<u>In Attendance:</u>
Mayor Steve Bierce, Aldermen C. Brown, I. Clark, B. Dziwulski, R. Reinbold, P. Vetterkind and J. Wamser.

<u>Also in Attendance:</u>
Administrator S. Klein, DPW Director M. Wagner, Utility Manager J. Mueller, Park & Recreation Director N. Phalin, IT Director B. Kewan, 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. <u>Consent Agenda</u>
   3.1. Approve the Common Council Meeting Minutes Dated May 5, 2022
   3.2. Approval of Accounts Payable Listing Dated June 6, 2022
   3.3. Approval of **Resolution 22-06-16** Acknowledging the 2021 Compliance Maintenance Annual Report (CMAR).
   3.4. Notification of Temporary Lifting of the Green Road Weight Restriction from Duplainville Road to Springdale Road (CTH SR).

   Ms. Brown asked to have Item 3.3 removed for discussion.

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

   3.3 Approval of Resolution 22-06-16 Acknowledging the 2021 Compliance Maintenance Annual Report (CMAR)

   Ms. Brown stated she was surprised at page two, project number five, a $1.5 million joint venture with the Village for sewer in 2023. Ms. Mueller stated the City is still doing a feasibility study of relaying the sanitary sewer to eliminate the Village lift station. She noted it was a place holder at this point. Ms. Mueller stated once the Engineering study is completed it will come back to Common Council. She said the City's lift station pumps to the Village's lift station and theirs is failing and needs an upgrade. Ms. Wagner noted it is through an intermunicipal agreement currently in place.

   <u>A motion was made and seconded (C. Brown, B. Dziwulski) to approve Resolution 22-06-16</u>. Motion Passed: 6-For, 0-Against.

4. Discussion and Possible Action Regarding the Partnership Agreement with Pewaukee Sussex United Soccer Club

   Mr. Phalin stated Joe Ulm, the Pewaukee Sussex United Club President was in attendance. Mr. Phalin recommended approval of the previous club to Joe's ownership. He said the interaction with the club has not changed in terms of agreement but rather interaction. He said Joe is a pleasure to work with and easy to work with. Mr. Phalin noted the Agreement includes feedback from Joe and the club, the Joint Park and Recreation Board. He said it was provided to Attorney Riffle prior to receiving final approval. Mr. Phalin said the Agreement recognizes the City Parks, Sports Complex, Wagner Park and Balmer Park. He noted there were no real changes other than ownership and a new 20-year term.

Ms. Brown asked about the hours. Mr. Phalin noted the hours are not known at this point. Ms. Brown asked if it was a spring and fall sport for the club and if it would be used during the summer for camps. Mr. Phalin stated yes. Discussion took place regarding non-duplication of services with the Parks Department.

A motion was made and seconded (B. Dziwulski, P. Vetterkind) to approve the agreement contingent upon final approval by the City Attorney. Motion Passed: 6-For, 0-Against.

Mr. Klein asked that it be contingent upon final wording by the attorney stating if there is an assigned time it cannot be leased to someone else and if they go out of business the contract would be null. Mr. Reinbold asked if there was a contingency regarding sale of the club and if the contract would be null and void. Mr. Phalin stated there are terms that allow for the agreement to be reviewed. He said in case of a sale the City would be looking at a new agreement. Mr. Reinhold stated the Attorney should add "upon sale of the club the contract is null and void." Mr. Klein will discuss with Attorney Riffle to have it added.

5. Discussion and Possible Action Regarding the Reallocation of Funds in the IT Budget to Purchase a New Host for the Virtual Server Environment

Mr. Kewan noted there are two physical servers that house the network drives. He said they are at end of life. Mr. Kewan was going to move them to a virtual system but there will not be enough free space. He said there should be a minimum of 25 percent, and after the server move there would only be 10 percent. Mr. Kewan stated that in 2022 he budgeted money to move Market Drive to a sequel platform. He said he would prefer to move it to a virtual system but there is not enough space. He is asking if the funds from the Market Drive upgrade can be reallocated to the virtual system upgrade instead. He said he budgeted $15,0000 for Market Drive and the virtual server update would be $11,377.20.

A motion was made and seconded (B. Dziwulski, J. Wamser) to reallocate the budgeted funds from sequel to a new host. Motion Passed: 6-For, 0-Against.

