

September 14, 2020

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, Mary McGrath

Present, remote:

Jennifer Maziasz

Municipal Personnel:

Present in-person:

Mayor Mary D. Motiff, City Administrator Scott J. Kluver,  
City Attorney Max Lindsey, Assistant City Administrator  
Tony Janisch

Present, remote:

None

Absent:

None

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

**Approval of Minutes – City Council Meeting of August 17, 2020** - A motion was made by Novachek to approve the August 17, 2020 minutes of the City Council, 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 a roll call vote.

**Public Comment** – No public comment was received.

**Mayoral Announcements, Proclamations, Appointments-** The Mayor began by noting vacancies on the Harbor Commission and Plan Commission. The Mayor continued by acknowledging the Ambulance Service, which has received an excessive number of calls during this pandemic. The Mayor recognized six members of the Washburn EMS that have taking over 500 hrs of call each. The Mayor also noted the retirement of Kay Bratley, who had worked for the City for nearly 13 years. Regarding the upcoming Halloween, the Mayor stated that Halloween is not an official city sponsored event and it is up to the individual if they would like to hand out candy or go trick-r-treating. She also noted that the general time from was from 6pm-8pm on 10/30, the night before Halloween. The Mayor included that she would be offering virtual office hours, with more information to come. She further shared that Thompson’s West End Park has been selected by Lake Superior Magazine as Best of the Lake 2020 for Best Camping Site. The Mayor concluded with a proclamation that October 2020 is Domestic Violence Awareness Month.

**Discussion & Action on Contract with Northwest Regional Planning Commission for Comprehensive Plan Consulting Services** – The Mayor asked for a motion to amend the agenda and move up discussion of the Northwest Regional Planning Commission (NWRPC) action item. Broberg moved to amend the agenda as requested by the mayor, seconded by Novachek. Motion passes unanimously. Jason Laumann, NWRPC, was present remotely and noted that he was available to answer questions. Broberg shared a concern of the expensive for wish-list type planning without real actions steps to achieve what it in the plan. Laumann answered that NWRPC will facilitate the process and that action items are up to the community with what they want to achieve. Laumann continued that a comprehensive plan is a strategy for growth of the community. Janisch noted that the currently comprehensive plan is over 10 years old, and that funding of the process will come from a Wisconsin Coastal Management Program Grant. Novachek moved to approve a contract with NWRPC for comprehensive planning services, seconded by Broberg. Motion carried unanimously.

**Discussion & Action on Conditional Use Application for a Tourist Rooming House at 215 West 4th Street – Rebecca Wygonik, Petitioner** – McGrath moved to approve the Conditional Use application for the Tourist Room House, seconded by Tulowitzky. Maziasz noted a question from a neighbor regarding parking. Kluver stated that there would be adequate at this location. Motion carried unanimously.

**Hearing on Notice of Intent to Revoke Kayak Commercial Use Permit for Poseidon Adventures, LLC**  
– Broberg moved to open the hearing regarding the notice of intent to revoke a Kayak Commercial Use Permit, seconded by Novachek. Motion carried unanimously. City Attorney Lindsey officiated the hearing. Michael Montano Jr, owner of Poseidon Adventures LLC, presented an opening statement. Montano stated that he believed the ordinance was drawn up hastily, but that he is in full agreement with every part of it. He further stated that he wished the guidelines for enforcement stated more clearly and questioned what the purpose of the ordinance was. Montano further stated that he felt his company did not make any harsh infractions of the ordinance. Assistant City Administrator Janisch presented opening statements on behalf of the City. Janisch shared a fact-finding document with Council and described the procedure for notifying Poseidon Adventures LLC with the intent to revoke their permit. Janisch then listed the infractions that Poseidon Adventures LLC committed regarding the Ordinance 20-009, Non-Motorized Commercial Use Permit.

Montano was sworn under oath by City Administrator Kluver and proceeded to give testimony for his company. Montano stated that he had not seen the photos that will be presented and does not dispute them but does question as to how long the kayaks had been on the beach when the photos were taken. Montano added that if someone was to sit at the beach all day with a camera, no doubt there be a time when an employee would walk to the van or use the bathroom and the kayaks would appear unattended.

Janisch and Police Chief Johnson were sworn under oath by Kluver. Janisch and Johnson shared photo documentation taken by City employees and officers, and observations of violations of Ordinance 20-009 by Poseidon Adventures. Janisch concluded by reading a notarized statement from a property owner in the Town of Bayview stating that employees and customers of Poseidon Adventures were observed several times of disembarking from the kayaks and trespassing on private property.

Montano responded that sure kayaks may have been unattended for up to 20 min of a time, as employees used the bathroom, and he did express to his guides to follow the guidelines from the City. Montano further stated that the beach was a popular kayaking destination and there may have been other kayakers causing disruptions. He concluded that they've tried to respect the rights of property owners, but that it's hard to determine what is public and what is private property. Montano indicated that employee Jack Beshoar could speak on behalf of his company. Mr. Beshoar was sworn under oath by Kluver. Beshoar commented that the property owner that provided the statement was lying and provided false accusations and that he thought that was a understanding to lead groups into that area.

