

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, DPW Director M. Wagner, Utility Manager J. Mueller, City Planner & Community Development Director N. Fuchs, Library Director N. Champe and Clerk/Treasurer K. Tarczewski.

Administrator S. Klein was absent and excused.

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. Presentation Regarding the 2022 Year in Review Report Pertaining to the Joint Pewaukee Library

Ms. Champe stated throughout the year the library collects a variety of statistics. She stated “Story Times” in the past have been the most popular, but the programs have expanded far beyond that. She said last year they offered 392 programs and had over 12,000 attendees. Ms. Champe stated it's been difficult to attract adults but have started utilizing an online newsletter and send out E-blasts. She said this has significantly increased attendance in their adult programs.

Ms. Champe stated the other tangible data she could collect is the number of library card holders. She went on to say there is a total of 11,187 and further broke the data up by stating 6,880 are City of Pewaukee residents and the other 3,473 are Village of Pewaukee residents. She said library cards are issued to individuals as young as 4-years old.

Ms. Champe stated last year there were over 95,000 visits to the library, based on the information obtained from their door counter. She stated people could use their facilities without being a registered user.

She stated the reference desk answered 12,659 questions last year. She said the library is one of the last places you can talk to a real person.

Ms. Champe stated the library circulated 255,637 pieces of physical and digital materials, saving the users \$5.7 million if they were to purchase the materials outright.

Mr. Dziwulski stated his wife is an avid reader and uses Ms. Champe's library every week. He thanked her for her efforts and said she's doing a great job.

4. Discussion and Possible Action to Approve the Accounts Payable Listing Dated April 17, 2023

**A motion was made and seconded (J. Wamser, P. Vetterkind) to approve the accounts payable listing dated April 17, 2023.** Motion Passed: 6-For, 0-Against.

5. Discussion Regarding **Ordinance 23-01** Creating Section 6.19 of the City Ordinance Regulating Commercial Sale of Cats and Dogs

Ms. Brown stated a few months ago some residents came forward asking the City to adopt an ordinance prohibiting the sale of puppy mill dogs. She stated the City Attorney drafted the ordinance that is being considered this evening.

Attorney Riffle stated he put together an enforceable ordinance stating no commercial establishments can sell any dogs or cats, with no exceptions. He said this is a policy decision.

Mayor Bierce asked about the Humane Society. Attorney Riffle stated they are exempt. They are not a commercial pet store. Mayor Bierce stated he purchased his dog from the Humane Society, and they showed him the mill they brought him in from.

Mr. Dziwulski stated he doesn't agree with this. He said he did his own research and didn't find the comments made at the last meeting to be 100% accurate. He asked why the City was limiting this.

The Mayor stated we have set precedent and have limited businesses for the public good.

Mayor Bierce reminded the Council this was only the first reading of the ordinance.

Ms. Brown stated she felt this was a good ordinance. She said it would still allow for reputable breeders to sell in pet stores. Attorney Riffle stated they would not be allowed to sell here either. He said no retail establishment. He then read the passage from the ordinance.

The Mayor asked if anyone could sell out of their homes. The Attorney stated they would be allowed because they are not retail.

Mr. Dziwulski stated he could breed animals and sell them on a neighborhood website and be just as bad as any puppy mill breeder the City is attempting to keep out of retail establishments. He said he doesn't see this ordinance as being smart.

Ms. Brown stated we are not allowing the big box stores to come into the City and sell dogs from poor breeding situations. We are basically taking this to the top level and saying we are not allowing this behavior in our City.

Mayor Bierce stated he agrees with Mr. Dziwulski.

Ms. Brown stated this is more of a preventive measure.

Mr. Vetterkind was torn on this item as well but feels it's a lot easier to stop someone from coming into the community. Attorney Riffle commented that wasn't necessarily the case. If it is a permitted use, then it's allowed.

Attorney Riffle stated this ordinance is health based.

Mr. Clark stated this ordinance doesn't stop; it limits the venues where the dogs could be sold. It sends a message to the breeders and can have secondary effects. He said it may not target the initial concerns, but it can by secondary means.

Mayor Bierce asked what it would take to be a breeder. He asked whether or not there was certain licensing and/or inspections involved. Attorney Riffle stated every state is different but the State of Wisconsin has adopted statutory regulations. He said most of the issues are related to the animals coming from out of state.

Mr. Reinbold stated the ordinance is adding on to the other municipalities in the State of Wisconsin to make it difficult for the bad out-of-state breeders to come in and sell their animals.

**A motion was made and seconded (I. Clark, C. Brown) to waive the second reading of the ordinance and approve Ordinance 23-01 regulating the commercial sale of cats and dogs.**

Motion Passed: 5-For, 1-Against (B. Dziwulski) pertaining to waiving the second reading and Motion Passed: 5-For, 1-Against (B. Dziwulski) related to the actual ordinance.

