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

Also in Attendance:
Attorney S. Riffle, Administrator S. Klein, DPW Director M. Wagner, Utility Manager J. Mueller, 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 6:30 p.m. and asked everyone to stand for the Pledge of Allegiance.

2. Public Comment – None.

3. Discussion and Possible Action to Approve the Accounts Payable Listing Dated August 7, 2023

   A motion was made and seconded (P. Vetterkind, R. Reinbold) to approve the accounts payable listing. Motion Passed: 5-For, 0-Against.

4. Discussion and Possible Action Regarding Bids Received for Conversion of Ball Diamonds to Synthetic Field Turf at Pewaukee Sports Complex

   Mr. Phalin stated the project only received one bid. He said he was disappointed with the bid; he was anticipating between $1-$1.2 million and it came in at $1.58 million. Mr. Phalin said the cost may have to do with the timeline, and that most construction companies have their schedules full for fall. He added that RA Smith recommended rejecting the bid and rebidding the project in fall. He said they will put a start construction date of July 29, 2024, and, completion date of November 2024.

   A motion was made and seconded (B. Dziwulski, I. Clark) to reject the bid received and instruct staff to rebid the project in fall. Motion Passed: 5-For, 0-Against.

5. **PUBLIC HEARING,** Discussion and Possible Action to Approve the Class B - Beer and Class C - Wine Licenses for AGAM Restaurant Inc. Doing Business as the Crossings Located at N20W22951 Watertown Road and Naming Ramandeep Chanana as Agent

   Ms. Tarczewski stated the petitioner filed the application a few weeks ago and the necessary background check was completed and there were no concerns to issue this license.

   Mayor Bierce opened the public hearing. No one expressed interest in speaking so the public hearing immediately closed.

   A motion was made and seconded (B. Dziwulski, I. Clark) to approve the Class B – Beer and Class C – Wine license and name Ramandeep Chanana as agent. Motion Passed: 5-For, 0-Against.

6. Discussion Related to the Fire Protection Fee [Clark / Mueller / Wagner]

Mr. Clark stated Mr. Drollinger reached out to him regarding the fire hydrant fee and how it is assessed. Mr. Clark noted residents who live within 500 feet of a fire hydrant are assessed the fee for maintenance and care. Mr. Drollinger's concern is that it puts an undue burden on residents who are within 500 feet of a fire hydrant when all residents are beneficiaries of fire protection.

Mark Drollinger (W268 N2759 Platt Street) said 95-99 percent of users get City or hydrant water to fight fires. He said the rate is not related to the cost of the service. He said the rate charge for the fire hydrant is related to the assessed value of the house and he does not see the relation between property value and the hydrant maintenance fee. He added that not all beneficiaries are paying the cost for the services.

Ms. Mueller stated prior to 2005, the fire protection charge was on the property tax bill and was distributed to the entire community, except for tax exempt properties. She said when it was removed from the property tax bill it went to the Public Service Commission and they decided it would be customer based. which means the cost was distributed and directly charged to residents within the 500-foot perimeter. She added this was per the previous Fire Chief and was determined as the crow flies. Ms. Mueller said the Public Service Commission sets the rate based on the property tax. She said if the City would like to revisit the issue it would need to go to the Public Service Commission to evaluate how the fee would be established.

Ms. Wagner stated it was on the property taxes as a general tax levy that was converted to a special charge to assist in making sure everyone is paying their fair share, including tax exempt properties. She added there are rules and regulations that need to be followed by the Public Service Commission. If it remains a special charge, a study will need to be completed and will take time to complete.

Mayor Bierce stated he does not want it put back on the tax bill.

Ms. Wagner stated the maximum hydrant spacing is 600 feet between hydrants.

Mr. Reinbold asked if a resident is billed twice if they have two hydrants on their lot. Ms. Mueller stated they are only charged once.

Mr. Vetterkind asked how many homes are within 500 feet. Ms. Mueller stated roughly 50-60 percent get the fee.

Ms. Brown asked what the fee is used for and if it is used in completion every year. Ms. Mueller stated the funds are used for repairs and use of the wells, and they are not being banked. Ms. Brown stated she had concerns in 2005 and now if it goes back on the tax bill some of the bigger nonprofits are not contributing and the community is absorbing the cost. She added that she does not agree with putting it back on the tax roll.

Attorney Riffle stated a rate change would have to be approved by the Public Service Commission.

