there are two main discussion points, and the material weaknesses are consistent with other municipalities of our size. Mr. Frantz stated the other material weakness focuses on the financial statement document. Since the City does not have a CPA on staff and the City chooses to outsource prepping the document, it must be brought to the City's attention that the City made that choice.

Mr. Frantz stated there are key items that are required to be shared about accounting principles that were adopted during the year. He noted they received cooperation through the whole audit process.

Mr. Clark asked about the debt forgiveness and if there were any anticipated affects in next year's audit. Mr. Frantz stated the balance sheet will show due to sewer and due to water of \$7.4 million and it will go down to the \$2.0 million figure next year. Mr. Frantz added there will be a special items line with a footnote describing the act.

5. Discussion and Possible Action to Approve a Temporary Class B Beer License to the Friends of the Park for their Lake Country Canine Carnival Event on October 7th, 2023 to be Held at the Pewaukee Sports Complex Located at N45 W23440 Lindsay Road

Ms. Tarczewski stated this was the second year for the Parks and Recreation event. She said there were no objections to this event.

Ms. Brown asked if they had a rainout date scheduled. Ms. Tarczewski stated she was not aware if they did or not.

A motion was made and seconded (C. Brown, I. Clark) to approve the Temporary Class B Beer license and authorize staff to make changes to the date if there is a rainout date. 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 the Property Located on Highfield Court (PWC 0906-994) for the Purpose of Constructing a Childcare Facility

Mr. Fuchs stated this was a Conditional Use application for a Montessori school within a B-6 district. He said they are proposing a maximum capacity of 152 students and the hours of operation will be from 7:00 a.m. to 6:00 p.m., Monday through Friday. He said the applicant indicated none of the students will be bused to their facility. Mr. Fuchs stated they originally went before the Plan Commission on March 16th and the neighbors within the Broken Hill Subdivision indicated they had concerns regarding traffic. He said the Plan Commission had the same concerns and asked the applicant to complete a traffic study. Mr. Fuchs stated the applicant completed the traffic study and came back to the Plan Commission on May 18th to present the results of the traffic study, and Plan Commission continued to have concerns with traffic and recommended denial of the Conditional Use Permit. He said the applicant is coming back to the Council requesting approval and is providing a memo summarizing the traffic study.

Attorney Martrell noted that Mayor Bierce and Alderperson Brown are on the Plan Commission and have heard the proposal and details of the project. He asked that they be fair and impartial based on what is being heard tonight. Attorney Martrell added it is Quasi-Judicial and the decision is entirely made on what is presented at this meeting. He said under §62.23 there is substantial evidence standard, and decisions must be based on substantial evidence. He reiterated the City's code Section 17.0501 stating the purpose and intent are found not to be hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or community.

Mayor Bierce stated Plan Commission meetings discuss more than just the Conditional Use Permit, and they talk about landscaping, lighting, building appearance and general conditions. He asked if this public hearing was strictly on the Conditional Use Permit and asked if they can discuss any other areas of the development. Attorney Martell stated if they are general conditions that would normally be discussed they can be addressed, but you can't bring in what was discussed previously. Mayor Bierce asked if it they would have to go back to Plan Commission for approval or if they are able to build it the way they want if it goes in the developers favor and no one weighed in on lighting or the building at Plan Commission meeting. Mr. Fuchs stated based on the Plan Commission motion the applicant would have to go back to Plan Commission for review.

Mayor Bierce opened the public hearing.

Brett Hutter (N37 W23820 Broken Hill Circle South) said he has seen an increase in traffic since the initial daycare went in a couple of years ago. He added there are a large amount of dump trucks cutting through his subdivision to get to the development on Swan Boulevard and Highway 164. He said the traffic light is difficult, and his concerns are with the speed and traffic pattern.

Shannon Myhre (N36 W23526 Oak Hill Lane) said she is concerned with the traffic at the intersection of Highfield Court and Capitol Drive. She said it's not only the volume and complexity of the intersection but the blind hill. She said it is a mess and congested during certain hours of the day. She said the use will cause an extensive traffic increase and during a condensed time frame 150 cars going through that intersection will be very hazardous. She said she hopes the Council votes no.

