



**CITY OF RIVER FALLS, WISCONSIN
COMMON COUNCIL PROCEEDINGS**

May 26, 2020

Mayor Dan Toland called the meeting to order at 6:30 p.m. in a virtual meeting format due to the Covid 19 pandemic. The City Council Chambers was open for public to attend.

City Council Members Present: Todd Bjerstedt, Sean Downing, Christopher Gagne, Scott Morrissette, Diane Odeen, Ben Plunkett, Hal Watson

Members Absent: None

Staff Present: City Administrator Scot Simpson; City Attorney Chris Gierhart; IT Manager Mike Reardon; IT Specialist Jon Smits; Finance Director Sarah Karlsson; City Clerk Amy White; Police Chief Gordon Young; Utility Director Westhuis; others

Others Present: Ben Fochs, Brenda Gutting, Mark Hein, Jeffrey Wesley

The Pledge of Allegiance was said.

APPROVAL OF MINUTES:

April 21 Organizational and April 28 Regular Meeting Minutes

MS Morrissette/Watson approve minutes. MS Plunkett/Watson move to amend minutes by removing Michael Page and adding Ben Plunkett as attendees at the April 28 meeting. With no other comments, the Mayor asked for a vote on the amendment. It passed unanimously. The Mayor asked for a vote on the approval of both sets of minutes. It passed unanimously.

APPROVAL OF BILLS:

Bills: May 12 \$2,430,280.65 and May 26 \$769,587.81

The Mayor noted there would be two separate votes on the bills. **MS Downing/Watson move to approve May 12 bills subject to the comptroller. The roll call vote passed 7-0 with all voting in favor. MS Gagne/Downing move to approve May 26 bills subject to comptroller. The roll call vote passed 7-0 with all voting in favor.**

PUBLIC COMMENT, PETITIONS, REQUESTS AND COMMUNICATIONS:

Benjamin Fochs, 2529 Powell Avenue – mentioned the City's communications. He expressed concerns about Council members in private forums. He also mentioned emergency repairs on Powell Avenue bridge and the delay of the North Interceptor Sewer project.

Aldersperson Gagne received a couple of complaints from residents about projects going on in his neighborhood which involved large truck traffic. Both the Mayor and Gagne noted staff had talked to the contractor to ensure the trucks were rerouted. There were no other public comments.

PUBLIC HEARING:

Annual Liquor License and Beer License Renewals – Hearing and Disposition by Motion for each License Class **At 6:37 p.m., the Mayor moved into a Public Hearing. There were no comments. At 6:38 p.m., the Mayor closed the public hearing and moved into Open Session.**

The Mayor noted there were four new agents with three present. Aldersperson Morrissette had questions for the new agents. First, he asked new agent, Brenda Gutting from Aldi, the following questions: do you understand

the role of an agent? Do you understand that if an alcohol related violation happens even if you are not at the location, you are still responsible? Do you have your responsible servers license? Gutting answered yes to all.

Then Alderperson Morrissette asked new agent, Mark Hein from Family Fresh, the following questions: do you understand the role of an agent? Do you understand that if an alcohol related violation happens even if you are not at the location, you are still responsible? Do you have your responsible servers license? Hein answered yes to all.

Lastly, Alderperson Morrissette asked new agent, Jeffrey Wesley Hein from Juniors, the following questions: do you understand the role of an agent? Do you understand that if an alcohol related violation happens even if you are not at the location, you are still responsible? Do you have your responsible servers license? Wesley answered yes to all.

The Mayor moved onto the liquor license renewals for Class "A" Beer Licenses and Class "A" Cider Only licenses for the two Bob and Steve's locations. Alderperson Plunkett said he would be making an amendment individually to require mask usage by employees and customers at all times and restrict alcohol sampling until the City Council votes to amend those two provisions. Deputy Clerk McKahan said a main motion was needed before an amendment. The Mayor said would take a main motion first and wasn't sure if the City could enforce mask usage.