Mr. Klein stated it is different fighting fires directly from the hydrant versus from a distance away. He added that the City does not have tanker trucks anymore and when we have those fires, other departments get called in. Mr. Klein added water comes from the same source, but the service is not the same.

Mr. Dziwulski felt it was worth looking into.

Mayor Bierce asked if there were records available to see how it was previously determined. Ms. Mueller noted she will investigate the past minutes.

Mr. Dziwulski noted that the Common Council had revisited this issue in January of 2009.

Mr. Clark stated he would direct staff to do more research regarding the rationale behind how the Common Council decided on the rates and then bring it back to the Council. Mayor Bierce stated Chief Bierce should be looped in so he could give some input on how much benefit people on the water supply are gaining versus not on the water.

7. Discussion and Possible Action Regarding an Amendment to the Professional Services Contract Between the City of Pewaukee and EPLEX, LLC (DBA E-Plan Exam) for Plan Review Services and the City Becoming a Delegated Agent of the Wisconsin Department of Safety and Professional Services for the Review of Variances

Mr. Fuchs noted the City currently uses E-Plan as an option for State Plan reviews. He said this would amend the current agreement to also include variance review approvals. He said they would work with the State on the City's behalf, and they would review and approve variances for building codes. He said there is a fee and if approved he will bring forward an amendment to the fee schedule. Mr. Fuchs added that the applicant pays for the fee.

A motion was made and seconded (B. Dziwulski, I. Clark) to approve the amendment to the Professional Services contract with EPLEX, LLC to include plan review services for variance requests. Motion Passed: 5-For, 0-Against.

8. **PUBLIC HEARING**, Discussion and Possible Action Regarding the Conditional Use Permit for The Inn Bed and Breakfast Located at N4 W22496 Bluemound Road (PWC 0963-998)

Mr. Fuchs stated the Conditional Use Permit is for a bed and breakfast. He added there are several uses on site and the new use includes three bedrooms, a kitchen, dining room and living room in the farmhouse and a fourth bedroom in an adjacent building. Mr. Fuchs said there are no site improvements or building changes. He added staff is recommending approval with the condition that the applicant obtain the proper licenses from the Clerk's office and appropriate State and County licenses.

Mayor Bierce opened the public hearing. No one expressed interest in speaking so the public hearing immediately closed.

Ms. Brown added the motion should include that the applicant needs to collect room taxes for the year she unknowingly ran the bed and breakfast without City of Pewaukee permits.

A motion was made and seconded (B. Dziwulski, I. Clark) to approve the Conditional Use Permit for the Inn Bed and Breakfast and collect back taxes for room stays. Motion Passed: 5-For, 0-Against.

9. **PUBLIC HEARING**, Discussion and Possible Action Regarding the Conditional Use Permit for Steny's Lake Country for Property Located at N29 W24483 Watertown Road (PWC 0922-987-001) for the Purpose of Operating a Restaurant and Bar

Mr. Fuchs stated the draft Conditional Use Permit for Steny's Lake Country located at the former Boomer's Sports Bar includes the hours of operation. He said the outdoor dining, drinking, music and events are being limited to Sunday through Thursday from 10 am until 9 pm and Friday and Saturday from 10 am until 10 pm. He added lighting will be shut off within 30 minutes of those hours. Mr. Fuchs stated the volleyball courts will be removed and returned to green space, and he noted there is a condition regarding bus parking on site. He said there are no buses currently proposed, but there may or not be in the future. Mr. Fuchs added the applicant is adding a 3,286 square foot addition to the building. He said there will be no changes to the lighting and the applicant will be adding some landscaping. Mr. Fuchs noted staff and Plan Commission recommended approval with the conditions.

Andrew Toby (N28W24376 Watertown Road) stated he supports Steny's and feels it's a good use of the building and a good establishment.

No one else indicated an interest in speaking and the Mayor closed the public hearing.

Ms. Brown stated there were concerns about the lack of parking. She noted that Steny's agreed to more parking if there were complaints. Mr. Fuchs stated the Council should add it as a condition.

A motion was made and seconded (C. Brown, P. Vetterkind) to approve the Conditional Use Permit for Steny's Lake Country adding the contingency to add additional parking if it is needed. Motion Passed: 5-For, 0-Against.

