



Common Council Meeting

Whitewater Municipal Building Community Room,
312 West Whitewater St., Whitewater, WI 53190
*In Person and Virtual

Tuesday, October 17, 2023 - 6:30 PM

MINUTES

CALL TO ORDER

The meeting called to order at 6:30 pm by Council President Jim Allen

ROLL CALL

PRESENT

Council President Jim Allen
Councilmember Brienne Brown via Zoom at 6:35pm
Councilmember Lisa Dawsey Smith
Councilmember Jill Gerber
Councilmember Neil Hicks
Councilmember Lukas Schreiber
Councilmember David Stone
City Attorney Jonathan McDonell
City Manager John Weidl
Public Works Director Brad Marquardt
Accountant Jeremiah Thomas

APPROVAL OF AGENDA

Motion made by Councilmember Schreiber, Seconded by Councilmember Dawsey Smith to approve the agenda

Voting Yes: Council President Allen, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

CONSENT AGENDA

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Schreiber to approve consent agenda after pulling the September 19, 2023 Common Council Meeting Minutes.

Voting Yes: Council President Allen, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

1. Urban Forestry Commission Meeting minutes from August 28, 2023.
2. Approval of Common Council Meeting minutes from September 5, 2023
3. Approval of Common Council Meeting minutes from August 15, 2023
4. Approval of Common Council Meeting minutes from September 19, 2023
5. Finance Committee Meeting minutes from September 26, 2023
6. Plan and Architectural Review Meeting minutes from August 14, 2023

7. Landmarks Commission Meeting minutes from September 7, 2023
8. September 2023 Financials
9. Resolution deferring special assessments against benefited property on Wisconsin Street, City of Whitewater, Walworth, and Jefferson counties, Wisconsin - **Public Works**

CONSIDERATIONS

10. Discussion with the University of Wisconsin-Whitewater regarding the Innovation Center- Economic Development

Elizabeth Theien from the University of Wisconsin-Whitewater Innovation Center - Ms. Theien explained that the University of Whitewater is asking the City to take over the operations and the University will take over the programming, outreach, and talent. Ms. Theien stated that the University would like to see the governance of the Innovation Center change.

Discussion only; no official action was taken.

CITY MANAGER REPORT

City Manager Weidl gave his bi-monthly update of City events and accomplishments, including reports from the following departments: Public Works, IT, Neighborhood Services, Library, Parks and Recreation, Police, and Human Resources.

STAFF REPORTS

11. Update on Leaf Management -Public Works

Public Works Director Bard Marquardt gave an update on the City's Leaf Management Plan and the requirements that DNR has with leaves in the City water system.

12. Presentation and Overview of Draft 2024 Budget - Finance

Finance Director Rachelle Blitch gave a first look and overview of the 2024 Budget. The presentation of the budget will be on November 7 and the Public Hearing and passing of the budget will be on November 21.

Councilmember Gerber asked that all the community information and data in the front of the budget be updated. Councilmember Gerber asked to see the breakdown of the existing salary for the IT Department and if we can use interns. Councilmember Gerber asked for further discussion or to add it as an agenda item regarding the new proposed IT position. Councilmember Gerber would like to see the current duties of the IT manager and what is proposed for the new position. Councilmember Gerber asked to see a study done for the IT new position. She is looking for a compensation salary study for all employees.

HEARING OF CITIZEN COMMENTS

Jeff Knight (405 Panther Court) read the following statement - Thank you for letting me present the following materials. I'm here tonight and hoping that the City Council will review the policy on how committee members can request agenda items and future engagements to offer guidance on policy. Not just a rubber stamp, but offering transparency and collaboration. One, after the last CDA meeting John