6. **PUBLIC HEARING**, Discussion and Possible Action Regarding the Conditional Use Permit for Momentum Early Learning for Property Located at W238 N1660 Busse Road (PWC 0954-998-020) for the Purpose of Expanding Their Current Childcare Center into a Second Building

Mr. Fuchs stated they are already operating out of one of the buildings on the property. He noted they are looking to expand to the second building on the property and there will only be interior renovations. Mr. Fuchs recommended approval.

Mayor Bierce opened the public hearing.

Richard Hensley, Regional President for National Exchange Bank (W239N1700 Busse Road) asked if there has been any impact to the travel flow or pressure on Busse Road with the additional occupancy.

Mayor Bierce closed the public hearing.

Mr. Fuchs stated there will be different traffic patterns due to drop off and pick up times, but he did not expect traffic as a potential problem.

A motion was made and seconded (B. Dziwulski, J. Wamser) to approve the Conditional Use Permit for Momentum Early Learning. Motion Passed: 6-For, 0-Against.

7. **PUBLIC HEARING**, Discussion and Possible Action Regarding the Conditional Use Permit for Ryan Leibfried for Property Located at N29 W27529 Peninsula Drive (PWC 0933-024) for the Purpose of Constructing a New Boat House Structure

Mr. Fuchs noted that a Conditional Use Permit is required for construction of a new boat house. He noted it meets all requirements and recommended approval.

Mayor Bierce opened the public hearing.

Roger Heinichen (N28W27535 Peninsula Drive) said he objects to the boathouse. He said it is a 35-foot lot and currently has two big boat lifts that obstruct the view of the lake. He said the owner rents the house and he heard there will be a bar attached and feels it will encourage partying and a lot of noise. He feels the houses in the area should be owner-occupied and not rental properties.

Tom Reinke (N28W27571 Peninsula Drive) said he objects to the boathouse. He said if you allow one boathouse other people will be lined up to add boat houses.

Mayor Bierce closed the public hearing.

Mr. Fuchs said as the lot narrows towards the lake is 30 feet. The boathouse needs to have a five-foot side yard setback and a five-foot setback from the ordinary high-water mark. Mr. Fuchs noted those are all met on the proposal.

Mr. Reinbold asked if this is replacing a current boathouse. Mr. Fuchs said this is a new boathouse, which is why it is going through the conditional use process.

Discussion took place regarding short term rental ordinances.

Mr. Clark asked if the regulations are municipal or state ordinances. Mr. Fuchs noted it is a combination.

Discussion took place regarding the state definition of a boat house and meeting requirements.

Mr. Fuchs noted if the conditional use is denied there is a requirement to provide substantial evidence and recommended including that in the conversation or motion.

A motion was made and seconded (B. Dziwulski, I. Clark) to table item #7 until after item #9. Motion Passed 6-For, 0-Against.

8. Discussion and Possible Action Regarding **Ordinance 22-14** Regarding Proposed Text Amendments to Section 17.0435e.(7)(c) of the F-1 Floodplain Zoning District of the City of Pewaukee Zoning Ordinance

Mr. Fuchs stated the change is being brought forward by staff. He said a development may come forward and would come through during the zoning code rewrite project. It is a request to change the floodplain mitigation. Currently it is a 4:1 ratio and the change would be 1 for 1 equal in, equal out. Mr. Fuchs noted other communities are a 2:1 or 1:1 ratio. He feels it would add some flexibility to properties for development. He said staff is recommending approval.

Discussion took place regarding floodplain issues.

Ms. Brown stated she felt it was a huge jump to go from 4:1. She asked Ms. Wagner if she saw any concerns going down to 1:1. Ms. Wagner stated with 1:1 you're getting the land back and it will be in the same corridor. She said she did not know the history behind 4:1. Ms. Wagner noted floodplains will change over time.

Mayor Bierce stated the City is running out of buildable land and feels the City should stick to what made the City successful. Discussion took place regarding different ratios and people not building in the flood plains. Mr. Fuchs noted people are not allowed to build in a flood plain due to FEMA.

Mr. Reinbold stated water always finds its old pathways.

Mr. Clark asked what the average is in other communities. Mr. Fuchs noted most often 1:1 or 2:1 based off codes he has looked at.