10. **PUBLIC HEARING**, Discussion and Possible Action Regarding **Ordinance 23-05** Amending Section 17.0435 F-1 Floodplain District, Creating of a New Floodplain Ordinance Section, and Adoption of the Updated Flood Insurance Study and Flood Insurance Rate Maps

Mr. Fuchs noted it is a required amendment to stay within Federal Flood Insurance and is based off the State ordinance. He added there was a track change version in the packet but felt there were four key items to discuss. 1) mitigation requirement of 2 to1 remain, 2) the 75-foot setback from the flood plain and 100-year boundary will remain, 3) include or exclude act 175 language related to non-conforming uses. He said if you included the language, it would make it possible for structures to remain in flood plain and if you exclude the language then the 50 percent rule applies. He added that the Plan Commission recommended that language be left out, making it more restrictive. 4) a community rating system program which is a voluntary program that would reduce premiums for those who have flood insurance within the City. Mr. Fuchs stated the Plan Commission recommended the City be part of the community rating system.

Mayor Bierce opened the public hearing. No one indicated an interest in speaking so the public hearing was immediately closed.

Mr. Dziwulski asked if he understood correctly that the City would be more restrictive than required. Mr. Fuchs stated yes.

Ms. Brown stated the Plan Commission wanted to keep the standards that the City has and felt it kept buildings safe.

A motion was made and seconded (I. Clark, B. Dziwulski) to approve amending Section 17.0435 F-1 Floodplain District, creating a New Floodplain Ordinance Section, and Adoption of the Updated Flood Insurance Study and Flood Insurance Rate Maps. Motion Passed: 5-For, 0-Against.

11. Discussion and Possible Action Regarding The Water Development Request to Occupy the City's Right-of-Way with Lighting and Landscaping

Ms. Wagner stated while making the final punch list it was determined that landscaping and lighting were installed in the City's right-of-way without permission. She said it was noted in the punch list notes that it needed to be removed, but the developer is requesting the landscaping and lighting to remain in the right-of-way. Ms. Wagner stated City staff object to the request for six reasons which she included in the packet. 1) When Plan Commission reviewed the landscaping plan, the trees, lighting and sidewalks were outside of the public right of way, and the sidewalk still is, 2) the location of the trees and light poles are near the back of curb and will interfere with winter operations, 3) by law the City is required to mark out all utilities in the public right-of-way, and in the spring 60-80 percent of the workload is spent on hotline requests and the City does not have the staff time, 4) we are required by State law to permit other utilities to be placed within that right-of-way. The additional utilities creates a risk of damage and the City would be responsible for repair, 5) if there is any damage to lights or trees it adds a workload the City can't accommodate, 6) sidewalks are private, they are outside of the right-of-way, and should have been permitted by the community if they were going to be in the right of way. Ms. Wagner recommended that the Council reject the request and require these items be removed from the right-of-way.

Mr. Bierce said the City can negotiate with the property owners to accommodate most of the items but doesn't know what to do about the snow plowing.

Mr. John Hunsicker, representative for The Waters stated the photometric plans were submitted, approved, and permitted. He said they followed all the requirements to put together a comprehensive plan to have it reviewed and approved. He added it has taken forever to get through a lot of layers to get it right. Mr. Hunsicker stated all the infrastructure has been installed and it is walkable and feels it is punitive to remove.

Mr. Vetterkind asked if the approved construction set was what was installed. Mr. Hunsicker stated the approved set was installed. He noted Ms. Wagner was referencing the Plan Commission site plan that didn't have any light poles on it. He said building permits were submitted over a year later and had over 100 changes. He added they shifted during the planning approval and final plans between a private street or public street. Mr. Hunsicker said the Fire Chief insisted it be a public street to be more accessible and plowed properly. Mr. Hunsicker added that it was possible during that shift that someone lost track of what was in the plan, and it wasn't intentional.

Ms. Brown stated she is concerned that this is the third development in the last year that has come to the Council where a developer has put something in the right-of-way and asks for forgiveness. She noted the tree situation can be figured out and asked if the light post could be moved back. Ms. Brown noted she does not want to go against Ms. Wagner's wishes but asked if the City could make some concessions.

Joe Lucas, General Contractor representative from Continental Building Company, noted the light poles in question are located on one side of the street and the same side as the fire hydrants. He recommended snow plowing to the inside of the street, which is also the inlet side for storm water runoff. He added that relocating the light poles would be an astronomical task given the infrastructure and status of construction.