Rob Myhre (N36 W23526 Oak Hill Lane) said cars are always stacked up and it's always a mess. He said he has written to the State, County and the City and feels there needs to be a light. He said he can't believe the City would even consider this. He feels it is one of the worst plans he has ever heard and asked the Common Council to listen to the residents.

Mayor Bierce asked if it is a City rule or State rule that Council can't consider Plan Commission. Attorney Martell said it is a State rule and how all Quasi-Judicial hearings operate.

Jill Schultz (N36 W23835 Broken Hill South) said she has seen a massive increase in traffic since KinderCare has gone in. She said there is a bus stop in there and the amount of speed going through is dangerous. She said there are many days when cars pass the bus, and traffic is a big concern.

Tom Gardner with Michael Best representing the applicant, noted that during the Plan Commission meeting there was a concern about bus traffic. The applicant proposed that the early childhood school would not use buses to transport students to and from the school.

Brett Dalman with Quatro Development stated the property has its limitations and is not very large. He said he is aware of the childcare center next door and noted the Montessori School has a completely different type of childcare education than KinderCare. He added that he understands the traffic concerns and has followed up with a report to try and compare it to other uses that could go on that property.

John Bieberitz with Traffic Analysis and Design stated he did the original traffic study. He said what is being proposed is not the highest volume generated use for the site. He said comparing other uses such as a retail store, pharmacy or drive through restaurant would generate more traffic than what is being proposed. He said this is a Monday through Friday operation from 7 a.m. to 6 p.m. and the traffic volume would be a three-hour window in the morning and three hour window in the evening. He

added there is no specific hard start or end time like a traditional school, and you will not see a big peak at drop off or pick up.

Mayor Bierce asked about the morning peak on the study. Mr. Bieberitz said it was based on traditional rush hour traffic from 7 a.m. to 8 a.m. and they tried to represent the worst-case, highest volume of traffic on Capitol Drive

Mr. Dziwulski asked how they determined the number of ins and outs. Mr. Bieberitz stated it is based on national standards and the ITE Trip Generation Manual, which is a combination of traffic studies done throughout the country at day care facilities and Montessori schools. Mr. Dziwulski stated that is an average and he questioned who's to say it wouldn't be higher. Mr. Bieberitz stated based off start and end times, drop off and pickups are spread out.

Discussion took place regarding peak time and cars per minute.

Ms. Brown said she hasn't checked to see if the DOT has the same numbers as the traffic study. She said according to the exhibit in the study it shows an increase in traffic on Capitol Drive and Highway 164 from 2018-2023. She said she finds it interesting that there is a high volume on these roads but was dumbfounded by the 24-hour counts. She said to add a little bit here and there seems minimal on heavy roads and the concern is keeping them out of the subdivision. Ms. Brown said she has heard complaints that there are not enough day cares in the area, but she struggles with the issue of increasing traffic in a subdivision and feels signage and increased officers are needed. Ms. Brown stated she feels Capitol Drive and Highway 164 can handle the traffic increase, but it's all about keeping traffic out of the subdivision.

A brief discussion took place regarding items to slow traffic down and the importance of enforcement.

Matt Knopf from Higher Ground said he hears the residents' complaints and concerns. He said operationally, all parents get an orientation package and specifics could be put in it regarding traffic flow.

Mayor Bierce asked what would be considered a bus and the age of children that are accepted. Mr. Knopf stated they do not bus children in and out to aftercare. He said it is not in their business model and noted Montessori Schools are different than standard schools. He added the children that are accepted are infants through the age of six. Mr. Knopf has a growth model and if there becomes a need in a community for an elementary school and they feel their families can support it, they will look for a location in the community.

Ms. Brown asked why they chose this property when there are larger properties available. Mr. Knopf stated although there are challenges to the site, the marketing team does extensive demographic studies and looks at what they call a magic mile number. This location met all those requirements and factors. Ms. Brown asked if the high traffic and congestion could hurt the business. Mr. Knopf said operationally Montessori allows flexibility where drop off and pickup times are dispersed, so you don't see typical congestion.

Mr. Dziwulski feels it is great to include the traffic flow in the orientation packet, but asked what happens when they do it for a week and then they start cutting through the subdivision. Mr. Knopf said they want to be a great neighbor and part of the community and if it becomes an issue they will work with the City.