MS Gagne/Odeen move to grant renewals for the Class "A" Beer Licenses and Class "A" Cider Only licenses contingent that all licensing requirements are met at the time of issuance (Bob & Steve's Store #4 and #6). MS Plunkett/Downing to amend by no sampling of beer or cider on this licensed premises until the City Council votes to remove that prohibition and to require mask usage by store employees and customers for Bob and Steve's #4, Paulson Road. The Mayor asked for discussion.

Gagne would not be voting in favor because no other businesses have been required to do this. There are strict guidelines from the county health officials and also the City. There is nothing we can do to force the hand of other businesses. To impose this on just a few, would be an injustice. He will be voting against the amendment.

Morrissette wasn't clear how we would enforce this. The Mayor agreed and said that was a question for the City Attorney.

Odeen understood Plunkett's concern and shares it but believes if the City is going to have a mask requirement, it needs to be implemented on all businesses and not just as a condition of a liquor license. The Mayor asked City Attorney Gierhart if amendments needed to be made individually or if they can be made as a licensing group. Gierhart said one amendment can be made for the entire group.

Downing asked City Administrator Simpson if the amendment would be following in the guidelines of the City's "Crushing Covid" plan. Simpson noted in the guidelines, the recommendation is anytime a person cannot social distance, wearing a mask is recommended. The Mayor asked about enforcement. Simpson wasn't sure it was tested but thought if there was a category of businesses that the Council could use its home rule powers - which are typically granting licenses - this is probably this is the one category that it could be done. It isn't clear to him on how firm of ground there is to add these amendments.

Gierhart said because it is licensing, the City does have more discretion to impose restrictions on licensed premises. If you are going to do it, it should be uniform for all licensed premises. This hasn't been tested. This would be a legal gray area which begs the question; if you enforce it, how do you enforce it on a practical level?

Downing asked for Chief Young's opinion on enforcement on this policy. Young said as long as the City Attorney has a prospective that it was enforceable, he would have to look into it (and if the City Council approved it). Young said it would be difficult to enforce on a consistent basis meaning there are two to three staff working each shift throughout the City. If it is the wish of the City Council and is allowable, it is something we would enforce.

Odeen asked Gierhart to give an example of other licensed businesses the Council could impose similar requirements. Gierhart was thinking of liquor licenses as City generally doesn't license other businesses; the state does. None of his other municipal clients have done this; he has hesitated about the City adopting this. The courts could take a critical eye to this but noted the City isn't trying to supersede the health officer but is tying it to a license. If there was a violation, you'd have to take an action to revoke the license. It would likely be challenged in court. Gierhart suggested that perhaps the best approach would be for the City Council to suggest masking consistent with DHS and county health guidelines rather than make it a condition of issuance.

Morrisette asked Plunkett if he envisioned a monetary fine or removal of license. He wasn't sure of enforcement. Plunkett said liquor licenses are punishable by the removal of the license that would have to come back before the Council which he would support.

Downing asked Gierhart about an individual mandate and also protecting the City. Gierhart said it would be better to use general police powers to impose general health and safety measures being mindful of the Wisconsin Supreme Court decision that shutting down businesses and travel would not be allowed. We're in uncharted territory, the further restriction you go to restrict a business, the more likely it is to be challenged. His recommendation would be to issue strong guideline consistent with the local health departments.

Gagne gave an example of drinking a beer with a mask which he felt was more unsafe due to touching of the face/surfaces. Plunkett questioned how drinking could be made in accordance with his amendment.

Downing encouraged Council to think of businesses in the entirety and not individually. Plunkett clarified the motion was for one of the Bob and Steve's but would be making another amendment for the second location. Gagne asked about requiring masks for other stores in the community. He talked about being in favor of individual businesses making that decision but not Council imposing it on a few businesses.

The roll call vote on the amendment for Bob and Steve's #4 failed 6-1 with all voting against except for Plunkett.