Mayor Bierce asked how much discussion has taken place to compromise on the issue. Ms. Wagner stated there has not been any discussion except their request to leave it in the right-of-way. Ms. Wagner noted the City could draft an agreement addressing the trees, requiring them to become a member of

Diggers Hotline and stating the City is not liable. She would then bring it back to the Council and if the developer is willing to take on that liability, the City could support it.

Attorney Riffle noted there may be more they should be doing.

Mayor Bierce recommended the Council not act on it and allow Ms. Wagner to come up with a plan that the City is protected with, and then it can be taken to the developer.

Mr. Hunsicker noted he is sensitive to timing and the last step in completing public infrastructure is the last coat of asphalt. It is scheduled for the middle of August, and he was concerned about the cost and timing if it needs to be rescheduled. He asked that they be allowed to proceed with finishing so the infrastructure can be completed in a timely fashion.

Ms. Wagner stated she will need to look at the plans, and she briefly discussed her concerns with paving.

Mayor Bierce directed Ms. Wagner to come back with a proposed agreement.

Mr. Fuchs stated regarding Ms. Browns comment, he felt this was a building permit issue and will look at that internally.

Ms. Brown noted if landscape plans come in without the City right-of-way, it may be difficult to distinguish how far off the sidewalk things are. Mr. Fuchs stated there have been a lot of iterations of the plans.

Mr. Vetterkind was surprised there wasn't a site utility plan with lighting.

Mr. Klein stated there is a gap between what Plan Commission approves versus what is approved when it goes in for plan review. He added that when the State does the review, the City's review isn't as detailed because the City relies on the State to pick up on all code issues. Mr. Klein stated putting off paving has a big impact and he recommended they be allowed to pave. He said if there is any damage, the City won't accept it and they will have to mill it off, make the repairs, and then it would be in their hands. Ms. Wagner agreed.

Mr. Reinbold asked if the City reviewed the landscape and lighting plans when it was changed from a private road to a public road. Mr. Fuchs stated reviews were done following Plan Commission and there was some back and forth on private road versus public road.

A brief discussion took place regarding the paving being done on Saturday and the right-of-way agreement.

12. Discussion and Possible Action Regarding Utility Extension to Shady Lane and Shady Nook

Ms. Wagner noted the recommendation is to do Shady Lane and Shady Nook as a road construction project only, and to remove utilities. She said when bids were rejected, the direction was to bid as a road project. Ms. Wagner noted she wanted to make sure everyone was aware of the risk, which includes the septic system failing and wells potentially going bad due to contamination. She added the City will not look at this area for 20-30 years and said it is a long time for contaminated ground water. Ms. Wagner gave full disclosure that the test results show contamination is still elevated in the groundwater. She noted the road construction project would be bid on next year.

Mayor Bierce noted it was not unanimous at the Public Works meeting. He asked Ms. Wagner to go over the conditions of the roads, and what the financial impact would be on the City. Ms. Wagner noted that the City put a temporary cap on the roadway to buy some time. She said regardless of when the road project is done, it will be a complete reconstruction.

Ms. Wagner discussed different alternatives and the concerns with each of them.

Mr. Dziwulski asked about the bedrock. Ms. Wagner said the sewer and water main were above the bedrock and the biggest concern was access issues and ground water contamination.

Ms. Brown stated Council was very clear to the residents that they are on their own and feels terrible that the costs were that high.

Mayor Bierce asked if Ms. Wagner was looking for confirmation to put this on the road project list for next year. Ms. Wagner stated it's the City's job to provide safe drinking water and septic relief to areas. She wanted to make sure everyone is on the same page and understands the risk.

Mr. Klein asked if the DNR can force the City to go on water and hook up to sanitary sewers if it is available, which it is. Ms. Wagner said it is within their regulations.

No action was taken.

13. Discussion and Possible Action Regarding Easements for the Cardinal Meadow Subdivision

Ms. Wagner stated as part of the developments, there have been discussions when easements come forward that there needs to be clear definition as to what is included on plats. She said the easement document outlines what the easement on the plat is for, who is responsible, and what people can and cannot do. She recommended approval of the easement documents contingent on final review of the City Attorney and City staff. Ms. Wagner added the City is only concerned about adopting the public easements.

Ms. Brown asked if this was specific to Cardinal Meadows Subdivision. Ms. Wagner said yes.

A motion was made and seconded (B. Dziwulski, R Reinbold) to approve the easements for the Cardinal Meadow Subdivision contingent on final review by the City Attorney and City staff. Motion Passed: 5-For, 0-Agaisnt.