Attorney Lindsey closed the evidentiary portion of the hearing with Mayor Motiff beginning deliberation. The Mayor then sought a consensus vote of Council regarding the Finding of Facts presented: 1) Proper notification of intent to revoke the commercial use permit, yes. 2) Poseidon Adventures LLC timely requested a hearing before Council, yes. 3) The hearing before Council was properly noticed, yes. 4) Did Poseidon Adventures LLC violate Sec. 7-11-7(a) leaving more than 8 nonmotorized vessels unattended on City property at any one time, yes. 5) Did Poseidon Adventures LLV violate Sec. 7-11-7(c) storing, blocking, or encumbering more than 30 feet of shoreline on City property at any one time, yes.

Discussion ensued. McGrath stated that revocation of permit should begin immediately and that Montano and everyone associated with Poseidon Adventures LLC be barred from applying for a commercial use permit for at least the remainder of the year. Neimes concurred with revocation to the end of the year. Novachek recommended the time frame of then end of the season, being Oct. 15, 2020. The Mayor commented that she is upset with the blatant disregard of the rules from this company and feels that repercussions should be for one year of today.

The Mayor continued with consensus voting and determining there was a violation of City ordinances: 6) Should the commercial use permit for Poseidon Adventures LLC be revoked, yes. 7) Should Poseidon Adventures LLC be barred from being issued a future commercial use permit? A roll call vote was taken with all members voting yes. Broberg moved to bar reapplication to Dec. 31, 2021, second by McGrath. Broberg, McGrath, Neimes voted in favor. Anderson, Maziasz, Novachek, Tulowitzky voted against. Motion failed via a roll call vote. Novack moved for a date of Dec. 31, 2020. Motion failed due to lack of a second. Discussion continued. Anderson moved to bar reapplication to June 15, 2021, seconded by Novachek. Anderson,

Novachek voted in favor. Broberg, Maziasz, McGrath, Neimes, Tulowitzky voted against. Motion failed via a roll call vote. Tulowitzky moved to bar reapplication for a commercial use permit for one year from date of revocation (Sept. 14, 2021), seconded by Maziasz. Broberg, Maziasz, McGrath, Neimes, Novachek, Tulowitzky voted in favor. Anderson voted against. Motion carried via a roll call vote.

**Discussion & Action on Adopting a Policy Related to Officer Involved Deaths and Serious Injuries –** The Mayor stated that given the concern nationwide of officer involved death and injuries, the City's police policies have been reviewed and draft policy has been drafted. Moved by McGrath to adopt this policy related to Officer Involved Deaths and Serious Injuries, seconded by Broberg. Novachek noted item C-2-h-3 regarding an outside agency investigator and questioned why the officer involved would not be required to submit a written report. Chief Johnson responded that because the officer would be speaking with the outside agency, their statements would be included in the outside investigator's report. Chief Johnson further noted that he agrees with the policy. Motion carried unanimously.

**Discussion & Action on Goose Control Activities in the West End Park/Treatment Plant Area –** Moved by McGrath to approve Goose Control Activities at West End Park/Treatment Plant, second by Neimes. Novachek questioned what form on public notice has taken place. Janisch answered that he spoke with the campground host informing them of this topic on the Council agenda. The Mayor added that goose control and its time frame had been post all year at the campground and on the website. Maziasz questioned if the Marina would be included and noted an increase of geese. Broberg answered that he believed it is the same geese traveling between the Marina & West End Park. Chief Johnson mentioned that areas where he had found nests and addled eggs. Kluver stated that this measure would only be for West End Park and the Treatment Plant, but the Marina could be added to the permit in the future. Motion carried unanimously.

**Discussion & Action on Resolution #20-012 Extending the Mayor's Proclamation of March 17, 2020 and Declaring a Health Emergency in the City of Washburn –** Moved by McGrath to extend Resolution #20-012 declaring a Health Emergency in the City of Washburn, second by Novachek. Motion carried unanimously.

**Presentation, Discussion & Referral of 2021 General Fund Operating, Capital, and Debt Service Budgets –** Kluver stated that the Personnel/Finance committee is scheduled to meet soon to review & discuss these budgets, and stated the need to encourage taxable development to increase revenues. Neimes stated that Home Rule measures and a tourism tax, State Statute 66.1113, may be a way to increase revenue. Kluver responded that the City may not qualify Premier Resort Tax (66.1113) noting that this required 40% of the equalized value of the City be in the tourism industry and that Washburn of 80% residential. Kluver added that a wheel tax for transportation infrastructure may be possible and that this is essential an extra fee on vehicle registrations within the City. Moved by McGrath to refer the 2021 General Fund Operating, Capital & Debt Services Budget to the Personal/Finance Committee, second by Tulowitzky. Motion carried unanimously.

**Discussion & Action on Contract with Bowmar Appraisal, Inc. for 2021-22 Assessor Services –** Moved by McGrath to approve a contract with Bowmar Appraisals for 2021-2022 assessor services, second by Broberg. Motion carried unanimously.

**Adjourn –** Mayor Motiff adjourned the meeting at 7:56PM.

Tony Janisch  
Assistant City Administrator