

In Attendance:

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

Also in Attendance:

Attorney S. Riffle, Administrator S. Klein, DPW Director M. Wagner, Utility Manager J. Mueller, 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. and asked everyone to stand for the Pledge of Allegiance.

2. Public Comment - None.

3. Consent Agenda

3.1 Approve Common Council Meeting Minutes Dated July 17, 2023

3.2 Approve the Accounts Payable Listing Dated August 21, 2023

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

4. **PUBLIC HEARING**, Discussion and Possible Action Regarding a Conditional Use Permit for WVRP for Property Located on Pewaukee Road (PWC 0966-999) for the Purpose of Constructing an Emergency Vet Clinic - *(To Be Tabled)*

Mr. Klein reported that the Plan Commission meeting that was supposed to take up this matter was cancelled due to a lack of quorum. It will be taken up at the September meeting on the 21st, therefore, it will not come before the Common Council until the first meeting in October.

A motion was made and seconded (B. Dziwulski, R. Reinbold) to table this until the October 2nd Common Council meeting. Motion Passed: 6-For, 0-Against.

5. Discussion and Possible Action to Adopt **Resolution 23-08-10** and the Final Engineers Report for Fox View Court Road Rehabilitation

Ms. Wagner stated Fox View Court was reconstructed and completed in 2019 and has received all the close out documentation from the contractor. She added that the final Engineers report and final resolution are completed to finalize the special assessments and asked for approval to adopt the final resolution.

A motion was made and seconded (J. Wamser, R. Reinbold) to adopt Resolution 23-08-10 and the Final Engineers Report for Fox View Court road rehabilitation. Motion Passed: 6-For, 0-Against.

6. Discussion and Possible Action to Adopt **Resolution 23-08-11** and Approve the Final Engineers Report for Steeplechase Phase 2 Road Rehabilitation Project

Ms. Wagner stated Steeple Chase Phase 2 was bid and constructed in 2019 and has received all the final close out paperwork. She added that the final Engineers report is completed to finalize the special assessments and asked for approval to adopt the report and final resolution.

Mr. Reinbold asked why the assessment was being done in 2023 if the project was done in 2019. Ms. Wagner stated the City has been struggling to get contractors to provide final closeout paperwork and lien waivers from their subcontractors. She noted the contract can't be closed until the City has the lien waivers.

A motion was made and seconded (B. Dziwulski, R. Reinbold) to adopt Resolution 23-08-11 and approve the final Engineers report for Steeplechase Phase 2 road rehabilitation project.

Motion Passed: 6-For, 0-Against.

7. Discussion and Possible Action Regarding **Resolution 23-08-12** and Approving the Final Engineers Report for Oak and Peninsula Road Reconstruction and Water Main Extension Project.

Ms. Wagner stated the projects were completed in 2020 and 2021 and she has received all the final close out paperwork and that the final Engineers report and resolution are completed. She said Council previously discussed incorporating a couple additional things into the resolution, including resolutions must be paid at time of sale, all assessments can be paid over ten years with interest, watermain and water service assessments are due at connection or after five-year deferment, whichever is first, and private wells must be abandoned at time of connection to the municipal system. Ms. Wagner added the final condition was an allowance for family members to pass the property on to another family member, without requiring connection to the water system. Ms. Wagner stated the Council was agreeable but still needed to decide lineage and how far it would go. Ms. Wagner stated a first degree relative includes a parent, spouse, sibling or child by blood, marriage, or adoption. And a second degree relative which would include everything in the first degree plus, grandparents, aunts, uncles, nieces, nephews, and first cousins. Ms. Wagner said she drafted two separate resolutions depending on which one Council chooses to adopt and noted that staff recommended going with first degree relative because second degree is quite expansive.

Mayor Bierce asked if there were any other assessments that include this. Ms. Wagner stated there are some very old, expired assessments that had passage to a spouse.

Ms. Brown stated unless the City forces people to hook up to water, the pipes are sitting in the roads. She noted the City has never had a policy forcing residents to hook up and with the five-year deferment, the City is getting the money whether they hook up or not.

Mr. Dziwulski said they should be allowed to pass to their first relative one time. Ms. Brown asked how that would be controlled. Attorney Riffle also asked how that would be tracked.

Mr. Clark asked if people are expected to either hook up or pay after the five-year deferment period. Ms. Wagner said if a resident opts for a five-year deferment, the assessment accrues interest and in year six the first installment goes on the tax bill for ten years and won't require connection.

Someone in the audience asked if there was a master plan for the whole City as far as connecting to water and how many people are currently connected to sewer and water. Mayor Bierce stated the goal is to have everyone connected. Ms. Wagner added roughly 50 percent are connected, although some may have sewer and not water. He asked when water would be available on Sherwood Drive. Ms.

Wagner stated the City looks at areas where roads are being reconstructed and Sherwood is being looked at.

Dan Teske (W244N4512 Swan Road) asked if he could pass it on to his daughter. Mayor Bierce noted it is specific to this project.

Mr. Vetterkind asked if anyone on Oak Street or Peninsula Drive has hooked up to water. Ms. Wagner stated there have been quite a few connections.

A motion was made and seconded (C. Brown, B. Dziwulski) to approve Resolution 23-08-12, and for connection purposes only, transferring property to a first degree relative on a single occasion is not considered a sale. Motion Passed: 6-For, 0-Against.

Someone in the audience asked if this was setting a precedence for the whole City. Attorney Riffle stated it is only for Oak Street and Peninsula Drive.