Ms. Brown noted the City does not want to find reasons to deny people from coming into the City. She said she would be ok with 2:1 or 3:1. Ms. Wagner stated the City needs to protect the land the City has and not go down to a 1:1.

Discussion took place regarding grading sites and development in floodplains.

Further discussion took place regarding a project that would need lesser than 4:1 for the project to move forward.

Mr. Klein stated Mr. Clinkenbeard didn't want it to do it at all and put it as 4:1. He said storm water issues were the focus back when the Ordinances were written.

Mayor Bierce asked Mr. Fuchs to do some research and get some background information about floodplains and why they exist. He said to bring the information back and educate Common Council so they can make a responsible decision.

9. Discussion Related to Revising Section 17.0209 of the City of Pewaukee Zoning Code Related to Accessory Structures and Temporary Use Standards and Related Definitions of Section 17.1400

Mr. Fuchs noted that staff has been working on reviewing the zoning codes and looking at different sections. The first section they looked at is Accessory Structures and Temporary Uses. He said they added quantity of accessory structures that would be allowed and created three size categories for structures. Mr. Fuchs added language stating metal would not be allowed. He said Plan Commission also looked at recreation vehicles and the City will still not allow permanent parking of recreational vehicles or equipment on a property. Plan Commission also looked at changing pools, decks, and patios to a 15-foot setback, which would match the current requirement for decks and patios. Mr. Fuchs stated there were also provisions on the size of boat houses with a maximum size of 800 square feet based on current size ranges of boat houses that exist today. He said he is looking for comments and feedback.

Mr. Fuchs noted the code refers to garden sheds and accessory building as garages. He said it was modified to accessory structures and they will be regulated on size. Discussion took place regarding size categories. Mr. Fuchs noted changes will be brought back to Common Council to adopt an Ordinance. He said he is just looking for discussion and guidance to put together a final draft. Further discussion took place regarding out buildings and pool setbacks.

Mayor Bierce asked about limiting the size of boat houses. Mr. Fuchs stated there is not a current size limit for boat houses and no requirement or standard. Discussion took place regarding boat house sizes and setbacks. Mr. Klein noted when the City was a Town, the County regulated things.

Ms. Brown stated Plan Commission was looking at 600 square feet for boat houses. She said roughly 10 to 15 are non-conforming at that level and most are 300 square feet. Ms. Brown felt Plan Commission or Common Council needs to decide the definition of a boat house and it should be defined in the Ordinance. Mr. Fuchs noted it is defined in the Ordinance. Further discussion took place about boat houses.

Mayor Bierce asked about recreational vehicle storage. Mr. Fuchs stated it is currently 45 days for all temporary uses. Discussion took place regarding the parking of recreational vehicles.

Mr. Fuchs stated revisions will be made with the changes and an ordinance will be brought back for adoption.

10. Discussion and Possible Action Regarding the Grading Agreement and Establishing the Value of the Financial Guarantee for the Ba(en)2 LLC Development

Ms. Wagner stated the four-lot subdivision is located off Northview Road. She said the development meets all the requirements and the CSM was approved. Ms. Wagner noted it does not have municipal water, municipal sewer, or roads within the subdivision. She said they must meet the Chapter 19 Ordinance and the only way to ensure the improvements are done is to use the grading agreement. Ms. Wagner is asking for approval contingent upon final approval by the City Attorney and the Director of Public Works to guarantee the required improvements the City is asking and to set the value of the letter of credit at $159,324.

A motion was made and seconded (I. Clark, B. Dziwulski) to approve the grading agreement and establish the letter of credit at $159,324 contingent on final review and approval from the City Attorney and City Engineer. Motion Passed: 6-For, 0-Against.

11. Discussion and Possible Action Regarding the Shady Lane and Shady Nook Road Reconstruction and Utility Extension and the Hill n Dale Pond Construction Contract

Ms. Wagner stated two bids were received for the project. The low bid for the Shady Lane/Shady Nook project which includes road, sewer, storm, and water came in at just over $2 million. The Hill n Dale project came in at just over $1 million. Ms. Wagner noted the assessments came in excessive and the bid numbers came in much higher than average. She recommended rejecting all the bids and rebid for construction in 2023 and hopefully supply chain issues won't be an issue then.