Weidl Sent out a maliciously inaccurate communication to the CDA members and additional people. Not sure if the City Council was included. As a result, I felt the need to respond. Two, because of issues that came up at CDA I responded to John's email and additionally requested three items be included at the next CDA agenda. I copied Bonnie, Kristine, John, and Patrick. This led to a fair amount of back and forth that I have here for your review. At one point I mentioned if John wasn't willing to allow things on the agenda, I was willing to come to the Common Council. This led to another terse response tweaking me saying "Your concerns are not my concerns". So, I did reach out to Jim Allen as Common Council President and copied both John's. Another response left me feeling he was trying his best to get me not to continue asking for agenda items. Third, I did request a written response as to why my items wouldn't be included and asked that all my emails requesting and explaining be included in the packet. That way, I could at least have the other CDA members understand my reasons rather than just seeing John W's hit piece. The issues are separate but, in some cases, tangential. The process of retaining a new Commercial Broker posed some problems for me as a new member returning to the CDA. Selecting a new Broker was on the agenda. When I read my packet one of the Commercial Brokers listed John W. as a reference. I asked John and he informed the committee that they did not ask him, but he knew them and thought they were good. Only one broker attended the meeting, so we suggested they both be invited to present at the next meeting. I looked back at previous CDA minutes and could find no record of starting an RFP process. I also asked for a briefing on the RFP process as there were no communications records. When the next packet came the RFP process was laid out, but surprisingly two documents that I think were solicited were critical of the current vendor. I did some additional searches of both Broker candidates and saw that John W was employed by both. Additionally, I asked both Brokers when they presented as to where they heard about the RFP, both said they got a call from John. I believe Bonnie did a good job following the city's guidelines, I just wished John had been more transparent about his previous relationships and solicitation. I wanted the RFP back on the agenda to suggest any future RFP's be discussed prior to release in case the board has some ideas on getting a broader response as clearly both brokers never saw the WW Register. The second item on the agenda was a review of contract compliance. A critical review of the Twelve2 work was never discussed at any CDA meeting. Why two emails critical were included was hard to understand. More importantly, Twelve2 did communicate with Jim Allen, and Patrick Singer and a ton of back and forth with John W. It was clear the city and broker had different interpretations of who didn't do their job. He said she said. But what made me curious is why none of this was ever discussed by the CDA or staff with Twelve2. In any case, a review of contract compliance prior to the next contract should help us produce a better new contract once we select the new broker. I do think we can move on as clearly Twelve2 had some previous relationship in Mukwonago and doesn't want to work with John anyway. The third item I asked to be placed on the agenda is CDA attorney, not related to RFP or Contract Compliance. Lastly, in the middle of all this back and forth, I get a call asking me what the CDA is doing developing land near the bridge to nowhere. I didn't have a clue and again went back to CDA and City Council minutes and couldn't find a thing. Transparency is crucial. Spoke with both Bob Freiermuth and Jim Heckendorf who said John discussed City/CDA selling 100 parcels and they advised John that the price was too high. Both wondered why the city would be developing a subdivision. As a result, I asked to have housing included at the next meeting. I Searched and found three good properties with some planning already approved through city processes or new developments. I also forwarded a listing for a large parcel adjacent to Highway 12 on the east side and suggested we include the Starin Rd city parcel. My thoughts were to host a meeting with all property owners in the city that could be developed. Some might drop out; others may want to be included. Make it competitive for all to play. Of all the items I requested to be included only housing made the cut, but none of my ideas on housing or proposed property designs. I did request that all my

emails with my information also be included in the CDA packet. None were included. So again, please meet and review this packet of materials and give guidance for future committee meetings to ensure transparency and collaboration.

Geoff Hale (599 South Franklin Street)- Mr. Hale feels if the City is going to get into developing a subdivision the City should look at history and maybe go back to when West Park was done and at quite an expense and because of the investment and the large overhead deals had to be made to get places sold. Anything the City does should have measurable results. It should be treated like any other business. Mr. Hale stated that on Monday the City plans on spending about \$111,000 doing a basic Band-Aid of the area around the lake. Kurt Zip hired a guy from Alabama to come in with a machine that will completely cauterize and gouge up and remove the cattails. Mr. Hale talked to the guy at the end of this project as he was pulling away to go back to Alabama and asked him what would it take to handle both of the lakes to remove all the cattails on the upper and lower lake and he stated somewhere between \$250,000 and \$500,000. Mr. Hale would like to see the Council pull the plug on the company that is coming on Monday, take the \$11,000 put it towards this guy in Alabama or another similar machine.

Chuck Mills (336 Whiton) - Regarding John Weidl Mr. Mills does not care what Mukwonago has to say. Mr. Mills feels the City would not have moved the Aquatic Center without John Weidl. Mr. Mills would like to give John Weidl credit for moving businesses into the City and getting things moving.