6. Discussion and Possible Action Regarding the Water Utility Debt Repayment to the Sewer Utility

Ms. Wagner stated a presentation related to the financial position of the Water and Sewer Utility was given a few meetings ago. There was discussion of future rate cases which hinged upon the debt Water owes Sewer. During that presentation there was a discussion regarding full or partial debt forgiveness. Some analysis was prepared.

Ms. Wagner stated the goal is to put both the Water and Sewer Utilities in a good financial place. The Water has some struggles. She said the current debt is just over \$7 million. She said this issue was discovered back in 2014 and at that time it was approximately \$5.3 million. She said the Water Utility could pay back the Sewer Utility in full by paying \$370,000 annually over a 20-year period. She said it would result in a 147% increase in water rates. She said they played with the numbers in hopes of lessening the impact. She said that debt could be paid over a 40–50-year period, which would essentially drop the annual payments in half. She said the other option would be that the Water Utility does not have to pay back the Sewer Utility at all. Ms. Wagner stated the last option they came up with is to consider only the new debt that was accumulated after it was reported back in 2014; \$5.3 million would be forgiven and the Water Utility would be responsible for paying back \$2.1 million over an extended period.

Ms. Wagner stated this went before the Public Works Committee and they voted 4 to 1 to forgive the debt prior to 2014 and require payment of \$2.3 million. She asked the Council to concur with that opinion so that the department could move forward with the current rate case.

Mayor Bierce asked how long ago the debt was actually accruing. Ms. Mueller stated since the inception of the Utility. She stated many of their projects ran concurrently; when they ran sewer they also put in water. When the City went out for financing the project was submitted as one. The Public Service Commission back in 2012 -2014 required the projects be separated out.

Ms. Wagner added the newer debt is due to the reserve capacity assessments. Mandatory hookup to the water was never required.

Ms. Brown stated the City may be tasked to go back to these homes and require them to connect to water and have them start paying for their assessments. She said she wasn't in favor of forgiving the debt entirely because the City put a lot of money into the projects. She also said she doesn't want to put the burden on the people who have already been paying for water by asking them to pay back the full \$7 million. She specified that she'd be more in favor of paying back the \$2.3 million. She said that would be more reasonable.

Mr. Dziwulski stated he would also be in favor of that option.

Mayor Bierce voiced his concern over the sewer customers paying for the water debt. He asked the Council to keep those people in mind. He stated he was in favor of paying back the \$2.3 million.

Ms. Wagner stated normal payback of debt has been over a 20-year period, but asked Council to consider a longer term to minimize the current rate case. She said the Council also has to determine whether or not there would be an interest charge on top of that.

**A motion was made and seconded (C. Brown, B. Dziwulski) to forgive the Water Utility's old debt of \$5.3 million leaving approximately \$2.1 million owed with a 30-year loan payment period, without interest.** Motion Passed: 6-For, 0-Against.

7. Discussion and Possible Action Regarding Joseph Road Reconstruction, Water Main Extension and Sanitary Sewer Extension Project

Ms. Wagner stated in 2021 the Joseph Road project was awarded as a road reconstruction with water main and sanitary sewer extensions. Due to supply chain issues pertaining to water main pipe materials the project was delayed to 2022. Unfortunately, when the crew was excavating the sewer, they came across some questionable ground water which caused further delays to determine if it was hazardous or not. She said the testing took longer than anticipated and found some contaminants that required permits from the Department of Natural Resources (DNR) to discharge contaminate. It also required special materials and gaskets to be added to the project. She stated they had the contractor propose a dewatering operation for the sanitary sewer. Through that process, there was no way the project would have been complete in 2022 so it was again delayed and was anticipated to take place in 2023. In the meantime, the DNR required additional testing. Ms. Wagner stated the project costs are now far more than anticipated. She said it is before the Council tonight to determine how they should proceed with the current contract. She said Option #1 is to cancel the project and pay the contractor whatever is due to them. They would take the current project, add in the dewatering and remediation requirement for the contaminates, and rebid the project for construction in 2024. Ms. Wagner did not recommend bidding the project this year due to the current bidding climate. She said she didn't think we'd get valid pricing. She said this would require another public hearing and special assessments. Ms. Wagner stated Option #2 would be to continue with the current contract with the additional costs, as a change order, and authorize additional funding for the project. Again, another public hearing would have to be held due to the increased costs or the City could decide to incur the costs themselves. Ms. Wagner stated Option #3 would be to cancel the project, pay the contractor, and redesign the project to have a gravity system but at a shallower depth for the sanitary sewer. She said it would most likely require the adjacent property owner to have to pump up to this gravity system. She said the hope would be to shallow it up enough to get out of the groundwater so less dewatering would be needed and less remediation. Ms. Wagner stated Option #4 is similar to Option #3 but would redesign the sewer to be a low pressure sewer requiring the property owner to pump up into it. She said the sewer pipe would be in line with the water pipes. Again, it would require bidding in 2024 for 2024 construction.

