

**January 11, 2021**

**CITY OF WASHBURN COMMON COUNCIL MEETING**

5:30PM

Washburn City Hall & Remote Call-In

City Council Members:

Present, in-person:

Karen Spears-Novachek, Laura Tulowitzky, Tom Neimes,  
Carl Broberg, Dave Anderson

Present, remote:

Jennifer Maziasz

Municipal Personnel:

Present in-person:

City Administrator Scott J. Kluver, City Attorney Max Lindsey,  
Assistant City Administrator Tony Janisch.

Present, remote:

Mayor Mary D. Motiff, Director of Public Works Gerry Schuette

Absent:

Mary McGrath

**Call to Order** - Meeting called to order at 5:30PM by Mayor Motiff. Roll call attendance depicted six (6) of seven (7) members of the Common Council in attendance. Quorum of the Council recognized.

**Approval of Minutes – City Council Meeting of December 14, 2020 and December 28, 2020 - A motion was made by Novachek to approve the December 14, 2020 & December 28, 2020 minutes of the City Council with the corrections noted, second by Neimes. Motion carried unanimously.**

**Approval of Expenditures - A motion was made by Novachek to approve the monthly expenditures as reviewed, second by Tulowitzky. Motion carried unanimously via roll-call vote.**

**Public Comment** – Jeremy Oswald, 401 W 5<sup>th</sup> St., commented on the Pearl Beach item and noted his surprise that Council did not try harder to work with Pearl Beach and extent the agreement. He ended by thanking the councilmembers for their service to the City. Melissa Martinez, Washburn Chamber of Commerce Director, spoke regarding proposed Ordinance 21-002 regulating commercial activity on City property. She acknowledged the importance of Ordinance 20-009 regulating the group last year and taking advantage of City property for business. Ms. Martinez further stated disappointment that the Chamber was not contacted for ideas on the new ordinance or information of business that may be affected by it. She expressed concern because it was unclear for businesses of what they would be paying; would there be more than one fee; would they be considered exempt. Ms. Martinez ended by asking that a decision not be made, and the Chamber and affected business could discuss further. Lynda Warren, 34 Oak Rd., spoke regarding the proposed Ordinance 21-002 and that she uses the parks to run fitness classes. She has questions with how her business would be affected with this new ordinance. Blake Gross, Law Office of Blake Gross Ltd., Ashland, stated that he is representing Pearl Beach Construction and its president Karl Dornburg.

**Mayoral Announcements, Proclamations, Appointments-** The Mayor began by noting the ordinance changes on the agenda, with an effort to reach out to those that might be affected by the changes. She also noted a lighting survey that she initiated regarding the Bayfield St. Reconstruction. The Mayor ended by mentioning the vacancy on the Harbor Commission.

**Discussion & Action on Ordinance 21-001 Updating Procedural Requirements for Granting Special Exceptions to the Zoning Code** – Novachek moved to approve Ordinance 21-001 updating procedural requirements for granting Special Exceptions to the Zoning Code, second by Anderson. Administrator Kluver stated the purpose of the ordinance is to speed up the process for approving special exceptions; currently approval is required by both the Plan Commission and Council. Discussion ensued. Kluver added that if the Plan Commission denies a request, the matter can then be taken up by Council for approval. Motion carried unanimously.

**Discussion & Action on Ordinance 21-002 Amending the City's Code of Ordinances to Regulate Commercial Activity on City Property** – The Mayor thanked the Parks Committee and its special committee for their time and effort spent working on this ordinance. She acknowledged that the past years ordinance provided the ability to restrict unwanted behavior with a specific activity, and this is the next step to expand across the board to deal with business in general. The Mayor noted the questions and comments and that there may be a need for clarification. Novachek moved to postpone decision of Ordinance 21-002, seconded by Neimes. Novachek amended her motion to postpone decision of Ordinance 21-002 and for it to be placed on the February Council agenda. Neimes agreed to the amended motion. Attorney Lindsey suggested that any questions, comments, or suggestions given to the administrator so that answers can be prepared. Lindsey further explained some aspects of the ordinance where questions had already come forth. The Mayor added with some suggestions to the ordinance. Novachek suggested that an information session be held to help answer questions and gather information before the next meeting. Anderson suggested working with the Chamber to help reach out to area businesses with an interest in this. Motion carried unanimously.