A motion was made and seconded (C. Brown, I. Clark) to reject the bids for Shady Lane and Shady Nook road reconstruction and utility extension and the Hill n Dale pond construction. Motion Passed: 6-For, 0-Against.

12. Discussion and Possible Action to Approve the Fifth Reduction of the Swan View Farms Phase 1

Letter of Credit from $595,595.80 to $105,204.81 (Reduction of $490,390.99)

Ms. Wagner stated the City is just waiting for the one year warranty period to be up. She said the City looked at what value was left on the project and feels comfortable with the reduction.

A motion was made and seconded (I. Clark, C. Brown) to reduce the Swan View Farms Phase 1 letter of credit to $105,204.81. Motion Passed: 6-For, 0-Against.

13. Discussion and Possible Action Regarding the Bluemound Water Main Loop-Interim Financing

Ms. Wagner stated the well #5 project has now moved forward to create a water main loop along Bluemound Road to abandon the existing well #5. She said the City is seeking a Safe Drinking Water Loan from the DNR to help fund the project. The cost of the project is estimated at $4.2 million and need interim financing. She is recommending borrowing the money from the sewer utility until the Safe Drinking Water Loan comes through and then repay utility with an interest rate up to one percent. Ms. Wagner stated the City needs to move forward with the project because it is under a consent order with the DNR.

Mr. Clark asked if the Safe Drinking Water Loan was guaranteed and on its way. Ms. Wagner stated it is not guaranteed until you go through the process. She said the City is ranked very high on the Safe Drinking Water Loans although if it did not go through the City, they would seek other borrowings.

A motion was made and seconded (I. Clark, B. Dziwulski) to approve the Bluemound Road water main loop interim financing. Motion Passed: 6-For, 0-Against.

14. Discussion and Possible Action Regarding the Execution of the Roadside Deer Pick Up Contract with Shawn's Deer Pick Up

Ms. Wagner stated the firm came back with a price increase of $120 per deer or flat rate of $750 per month due to gas prices. She said Attorney Riffle is objecting to a portion of the contract and wants to strike the section or wants additional language added to it. She said the contractor is not willing to do that. Ms. Wagner stated Attorney Riffle is recommending not signing without that section being edited. Ms. Wagner would like to get the value approved in hopes that the contract language can be dealt with and executed.

Mayor Bierce asked about the language Attorney Riffle objects to. Ms. Wagner stated the language talks about public records. In their contract, they do not have to provide the City any records if we get an open records request. The City is asking them to supply the records he already supplies to do the billing. Ms. Wagner recommended the City go with the flat rate fee of $750.

A motion was made and seconded (B. Dziwulski, P. Vetterkind) to approve the flat rate of $750 contingent on changes Attorney Riffle recommends. Motion Passed 6-For, 0-Against.

15. Discussion and Possible Action Regarding the 2022 - 2023 Trinity Academy Lease

Mr. Klein stated Trinity is looking for a longer-term lease so he said they put in the lease that it would auto renew every year unless there are changes. Discussion took place regarding a few changes that were made.

A motion was made and seconded (I. Clark, B. Dziwulski) regarding the 2022-2023 Trinity Academy Lease. Motion Passed: 6-For, 0-Against.

16. Consideration Related to a Position Statement Regarding the Town of Lisbon's Proposed Incorporation as a Village

Mayor Bierce stated the Village of Lisbon President has asked to reconsider the City's position statement. Mayor Bierce asked Attorney Riffle to write up a letter stating the City does not oppose their corporation.

A motion was made and seconded (I. Clark, J. Wamser) to approve the consideration related to a position statement regarding the Town of Lisbon's proposed incorporation as a Village.
Motion Passed: 6-For, 0-Against.

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

Mayor Bierce had no recommendations at this time.

18. Discussion and Possible Action to Cancel or to Reschedule the First Common Council Meeting in July

Mayor Bierce stated typically, we would cancel and give staff the ability to reschedule as needed.

19. Public Comment - None.

20. Adjournment

A motion was made and seconded (I. Clark, B. Dziwulski) to adjourn the meeting at 8:38 p.m.
Motion Passed: 6-For, 0-Against.

Respectfully Submitted,

Kelly Tarczewski
Clerk/Treasurer