MS Plunkett/Downing for Bob and Steve's #6 on North Main Street to amend by restricting sampling of cider and beer on site and to require mask usage during the hours that alcohol sales are conducted at this site. The roll call vote on the amendment for Bob and Steve's #6 failed 6-1 with all voting against except for Plunkett.

The roll call vote for the original motion for Class "A" Beer Licenses and Class "A" Cider Only passed 6-1 with all voting in favor except for Plunkett.

MS Watson/Downing move to renewals for the Combination "Class A" Liquor and Class "A" Beer Licenses contingent that all licensing requirements are met at the time of issuance (Aldi #49, Devine Liquors, Dick's Hometown Liquor, Dollar General Store #6482, Family Fresh Market #322, Kwik Trip Store #301 and #453, Walgreens #10585, WE Market Co-op).

Motion by Plunkett for Aldi #49 liquor license to require mask usage mandatory by both employees and customers during hours when alcohol is being sold and that there is no sampling on premises. The Mayor said the City Attorney said a motion can be made for the entire group. He asked Plunkett if he wanted to make the amendment for the license group. Plunkett said yes. **There was no second. The amendment failed.**

The Mayor asked other comments. Morrisette said there was a change of agent for WE Market (Whole Earth). The agent did not appear so Morrisette felt the license needed to be excluded from the motion. **MS Morrisette/Odeen amend motion to exclude WE Market until such time that the new agent of record can appear before the Council. The roll call vote passed 7-0 with all voting in favor. The Mayor asked for a roll call vote on the original motion. The vote passed 6-1 with all voting in favor except for Plunkett.**

MS Odeen/Gagne move to grant renewals for the Class “B” Beer Licenses contingent that all licensing requirements are met at the time of issuance (Luigi’s Pizza, Smokey Treats, Steve’s Pizza, Swinging Bridge Brewery). Plunkett move to amend asking that no on-site sales or sampling of alcoholic beverages allowed until such a time that it is removed by City Council. The Mayor asked for a second. There was none. The amendment failed.

The Mayor asked for discussion on the original motion. Morrissette said Luigi’s Pizza did not answer question C3 – “does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesales, breweries or brew pubs?” Morrissette asked that an answer be given as consistent with the motion before a license is issued. Gagne agreed.

The Mayor asked for a roll call vote on the original motion. The vote passed 6-1 with all voting in favor except for Plunkett.

MS Gagne/Bjerstedt move to grant renewals for the Combination “Class B” Liquor and Class “B” Beer Licenses contingent on all licensing requirements being met at the time of issuance (American Legion Post 121, Broz Sports Bar & Grill, Emma’s Bar, Falls Theatre, Johnnies Bar, Junior’s Restaurant and Tap House, Lazy River Bar & Grill, Mainstreeter Bar & Grill, Mariachi Loco, Mavericks Corner Saloon Mel’s Midtown LLC, Moonshiners BX, Nutty Squirrel, River Falls Golf Club, River Falls Moose Lodge, Shooters Pub, St. Croix Lanes, Westwind Supper Club). The Mayor asked for discussion. Morrissette noted that Castrol Corp., tradename Moonshiners BX, did not answer question C3. He believes the Clerk is aware, but it needs to be answered before license issuance.

The Mayor asked for other comments. **Motion by Plunkett to restrict all sales to off sale with no on-site consumption of beer or liquor and no sampling of beer or liquor until such time that the City Council amends it and to require mask usage by both customers and employees during all times when alcoholic beverages are being sold until such time that the City Council amends it. The Mayor asked for a second. There was none. The amendment failed.**

The Mayor asked for a roll call vote on the original motion. The vote passed 6-1 with all voting in favor except for Plunkett.

MS Odeen/Morrissette move to grant renewal of the “Class C” Wine Licenses contingent that all licensing requirements are met at the time of issuance (Smokey Treats, Steve’s Pizza, Swinging Bridge Brewery).