Mr. Vetterkind asked who was going to volunteer in a million-dollar subdivision to have a slowdown sign or flashing light in their yard. He added that officers can't sit and police it every day.

Mr. Clark asked if similar conditions were made for KinderCare and if people were cutting through the subdivisions. Mr. Fuchs stated he was not aware of any conditions related to traffic and was only aware of traffic cutting through by comments made by residents.

Jill Schultz (N36W23835 Broken Hill Circle South) said she is pro-Montessori and would not be here if KinderCare wasn't already there. She said traffic and cars speeding through her neighborhood has increased drastically since KinderCare opened. She added this will increase traffic and everyone is already cutting through, including construction vehicles. Ms. Schultz noted adding more cars to the same time frame of traffic in the morning and afternoon is frustrating.

Rob Myhre (N36W23526 Oak Hill Lane) said he couldn't track the numbers since he didn't have the data that was presented but doesn't understand the math when it comes to the increase in cars. He added that the data is polluted.

Meagan Lind (N37W23740 Broken Hill Circle South) said the peak times that were discussed were also the peak times for buses, as pick up is between 7:45 - 8:15 a.m. She said the corner is bad and people are cutting through from Highway 164.

Shannon Myhre (N36W23526 Oak Lane) stated it is not about the numbers, it is the complexity. She noted there is only one way in and one way out. She added the cut through is real.

John Bieberitz with Traffic Analysis and Design stated the data from the traffic study was done in April of this year, not during Covid. He added the site is zoned B-6 and the trip generation shows other usages that may be allowed on the property could produce more traffic and even include weekend traffic.

Ms. Brown asked what the property was currently zoned and if Mr. Fuchs was considering putting it in B-4. Mr. Fuchs stated it is zoned B-6 and refers to B-4 and B-5 districts for permitting.

A brief discussion took place regarding the uses of B-4 and B-5 and permitted uses that would not require anything but a business plan of operation.

Mayor Bierce closed the public hearing.

Mayor Bierce stated this is a classic example of what small down government does. He said you need to ask yourself if allowing someone to create a business will adversely affect other families around them, or if it would be hazardous or harmful to the value of the neighborhood or community. Mayor Bierce noted there were good opinions and facts, and some facts could be used in either argument.

A motion was made and seconded (P. Vetterkind, B. Dziwulski) to reject the Conditional Use Permit for Quattro Development/Higher Ground Education. Motion Passed: 4-For, 0-Against on roll call vote. Attorney Martell advised each Council member to state their vote and reason for their vote. Mr. Vetterkind voted against the Conditional Use Permit based on it being a hazardous idea to add more traffic to an already congested area. He added the data shows it would make it more hazardous and there are other uses that could go on that site. Mr. Dziwulski seconded the motion based on the traffic in the subdivision. He said roads are narrow and adding more traffic is not acceptable. Ms. Brown voted in favor of the motion because it is adverse to the neighborhood and feels it would be a negative impact on the neighborhood. She encouraged Higher Ground to see if there is another

location in the City for the development and stated this type of Montessori school is needed and wanted. She said her vote is based on the neighborhood and not because of the project itself. Mr. Clark voted in favor of the motion and concurred with Alderperson Brown.

7. Discussion and Possible Action Regarding **Resolution 23-09-14** Releasing a Forty-Five Foot Reserved Right-of-Way Restriction Upon Lots 1 and 2 of Certified Survey Map No. 10366 as Requested by Quattro Development Reservation

Mr. Fuchs stated no action is needed on this resolution since the Conditional Use Permit was not passed. There was no further discussion.

8. Discussion and Possible Action Regarding Signals at the Intersection of Lindsay Road and Pewaukee Road (STH 164)

Ms. Wagner stated there has been discussion regarding installing lights at Lindsay Road and Pewaukee Road. She said this is different than Lindsay Road and Redford Boulevard and noted this is County versus State. Ms. Wagner said there was a lot of discussion with the Public Works Committee and the concerns with traffic and safety. The DOT is currently doing a resurfacing project of Highway 164 which is slated for 2026 construction. Ms. Wagner stated she has been involved in the discussions regarding the construction and asked about lights at the intersection. She was originally told it did not meet warrants for installing lights. Ms. Wagner said after follow up discussions, it meets one warrant, for delays to get onto Highway 164, but it does not qualify for signals as part of the resurfacing projects. She added they could install signals at the expense of the municipality. Ms. Wagner said after looking at the boundaries of the community she found that the entire intersection is located in the Village of Pewaukee. She said she approached the Village, and they don't think there are any issues there and haven't had any complaints or concerns.