Ms. Wagner stated staff feels very strongly that this project has to move forward, no matter which option is selected. She said the roads are at a Paser rating of 1 and there is significant water contamination. She said we would certainly want to have municipal water available to connect to if their wells are contaminated. She said our municipal code requires business of this classification to connect to water and sewer.

Ms. Wagner stated she anticipated a 73% increase over the original bid price.

Ms. Brown asked if we knew where the containments came from. Ms. Wagner stated no, and she was surprised that the DNR didn't do an additional investigation of the matter. She said the contaminants were heavy metals and TCE.

Mr. Reinbold stated there was a dry-cleaning business there. The Mayor agreed, stating everything in that area was heavy industry. Mr. Reinbold stated those businesses included Fredrick, Hottmann Construction, and TruckServ. Ms. Wagner added that the railroad was also in that area.

Mayor Bierce asked how much Ms. Wagner thought we would owe the contractor. Ms. Wagner stated last year the City purchased the water main and stormwater materials they had on site because we didn't want to lose out on that material. It cost approximately \$90,000. She said they did some tree clearing along with the test holes and dewatering. She estimated \$100,000 in total.

Mr. Vetterkind stated he felt the project should be rebid.

Ms. Brown asked if we'd still be able to use the water main and stormwater pipes. Ms. Wagner answered yes, but the manholes might have to be scrapped, because they were straight curve.

Mr. Clark asked Ms. Wagner what she'd prefer. Ms. Wagner stated if they are able to make the gravity system work, if they can get out of the ground water, even though it is shallow, that would be her preference. She said the companies in that area are slab on grade so they may be able to connect to sewer using gravity. If it is determined that a low-pressure sewer is needed, the property owners would be forced to have a grinder pump system.

**A motion was made and seconded (B. Dziwulski, P. Vetterkind) to stop the project, pay the contractor for the work completed, redesign the project and rebid the project in 2024 for construction in 2024.** Motion Passed: 6-For, 0-Against.

8. Discussion and Possible Action Regarding Green Road Industrial Building
  - 8.1 Review and Approval of the Early Grading Agreement.
  - 8.2 Establishing the Financial Guarantee.

Ms. Wagner stated the property owner previously came in looking for relief of trucking on Green Road. They are located between Redford Blvd ramp and Duplainville Road. They are working through the final development of their plans, which is currently being reviewed by Engineering. They are requesting an early grading fill and a blasting permit for their site. Ms. Wagner stated there are no objections to this agreement. She asked if the Council agrees to approve the agreement, she'd like it contingent on the City Engineer and City Attorney approval. She is recommending the value of this guarantee to be established at \$54,000.

Mayor Bierce voiced his objection to the early grading agreements in general.

Mr. Wamser asked what needed to be blasted. Ms. Wagner stated there is bedrock on the property. They will be blasting for their ponds.

Ms. Brown stated she was concerned about the sewer pipes and laterals in the area. Ms. Wagner stated blasting was successfully done when preparing the DPW garage. Ms. Wagner stated the property owner will be required to televise the storm pipe running through their property to ensure no damage has occurred.

**A motion was made and seconded (C. Brown, J. Wamser) to approve the early grading agreement.** Motion Passed: 6-For, 0-Against.

Mr. Reinbold asked if they were required to notify the neighbors before they start blasting. Ms. Wagner stated they have to get a State permit and that is one of the requirements. She believes the area of notification is only 500 feet from the site.

9. Discussion and Possible Action Regarding **Resolution 23-04-04** Authorizing an Outdoor Recreation Grant Application

Mr. Fuchs explained a grant application was submitted last year in hopes of funding a portion of the all-inclusive playground and splash pad construction, but no funds were awarded. He said he and Mr. Phalin would like to reapply this year and a resolution authorizing staff the ability to do so is a requirement.

**A motion was made and seconded (B. Dziwulski, R. Reinbold) to approve Resolution 23-04-04.** Motion Passed: 6-For, 0-Against.

10. Public Comment

Larry Marincic (N30 W22121 Green Road) stated he had nothing but respect for Ms. Wagner and Ms. Mueller. He said he knows it's not easy supplying clean water to a community. He asked where the accountability was and why no one knew about the comingling of funds prior to 2014. He also commented on the "well from hell" that has to be capped now which was drilled through a fault line. He questioned who engineered it. He asked if there was any recourse for that, and felt that was a big mistake. He then said he was concerned about mandatory connections. He said most properties had water lines put in in front of their homes to accommodate a new developer. He said most of those wells are fine. Mr. Marincic stated the City might have to look at low pressure sewer systems because not all people can be served with gravity.

Mason Pooler (N14 W27583 Silvermail Road) thanked the Council for their support regarding the retail sale of cats and dogs. He appreciated the spirit of debate over the topic. He said the Council is doing a great job.

11. Adjournment

**A motion was made and seconded (I. Clark, R. Reinbold) to adjourn the meeting at 7:47 p.m.** Motion Passed: 6-For, 0-Against.

Respectfully Submitted,

Kelly Tarczewski  
Clerk/Treasurer