Ryan Oezer (1127 West Walworth Ave) - Mr. Oezer would like to jump on Chuck Mill's statement in support of John. Mr. Oezer has lived in the City since 2011. Mr. Oezer feels the City has stayed a small town for the last 13 months. Mr. Oezer would like to see something else for the youth to do around the City. Mr. Oezer would like to see more community events like food truck rallies or bag tournaments.

RESOLUTIONS

13. Resolution adopting and amending the 2022-2023 Budget - Brown/Finance

Finance Director Blich explained that because hiring of an additional Attorney was not in the budget there needs to be a resolution amending the City Budget.

Council President Allen stated he could think of many items that were not in the original budget and no amendment was brought forward.

A motion made by Councilmember Hicks, Seconded by Councilmember Stone to amend the budget to include \$10,000 as a budget amendment for the council to retain an attorney year after year.

Voting Yes: Councilmember Hicks, Councilmember Stone

Voting Nay: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Schreiber.

Andrew Crone (1590 Wildwood Road) - Mr. Crone stated that if this is something that will happen year after year the public needs to be given notice and not just happen at one meeting.

Jeff Knight (405 Panther Court) - would like to know when the City retained Kristen Fish-Peterson for the CDA at \$22,000 did it follow the procurement policy?

ORDINANCES**First Reading****14. Ordinance 2073 an ordinance amending Chapter 5.36 Mobile Homes and Mobile Home Parks - City Manager**

City Manager Weidl summarized the request stating that the Common Council can cap the total number of mobile home units allowed in the City to 370.

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Stone to approve Ordinance 2073.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

Ryan Oezer (1127 West Walworth Ave)- Mr. Oezer asked how many current units are built in the City.

15. Ordinance 2074 an ordinance amending Section 1.21.010 Schedule of Deposits to provide for a bond amount for violations of Chapter 11.45 Operation of All-Terrain Vehicles (ATV) and Utility Terrain Vehicles (UTV) - Police

Police Chief Meyer explained that this ordinance is to fill in some gaps of the bond schedule.

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Schreiber to approve Ordinance 2074.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

16. Ordinance 2065 an ordinance creating Chapter 5.39 Licensing of Short-Term Rentals Dawsey Smith/Neighborhood Services

Councilmember Dawsey Smith stated she would like to recall Ordinance 2065 because it does not fully address any of the concerns and the City needs to have a complete zoning ordinance that does not define or set parameters for allowance or disallowance. Councilmember Dawsey Smith stated that this is also something that has been highlighted as a duplication of other necessary registrations that happen at the State and County levels.

Motion made by Councilmember Dawsey Smith, Seconded by Council President Allen to recall Ordinance 2065.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone.

Geoff Hale (599 South Franklin Street)- stated that he would like the City to still allow Airbnb in the City.

Ben Freiermuth (212 South Second Street)- Stated that he is the property manager for 6 Airbnb listings and is a super host. Airbnb has strict criteria with ratings, response time, and number of guests served and also provides a superb experience and location for people to come and visit the area. All the groups that stay at one of his properties invest in the community. If the ordinance passes this would hurt not only his family-owned business but others.

Andrew Crone (1590 Wildwood Road) - After the last meeting Mr. Crone stated that they had a couple stay at his house for a wedding at his bed and breakfast and last minute, someone in the wedding party had to also stay at the bed and breakfast because they could not find a Hotel in Whitewater. Mr. Crone stated in the Ordinance in one place mentions that it is two people per room, plus two more. Another place in the ordinance, says just two people. Mr. Crone would like to see that clear. Mr. Crone stated he pays the same taxes as hotels and bed and breakfasts in the City of Whitewater.

Bob Freiermuth (212 South Second Street)- If this ordinance is a prelude to legislation for Airbnb, he believes that there should be some committee put together to look into a future ordinance. He stated that he believes that he does not feel an additional ordinance is needed.

Ken Touchin (221 Lakeview Drive) - Has run an Airbnb for 8 or 9 years and has paid the 3% taxes every year. He loves the experience and has not had any problems. He feels there should be less regulation and he can be an example to others on how to run an Airbnb.

Gloria Baley (328 W Main Street) - Would like to know what the room tax is currently in the City.