Ms. Wagner stated she talked with the Mayor and asked if the Village would be willing to turn over the right-of-way to the City of Pewaukee and do a boundary adjustment. if the City were to install lights at the intersection at our expense. She said the Village Engineer said they wouldn't object and there would be no loss in taxes. She said there would need to be an adjustment to the legal descriptions. Ms. Wagner said the City could do nothing or they could approach the Village and ask them to install and pay for signals. The City could also ask them to share in the cost or make the request for the Village to do a jurisdictional transfer and then work with the DOT and pay 100 percent of the cost to improve the intersection at the City's expense. Ms. Wagner asked Common Council if they saw a value in the signals and if the value is enough to approach the Village about a jurisdictional transfer. Ms. Wagner noted the DOT estimated the cost of the signals at about \$300,000.

Ms. Brown asked Alderman Vetterkind if he gets any complaints from the residents. Mr. Vetterkind said he has not had complaints but has asked around since this came out and people seem very interested. Mr. Vetterkind asked if a roundabout had been discussed instead of a light. Ms. Wagner stated that is more of a reconstruction project that would cost more money, and it was highly unlikely because there is not enough traffic on Lindsay Road to justify a roundabout. Ms. Brown said she would entertain taking the right-of-way from the Village.

Mr. Dziwulski said the cost will go up, and he asked why the City was sticking our nose in it. He added he is against this.

Mr. Klein stated both intersections are dangerous. He said the reason the City is considering it is because it is part of the reconstruction, and it will cost more later. He added to do this one and not the one that is more dangerous is also troubling.

Mayor Bierce said the reason he is pushing Ms. Wagner on this is because the community is growing, and the surrounding communities are growing. He said the City is creating unsafe conditions in a number of places. He said the project is now and they won't come through again for many years. Mayor Bierce added it's a lot of money, but in the grand scheme of big projects, it is fairly small. Ms. Brown noted the north quadrant is growing and will only get busier. She said she agrees with Mayor Bierce and doesn't want to look back and say we had the opportunity and didn't take it.

A brief discussion took place regarding taking ownership of the problem that is located in the Village.

Mr. Clark recommended writing a letter to the Village. Ms. Wagner stated she already did that, and the response was that there were no problems with the intersection. She said when she proposed that the City take over the intersection and install the lights, the village did not have an objection at the staff level. Ms. Wagner is asking if the City should make a formal request to the Village to do the jurisdictional transfer and then the City would enter into an agreement with the DOT to install the lights.

Mr. Vetterkind stated it is a big decision because if something isn't done tonight, there will be nothing there for the next 25 years.

Mr. Klein stated it's more expensive if it's not done as part of a reconstruction project. He said they are not doing a reconstruction on Highway F and Lindsay Road, but the City could still put in lights. He feels the intersection at Highway F and Lindsay Road is more dangerous.

A brief discussion took place regarding doing something on Highway F and Lindsay Road.

A motion was made and seconded (C. Brown, P. Vetterkind) to approach the Village of Pewaukee on a jurisdictional transfer at the intersection of Highway 164 and Lindsay Road, to talk to the DOT about installing lights, and reaching out to the Village of Pewaukee to ask if they would contribute proportionally. Motion Passed: 4-For, 0-Against.

9. Public Comment

Brett Hutter (N37W23820 Broken Hill Circle South) asked about the zoning for the Montessori school and if it would allow for a quick-serve restaurant without City interaction. He said he would talk to his Aldermen about getting it rezoned.

Rob Myhre (N36W23526 Oak Hill Lane) said he echos the idea of having the area rezoned. He thanked the Common Council for listening and voting in their favor. He added that Highway 164 and Lindsay Road is a mess, and it will only get worse. He said communities are growing and it needs to be addressed.

10. Adjournment

A motion was made and seconded (B. Dziwulski, C. Brown) to adjourn the meeting at 8:20 p.m. Motion Passed: 4-For, 0-Against.

Respectfully Submitted,

Kelly Tarczewski
Clerk/Treasurer