The Mayor asked for other comments. **Motion by Plunkett to restrict any on premise sales until such time that the City Council allows such and require mask usage at any time when alcohol is being sold by customers and employees until such time that restriction is removed. The Mayor asked for a second. There was none. The amendment failed.**

The Mayor asked for a roll call vote on the original motion. The vote passed 6-1 with all voting in favor except for Plunkett.

CONSENT AGENDA:

Acknowledgement of the following minutes: Police and Fire Commission – 9/3/19; Library Board – 4/6/20; River Falls Housing Authority – 3/11/20

Resolution No. 6476 - Regarding Liquor License Fees for 2020-2021

Resolution No. 6477 - Approving Agricultural Lease Agreement for Whitetail Corporate Park Properties

MS Morrissette/Odeen move to approve the Consent Agenda. The roll call vote passed 7-0 with all voting in favor.

ORDINANCES AND RESOLUTIONS:

Resolution No. 6478 to Amend Specific Implementation Plan for 1300 S. Main Street

MS Downing/Watson move to approve resolution. The Mayor asked for comments/questions.

Gagne talked about the use of solar, rents, and made suggestions for the developer. He is in favor of the project.

Downing applauded the work put into it and felt it followed the City's Comprehensive Plan regarding renewable energy.

Morrisette liked the solar panels on the roof but was concerned about the aesthetics of the sunflowers in the front yard. He is in favor but is hesitant about the sunflowers.

Plunkett felt both the sunflowers and roof top solar were vanity solar projects. He thought the City could do much better in terms of solar through other methods. He talked about 'greenwashing'.

With no other comments, the Mayor asked for a roll call vote. The roll call vote passed 7-0 with all voting in favor.

Resolution No. 6479 - Approving Bid for Sanitary Sewer and Water Main Relocations for Hanson Drive/Jug Handle

MS Odeen/Morrisette move to approve the resolution. The Mayor asked for comments. Watson asked about the cost in terms of the budget. City Administrator Simpson said this is coming out of reserves. Utility Director Westhuis confirmed that the costs were coming out of the cash reserves. **With no other comments, the Mayor asked for a roll call vote. The roll call vote passed 7-0 with all voting in favor.**

Resolution No. 6480 - Approving 2020 CIP Revisions

MS Morrisette/Watson move to approve resolution. The Mayor asked for questions/comments. Downing talked about the elimination of the Sterling Hill disc golf course. He thought most of the cost would come from donations. He asked about putting the project back in. Simpson said the project is \$75,000 with half coming from donations. It is being eliminated because we have too many things on the list.

Odeen asked if it could be added to in the future. Simpson talked about coming back to the Council in the future with projects. He wanted to give Council his best estimates.

Morrisette talked about the AMI and downtown alley plan. He asked about looking at the delayed projects in 2021. Mayor Toland thought the projects were being moved into the downtown plan. Simpson wants to send a clear signal to staff to quit working on the project. Some of the items, we need to remove completely. If something isn't priority, nothing is priority. Morrisette expressed concerned that there wasn't a placeholder for some projects. He asked about different messaging.

Downing, who is the Park and Recreation Board, said all the members are 100 percent committed to the disc golf course and the project has already been delayed.

MS Downing/Odeen to use the word 'delayed' instead of 'eliminate' and use the judgment of the City Administrator to see if it (disc golf course) can be worked into the 2021 CIP.

Gagne spoke in favor of the amendment. He shared an example of a frisbee golf course built in Willow River State Park by volunteers.

Morrisette talked about the CIP flowing into the Work Plan. He thought that a tradeoff would need to be made in order to add a project. He would not support the amendment.

Gagne said this just a wording change. He spoke further about volunteers planning and doing the work. He was in favor of marking it 'delayed'.

Odeen asked if it was possible to list a project as 'delayed' on the CIP and instruct the staff not to work on it. Simpson said yes. He didn't want to give the Council the impression that we won't take direction. He wants to make sure that we are going in the right direction.