14. Discussion and Possible Action Regarding Interstate Partners Green Road Developers Agreement and to Establish the Financial Guarantee Value for the Green Road and Redford Ramp Intersection Improvements

Ms. Wagner noted the Council had approved intersection improvements to allow the weight limit to be lifted from Duplainville Road to the Redford Boulevard ramp. She said the developer has agreed to move forward with the improvements the City has approved and noted they have the permits from the County. Ms. Wagner stated the agreement allows the work to be done and establishes the financial guarantee. She added the amount of the cash deposit is $94,600.

Mayor Bierce asked about signage. Ms. Wagner stated the City will purchase and install the signage so that it is consistent with other signage in our community and will bill the developer to reimburse us.

A motion was made and seconded (P. Vetterkind, B. Dziwulski) to approve the Interstate Partners Green Road Developers Agreement and establish the cash deposit in the amount of $94,600. Motion Passed: 5-For, 0-Against.

15. Discussion and Possible Action to Authorize Submittal of the Notice of Intent for the Quiet Zones at Green Road, Duplainvillle Road, Watertown Road, and Weyer Road

Ms. Wagner stated quiet zone studies have been completed at all intersections on the east side of the City and noted Springdale Road is being completed by the City of Brookfield. Ms. Wagner stated she discussed improvements with the Federal Railroad Administration, the Railroad and the DOT Railroad Division. She said there was one accident in the study over the last five years at Watertown Road. Ms. Wagner noted it wasn't really an accident, but a drunk driver who abandoned their vehicle on the tracks.

She said the one thing the study revealed is that there aren't any improvements required at Green Road. She recommended, even though improvements aren't required at Green Road, that the City still makes some improvements so the City would still qualify for quiet zones. Ms. Wagner stated the next step is to file a Notice of Intent with the railroad. They will review, comment on the study, and then approve the improvements that need to occur. She feels it would take a year to a year and a half because there are a couple of crossings that do not meet the standards and the City would have to petition for a variance. Ms. Wagner asked for the Council's authorization to submit and then budget for the required improvements in the 2024 budget.

Ms. Brown asked what the amount would be. Ms. Wagner stated if there are no major changes, she estimates $150,000. She said Watertown Road will need a special permit from Waukesha County and may cost more. She added it may be more if the City needs to move signals at that intersection. Ms. Brown asked about the crossing at Duplainville Road and Weyer Road. Ms. Wagner stated Weyer Road is shared with the Town of Lisbon and is split 50/50 with the City of Pewaukee. She noted they support quiet zones but haven't given a hard yes that they will share in the cost until they know the cost.

A motion was made and seconded (C. Brown, B. Dziwulski) to authorize Submittal of the Notice of Intent for the Quiet Zones at Green Road, Duplainville Road, Watertown Road, and Weyer Road. Motion Passed: 5-For, 0-Against

16. Discussion and Possible Action to Select the 2023 Trick or Treat Date and Time

Discussion took place related to the various Trick or Treat options.

A motion was made and seconded (B. Dziwulski, P. Vetterkind) to set the 2023 Trick or Treat hours for Saturday, October 28th, 2023, from 4:00 p.m. to 7:00 p.m. Motion Passed: 5-For, 0-Against.

17. Discussion Related to the Proposed 2024 Budget Schedule

Mr. Klein handed out a calendar for the next few months listing different benchmarks for the upcoming budget process.

18. Notification of the First Meeting in September is Moved to Tuesday, September 5, 2023 at 6:30 p.m.

Mayor Bierce stated it appears staff needs the first meeting in September to be rescheduled instead of cancelling it. Mr. Reinbold stated he would not be available on the 5th.

19. Discussion and Possible Action to Appoint a Member or Members to the Ethics Board

Mayor Bierce offered the names of Jeff Kara, a previous Alderman and Marty Van Hulle, longtime resident and former Principal of the Pewaukee High School and current Principal at Saint Anthony's on the Lake, to serve on the Ethics Board.

A motion was made and seconded (B. Dziwulski, R. Reinbold) to appoint Jeff Kara and Marty Van Hulle to the Ethics Board. Motion Passed: 5-For, 0-Against.

20. Public Comment - None.

21. Adjournment

A motion was made and seconded (P. Vetterkind, R. Reinbold) to adjourn the meeting at 8:25 p.m. Motion Passed: 5-For, 0-Against.

Respectfully Submitted,

Kelly Tarczewski
Clerk/Treasurer