

In Attendance:

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

Also in Attendance:

Attorney S. Riffle, Administrator S. Klein, DPW Director M. Wagner, and Clerk/Treasurer K. Tarczewski.

1. Call to Order and Pledge of Allegiance

In the absence of Mayor Bierce, Council President C. Brown 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 the Accounts Payable Listing Dated May 16, 2022

3.2 Approve **Ordinance 22-13** Amending Chapter 5 - Traffic, to Remove Lindsay Road from Redford Boulevard (CHT F) to Duplainville Road from and to Add Hughes Trail to Section 5.05(3)(b) (*Second Reading*)

3.3 Approve **Resolution 22-05-15** Giving Notice Regarding Inspection of Public Records

A motion was made and seconded (B. Dziwulski, I. Clark) to approve the items in the consent agenda. Motion Passed: 4-For, 0-Against.

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

Ms. Wagner stated Waukesha County is negotiating a new contract for the collection of deer carcasses as is the City of Pewaukee. She noted there are only two contractors in Southern Wisconsin, with one servicing state highways and the other servicing counties and local municipalities. Ms. Wagner stated the City currently contracts with Shawn's Deer Pick Up at a rate of \$110 per deer, which recently increased from \$85 per deer. She noted the City averages eight deer per month. Ms. Wagner stated the County uses a service with a flat rate fee no matter how many deer are picked up. She noted it is hard to track carcasses and to make sure the City is only being charged for deer within the City's right-of-way. She said there have been occasions where the City has been charged for the County or Village pickups. Ms. Wagner requested a flat rate quote and was quoted \$1600 per month, which would not be beneficial to the City. Ms. Wagner recommended executing the contract with City Attorney review and approve the contract on a monthly basis for \$110 per deer.

Ms. Brown asked why there was an increase from \$85 to \$110 and Ms. Wagner stated it was due to gas prices. Ms. Brown asked if we could negotiate the contract to lower prices when the economy recovers. Attorney Riffle stated for a contract this size it does not make sense to negotiate. Mr. Klein noted the deer management program charges \$200 per deer and felt \$110 was reasonable. Ms. Wagner noted they are looking for a three-to-five-year contract and she recommended a three-year contract.

A motion was made and seconded (B. Dziwulski, I. Clark) to recommend approval of the contract based on City Attorney and City Engineer and approving the language. Motion Passed: 4-For, 0-Against.

5. Discussion and Possible Action Regarding the Cardinal Meadow Development Agreement and Establish the Amount of the Letter of Credit

Ms. Wagner stated the early grading agreement allows additional fill to be brought on site to support a landscaping berm along Highway 16. She noted they need an additional 75,000 cubic yards, so the request of 50,000 cubic yards is acceptable and it will be placed into the landscaping berm which the City has approved plans for. Ms. Wagner noted staff has no objection to the amendment and the City Attorney has signed off on it.

Ms. Wagner stated there will be 24 single family homes as part of the development, which will have roads, sanitary sewer water main and storm sewer to support the development. Ms. Wagner stated there is roughly \$1.4 million of value and the added 20 percent per ordinance. She recommended establishing the line of credit in the amount of \$1,677,734.40 contingent upon final approval from the City Engineer and City Attorney.

A motion was made and seconded (J. Wamser, R. Reinbold) to approve the development agreement in the amount of \$1,677,734.40 contingent on the requirements of the City Attorney and City Engineer. Motion Passed: 4-For, 0-Against.

6. Discussion and Possible Action Regarding Amending the Cardinal Meadow Early Grading Agreement

A motion was made and seconded (B. Dziwulski, I. Clark) to approve the amended early grading agreement to allow for extra stockpiling. Motion Passed: 4-For, 0-Against.