**Discussion & Action on the Process for Letting the Phase 1 Bayfield Street Reconstruction Project in 2024** – City consultant, Michael Stoffel, Ayres Associates Inc., explained the letting process with WisDOT, and presented three options. First, the WisDOT will administer all aspects of the process, including the City's portion of the project for water & sewer; the advantage being the State takes on most of the risk. Second, the City does its own letting (local letting) with the advantage being a 30-40% cost reduction. However, the City would absorb more of the risk, especially with contractors and timelines. The third option being a hybrid; both City & State let the project independently and the City choose the best value either through WisDOT or locally. Stoffel stated that this alternative has never been done and the State would pass the costs of developing this alternative onto the City. The Mayor added that this cost was identified at \$20,000. Public Works Director, Gerry Schuette stated that Ayers is hired to oversee the project for the City. If the City chose the WisDOT administer option, the State would charge an administration fee, but Ayers would still oversee the projects from the City's end. Schuette recommended the local letting option. Neimes moved to approve the City's local letting of the Phase 1 Bayfield St. Reconstruction Project in 2024, seconded by Broberg. Motion carried unanimously.

**Discussion & Action on Agreements with WisDOT for Phase 2 of the Bayfield Street Reconstruction Project Starting in 2026** – Novachek moved to approve the agreements with WisDOT for Phase 2 of the Bayfield St. Reconstruction Project beginning in 2026, seconded by Broberg. Motion carried unanimously.

**Discussion & Action on Resolution #21-001 Combining Wards for 2021 Elections** – Novachek moved to approve Resolution #21-001 combining wards for the 2021 Elections, seconded by Broberg. Motion carried unanimously.

**Discussion & Action on Request for Relief on an Existing Agreement with Pearl Beach Construction Related to the Previously Purchased Lot 47 at the SW Corner of the Intersection of Harbor View Drive and Central Avenue** – Attorney Gross, representing Pearl Beach Construction, stated his supplied letter identifies concerns and reason for a recession of the sale agreement and requests that his client's \$25,000 payment be returned, the agreement be vacated, City takes back the lot, and the parties go their separate ways. The Mayor questioned the reasons the contract should not be fulfilled; stating that substantial completion was to occur by August 2020, and the request did not come before Council until June, 2 mos. prior. Gross replied that his client did have plans & designs and materials were not available because of the pandemic. Maziasz commented that at the June meeting, Mr. Dornburg stated that the building was ordered and anticipated construction in July. She then questioned if construction was then delayed why not ask for an extension at that time. Gross replied that since an extension was not given in June, why move forward; there were advisory or conditional assurances given at the meeting but no reliance that assurances moving forward would be given. Anderson stated objection to the letter and the inflammatory comments regarding him and his wife. Anderson further stated that at the June meeting Dornburg stated that he did not need State approved plans. He continued by reading the State code identifying that State approval was necessary, and questioned Dornburg's lack of understanding for construction on a project he had two years to complete. Anderson concluded that in 2018, serving on the Plan Commission, he seconded that motion to approve the site plan for this project. Lindsey asked, without committing the City to any course of action, if City agreed to extend the agreement to the end of 2021, would his client accept this. Gross stated that he would have to confer with his client, but his understanding was the answer would be no. Gross added that he sees a mutual breach of contract and the cleanest way forward is to go their separate ways.

Closed Session – A motion was made by Broberg to go into closed session at 7:07PM pursuant to Wisconsin State Statute §19.85(1) (c), to negotiate and confer with legal counsel on request for relief on an existing agreement with Pearl Beach Construction related to the previously purchased Lot 47 at the SW corner of the intersection of Harbor View Drive and Central Avenue, following which the Council may reconvene in open session to take any action that may be necessary on the closed session items, second by Neimes. Motion carried unanimously via roll call vote.

A motion was made by Novachek to return into Open Session at 8:00PM, second by Novachek. Motion carried unanimously.

Adjourn – Motion to adjourn by Anderson, seconded by Tulowitzky. Motion carried unanimously. Meeting adjourned at 8:03PM.

Tony Janisch, Assistant City Administrator

**FINANCE COMMITTEE MEETING 4:30pm**

Committee Members Karen Spears Novachek & Laura Tulowitzky reviewed monthly expenditure vouchers.