Watson was in support. He felt the neighborhood needs the ability to recreate. Gagne talked further about setting a precedence.

With no other comments, the Mayor asked for a roll call vote on the amendment. The roll call vote passed 6-1 with all voting in favor except for Morrisette. The Mayor asked for a roll call vote on the original motion. The roll call vote passed 7-0 with all voting in favor.

Resolution No. 6481 - Acknowledging Modifications to 2019-2021 Strategic Initiatives

MS Downing/Bjersstedt move to approve the resolution. With no comments, the Mayor asked for a roll call vote. The roll call vote passed 7-0 with all voting in favor.

Resolution No. 6482 - Authorizing the Recovery Revolving Loan Program and Committee

MS Morrisette/Downing move to approve the resolution. The Mayor asked for questions/comments.

Gagne asked about funding. Was it a grant? Simpson said no; these funds were authorized by the Council as a priority. The Council is setting the cap at a higher amount. Gagne asked about repayment. Simpson said the intention to be a one-time distribution.

Downing asked about the money coming back to the City and what are the qualifications. Simpson said the reallocation was \$500,000, and he provided further details. The eligibility is broad. The committee will determine eligibility. Simpson provided more detail. Plunkett asked how the loans would be collateralized. Simpson said they would not be – a personal guarantee is requested, and we are expecting repayment. Morrisette said personal guarantees do come with some teeth but said the goal is to give a boost to the economy. Odeen has been on the committee. She said the City's loan is usually the loan of last resort. In general, there are no issues in repayment. She thinks it is a great program.

Morrisette talked about the repayment monies being placed into the revolving loan fund and second into the general fund. Plunkett disagreed and felt the best way to support local businesses was to ensure that customers have money to spend at them. He thought it was better to have that same dollar amount to ensure citizens would get their unemployment benefits. Having a benefits specialist would give a greater return to our community.

Watson is in favor and noted the loan amount would not exceed \$50,000. Both the Mayor and Morrisette clarified the loans were only for \$5,000 or \$10,000. He felt main street businesses would be in critical condition, if they are already aren't, and felt it was in the City's best interest to have main street survive. Watson felt the community would support lending a hand to these businesses.

Downing asked Odeen if she agreed that there was a history of success with this loan program. Odeen said yes.

Gagne asked if personal information was gathered on the application and if it tied back to a credit bureau. Simpson said it was more of a basic application. He provided more details and talked about working on Plunkett and Morrisette's concerns. Gagne was in favor and felt it was a great opportunity for businesses. Simpson said the loan status will be public.

With no other comments, the Mayor asked for a roll call vote. The roll call vote passed 7-0 with all voting in favor.

REPORTS:

Administrator's Report

City Administrator Simpson thanked the Mayor and City Council for being their patience. He thanked them for their feedback on the CIP and Strategic Initiatives. Simpson talked about the Powell Avenue bridge,

deterioration, and funding. Simpson provided answers to questions regarding the county health officers, additional restrictions on the shared ride taxi, and use of facemasks.

Comptroller's Report for April 2020

Comptroller Odeen read the following: General Fund revenues through the end of April were \$3,926,933 or 36 percent of total budgeted revenues for 2020. Revenues in April include \$180,586 in transportation aids and annual lottery credits from the state of Wisconsin, and \$16,250 in subdivision fees. Expenditures for the same period were \$2,965,661 or 27 percent of total budgeted expenses for 2020, for a net of revenues over expenditures of \$961,272.

ANNOUNCEMENTS:

EMS Week Proclamation

The Mayor read a proclamation for EMS Week.

Mayor's Appointment

MSC Morrissette/Gagne move for the reappointment of Jon Longsdorf to the Police and Fire Commission through April 2025. The motion passed unanimously.

MSC Bjerstedt/Downing move to adjourn at 8:32 p.m. Unanimous.

Respectfully submitted,

Kristi McKahan, Deputy Clerk