7. Discussion and Possible Action Regarding Leaving Trees Planted in the Right-of-Way Near N43W22726 Victoria Street as Requested by the Property Owner

Ms. Wagner stated trees were planted in the public right-of-way in 2020 and it was brought to the City's attention in April of 2022. Ms. Wagner noted the City was not contacted for any approval of the trees being planted. She said the City asked for the trees to be removed and the property owner requested the trees be left in the right-of-way. The property owner felt he did his due diligence to determine where they could be planted. Ms. Wagner stated the City looks at several things to determine the public right-of-way. Every property has a plat of survey that outlines what is public right-of-way and what is private property and Waukesha County has a GIS system that has information with a measuring tool. Ms. Wagner noted the property line is roughly 15 feet off the back of the curb. She said the property owner is requesting to leave the trees there and is looking to create privacy. Ms. Wagner said she encourages privacy but not in the right-of-way. She noted any trees located in the right-of-way are the responsibility of the municipality to maintain. In this location there is a storm sewer within that right-of way. Ms. Wagner recommended not allowing the trees to remain due to the potential conflicts with maintenance and future service of the storm sewer line. She noted if Common Council chooses to allow the trees in the right-of-way, there would be an agreement stating the trees are his responsibility. If they need to be removed, it would be his responsibility and they would not be able to be replaced in the right of way. Staff is strongly recommending not allowing the trees to stay and feels it sets a precedence throughout the community.

Mr. Clark asked if anything like this has happened before. Ms. Wagner stated the City has written up an agreement for a driveway that is in a public right of way, but not for trees. She said they have allowed fencing to be placed across an easement, but it was not located in a public right of way.

Ms. Brown stated storm sewers are expensive and she knows what trees can do to storm sewers.

Mr. Dziwulski noted he does not like the precedence, the fact that the trees are going to grow, and he knows what can happen. Ms. Wagner stated the fee would be \$950 to move.

Matt Scallon (N43W22726 Victoria Street) said he planted trees in 2020 to block wind and noise from the trains. He noted he looked through the records to find the distance and couldn't find any record. He said the only thing he found had to do with permanent structure and it didn't mention anything about vegetation. He understands the sewer is there and felt he did his due diligence. He said he is fine with them being moved but would like financial help to move them. He noted he is happy to work with the City but felt there was no true guidance on planting trees. Mr. Wamser asked if the sewer was there before the trees went in. He said the sewer was there prior to trees being planted. Mr. Wamser stated at least six of the trees are closer to the road than the other properties. Mr. Clark asked what the price was to move the trees. Mr. Scallon noted it was \$950 to move seven trees.

Ms. Brown noted she can empathize with the situation and felt maybe the City needs to look at some of the setbacks and make sure it is plain and simple on the website. She said there are two precedence one is leaving them there with an agreement and the second is paying to move them. Ms. Brown noted she understands the financial part.

Mr. Dziwulski noted he would have difficulty explaining why we would pay to have trees moved.

Mr. Wamser stated he did not understand why it would be so expensive to move the trees. Mr. Scallon noted they need to be dug up, backfilled, over seeded, and replanted. He said he would be ok with splitting the cost.

Attorney Riffle stated we have the right to remove any tree within the right-of-way. He asked what it would cost to plant seven new trees. Mr. Scallon stated the trees are \$90 per tree. Attorney Riffle noted he should be given a date and if not removed, they will be cut down.

Ms. Brown stated there are many options to locate lot lines and right of ways. She noted she would not be in favor for the moving of the trees.

Mr. Reinbold stated you don't want to move trees in June, July, or August. He said the homeowner mentioned the trees are already struggling and felt the City should give him until fall.

Maggie stated she would not object to waiting until December 1st. Mr. Clark noted the large grace period is solely for weather and plant concern. Discussion took place regarding how many trees need to be moved. The homeowner asked staff to mark the land to where the trees can be planted. Ms. Wagner said they could mark the lot markers without doing a full lot survey.

Mr. Scallon asked that staff put something online specifically specifying 15 feet for plants. Ms. Wagner noted that the right-of-way varies from property to property and a property owner can hire a surveyor to come out to locate boundaries.

A motion was made and seconded (I Clark, J. Wamser) to remove any trees out of the right of way at the homeowner's expense by December 1st. Motion Passed: 3-For, 1-Abstain (Reinbold)

8. Public Comment - None.

9. Adjournment

A motion was made and seconded (B. Dziwulski, I. Clark) to adjourn the meeting at 7:05 p.m.

Motion Passed: 4-For, 0-Against.

Respectfully Submitted,

Kelly Tarczewski
Clerk/Treasurer