8. Discussion and Possible Action to Award the Valleybrook Storm Sewer Replacement to the Lowest Qualified Bidder, Musson Brothers, Inc., in the Amount of \$144,058.40

Ms. Wagner stated Valleybrook Subdivision has a storm sewer located within the easements that drains right-of-way to the rear of the subdivision to the creek. She said it is very shallow, failing, and creating drainage issues within the right-of-way. Ms. Wagner stated it was bid for replacement using a concrete sewer pipe, which will make it easier to maintain and last longer. She said all adjacent property owners are aware of the removal, tree trimming and construction. Ms. Wagner noted there were six bidders for the project and Munson Brothers were the lowest contract bidder. She added it is within budget and recommended awarding Munson Brothers, Inc the project in the amount of \$144,058.40.

A motion was made and seconded (P. Vetterkind, B. Dziwulski) to award the Valleybrook storm sewer replacement to the lowest qualified bidder, Musson Brothers, Inc., in the amount of \$144,058.40. Motion Passed: 6-For, 0-Against.

9. Discussion and Possible Action Regarding the Fire Protection Fee [Wagner / Mueller].

Ms. Wagner stated the Council directed staff to do additional research on the fire protection fee. Ms. Wagner noted all Public Meetings, Common Council, and Public Works Commission meeting minutes were pulled and included in the agenda packet. She noted the Public Service Commissions had approved eight methods for doing the fire protection charge as a direct charge and included that in the packet. Ms. Wagner stated if Council decided to direct staff to change the current method of the direct charge, it will require a resolution from Council and funding a rate case. She said the PSC will review how the charge is to be done, the value of the charge, and what the rate will be. Ms. Wagner noted it may cost \$30,000-\$40,000 to do the rate case analysis and the City would hire a consultant. She added that if Council decided to pursue, the City would get a quote and bring it back to Council before moving forward. She noted it is not in the budget for this year and requested to wait until late 2024 or 2025 to pursue, due to current workloads.

Mayor Bierce felt spending \$30,000-\$40,000 on an analysis will leave the City in the same place.

Someone in the audience stated he spoke with two fireman and was told that 500 feet is not the limit for hose usage and the Fire Chief told him they use City water for all fires. He said if the protection fee is

based off proximity to a hydrant and the fee is used to not only maintain the hydrant but to provide water, clearly most residents benefit from City water and the protection fee, but only certain people are charged for it.

Ms. Mueller said she clarified with the Fire Chief that they get water from the closest water source and do not draft out of the lake any longer.

Ms. Brown noted she brought this back to Council in 2013 and it stayed the same. She said she struggles with the correlation between the amount charged and the value of the home.

Mr. Reinbold said he thought it had to do with square footage of the house. He said there is a drastic difference in the amount of firefighting effort with different sized homes.

Ms. Wagner stated that the PSC does review from time to time what the City is collecting for the fee and will review what is being collected versus what the value is. She said when the City goes through rate changes you can review the case on the PSC website.

Mr. Wamser stated he is not in support of the study.

A motion was made (I. Clark) to direct staff to engage in a fire protection fee study and rate case study to be brought before the Common Council at a later date. The motion died due to lack of a second.

10. Discussion and Possible Action Regarding the PFAS Levels in Wells 11/12, also Known as Entry Point 500

Ms. Mueller stated she was notified that samples taken at entry point 500, which is a blended well site of #11 and #12, exceeded the hazard index for PFAS from the Health Department. She said she previously spoke with the Council about shutting down well #8 until treatment could be put in, but with the new larger producing site the City is not able to supply the west side of the City with an adequate water supply and fire protection by shutting the wells down. Ms. Mueller stated she will notify the public that it is her recommendation that the City will use well #8 so the City can maintain the chlorine levels in the reservoir. She said due to the three plus years the City is supplying water during the study and construction for the treatment system, the City will need to use one of the two sites.

Mayor Bierce asked who was pushing this and if they have given the City any options. Ms. Mueller stated the DNR is pushing it and their response has been disappointing. She said the limits have not been set yet by the EPA and Wisconsin is following the Department of Health guidelines. Ms. Mueller added that the Department of Health came up with the hazard indexes and the calculations. She added there are 12 different PFAS's and a reasonable level is 1. Well #8 is at 1.5 of the hazard index and entry point 500 is at 1.25. She said the City is just beyond the limits which requires either shutting down the wells or sending out a quarterly public notice. She said the City did not use the wells last week and the levels in the Carmelite tower are high enough to supply fire protection. Ms. Mueller stated the City has 30 days from the date of notification, which was August 14th, to send out the public notice and would like to get it out next week. Ms. Mueller added that she received a newsletter from the DNR stating they completed PFAS testing in several communities in the state and only 1.4 percent of all the samples show testing positive. Ms. Wagner stated she will email the notice to Common Council members prior to it being sent out to residents.

Mr. Reinbold asked how long they have been testing and how often testing will take place. Ms. Mueller stated the samples are higher than the ones that were done in May. She said the expectation is that testing will be done quarterly. Mr. Reibold also asked if Pewaukee Lake has been tested. Ms. Mueller stated she is not aware if it has been tested.

No action was taken.

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 claim of SABRA pertaining to Parkside of Arbor View W232 N3471 Hunters Ridge Road (PWC 0908-996) and the Parkside of Legacy N26 W26511 College Avenue (PWC 0931-999-014).
- §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 require a closed session, specifically related to the Bluemound South Sewer and Water Extension Project.

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 (J. Wamser, B. Dziwulski) to adjourn into closed session at 7:26 p.m. Motion Passed: 6-For, 0-Against by roll call vote.

13. Adjournment

A motion was made and seconded (C. Brown, I. Clark) to adjourn the meeting from closed session at 7:58 p.m. Motion Passed: 6-For, 0-Against.

Respectfully Submitted,

Kelly Tarczewski
Clerk/Treasurer