Second Reading

17. Ordinance 2071 an ordinance amending Chapter 2.08.010 Meetings-City Clerk

Motion made by Councilmember Brown, Seconded by Councilmember Dawsey Smith to approve Ordinance 2071.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

Councilmember Hicks would like to see it moved from 7 business days to 6 business days so that Council has the weekend to get there request in.

Motion made by Councilmember Hicks, Seconded by Councilmember Stone to amend Ordinance 2071 to move it to 6 business days.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

CONSIDERATIONS

18. Discussion and possible action regarding an RFP for legal services to retain an outside law firm to advise the Common Council on employee discipline and personnel matters not to exceed \$10,000 - Brown/Finance

Finance Director Blitch stated the RFP is in the packet and she highlighted the areas that need to be discussed.

Motion made by Councilmember Hicks, Seconded by Councilmember Stone to move forward without the RFP for legal services to retain an outside law firm to advise the Common Council on employee discipline and personnel matters not to exceed \$10,000 and bring back 3 proposals by President Allen.

Voting Yes: Council President Allen, Councilmember Gerber, Councilmember Hicks, Councilmember Stone

Voting Nay: Councilmember Brown, Councilmember Dawsey Smith, Councilmember Schreiber

Brian Schanen (441 South Buckingham Blvd.)- He feels that this is an irresponsible use of taxpayer funds. Earlier in the meeting, the Council spoke on the importance of transparency and taking on such an issue that has many different opinions. Having that additional transparency he feels would be crucial rather than just rushing forward as fast as possible and allowing the public to see how that goes. Mr. Schanen feels having more potential applicant vendors can be beneficial.

Ryan Oezer (1127 West Walworth Ave)- Asked why the City needs a third law firm? if the City Council is soliciting directly how is that not a prior relationship much as the second law firm is deemed to have a prior relationship instead of a bid-type process?

Greg Majkrzak (1294 Tower Hill Pass) - Cannot follow the reasoning behind not going for the proposals, yet someone individually bringing back two to maybe 3 proposals.

Chuck Mills (336 Whiton) - Would like to know if there is something that the public does not know about?

Councilmember Brown would like to see an RFP that is done in public and in the newspaper.

19. Discussion and possible action to Award Vanderlip Pumping Station and Force Main Replacement Project, Contract 4-2023, to Fischer Excavating, Inc of Freeport, Illinois - Public Works

Public Works Director Marquardt stated the City bid out the project for a second time. The first time in April of 2022 the bids came back quite high. Since April, the City submitted for clean water funds and should be getting 4.2 million. The low bid was from Fischer Excavating, Inc. for \$4,580,341.80 which was \$70,000 less than the low bid in April 2022.

Motion made by Councilmember Stone, Seconded by Councilmember Schreiber to award the Vanderlip pumping station and Force Main Replacement Project, Contract 4-2023 to Fischer Excavating Inc of Freeport Illinois.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

CLOSED SESSION

30. Adjourn to closed session, to **reconvene in open session**, pursuant to Chapter 19.85(1)(e) "Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session." **Items to be discussed:** 1. MOU/MSP with UWW concerning the Innovation Center and Chapter 19.85(1)(f) "Considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations." **Item to be discussed:** 1) Discussion regarding complaints received by the Human Resources Department.

Motion made by Council President Allen, Seconded by Councilmember Schreiber to go into closed session.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber

Voting Abstaining: Councilmember Stone

Councilmember Stone stated that he would be recusing himself in closed session.

The council went into closed session at 8:21 pm

The council came back into open session at 11:05 pm

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Schreiber to reconvene into open session.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber

CONSIDERATIONS

31. Discussion and possible action regarding MOU/MSP with the University of Wisconsin - Whitewater for the Innovation Center- Economic Development

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Schreiber.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber

32. Discussion and possible action regarding matters addressed in closed session involving complaints received by the Human Resources Department. - HR/Employment Attorney

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Schreiber to make a motion to direct the City Manager to fill the Ethics Committee.

Voting Yea: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber

ADJOURNMENT

Motion made by Councilmember Schreiber, Seconded by Councilmember Hicks to adjourn.

Voting Yea: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber

The meeting adjourned at 11:07 pm