



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

July 14, 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 (joined at 6:59 p.m.)

Members Absent: None

Staff Present: City Administrator Scot Simpson; IT Specialist Jon Smits; Utility Director Kevin Westhuis; City Clerk Amy White; Assistant City Administrator Jason Stroud; City Engineer Crystal Raleigh; Police Chief Gordon Young; City Planner Sam Wessel; others

Others Present: Patricia LaRue, Ben Fochs, Emma Gaustad, Emma Stam, Jennifer Wennerberg, Adam Wennerberg, J. Kenneth Lee, Gloria Plunkett, Michelle Wood, Paul Walker, Kim Shult, others

The Pledge of Allegiance was said.

APPROVAL OF MINUTES:

June 23 Regular Meeting Minutes

MS Morrissette/Downing move to approve minutes. The roll call vote passed unanimously 6-0 with all voting in favor.

APPROVAL OF BILLS:

Bills: \$2,924,130.05

MS Morrissette/Bjerstedt move to approve bills subject to the Comptroller. The roll call vote passed unanimously 6-0 with all voting in favor.

PUBLIC COMMENT, PETITIONS, REQUESTS AND COMMUNICATIONS:

Patricia LaRue, 489 Marcella Court – came to talk about budget decisions the Council made last month. She was glad the Council kept the Badger Books. She talked about the positive impact it makes on the elections.

Benjamin Fochs, 2529 Powell Avenue – thanked the City for rebuilding the Powell Avenue area. He talked about a subdivision waiver that is a future agenda item.

Change of Agent for Kwik Trip #301 and #453

Aldersperson Morrissette had questions for new agent, Emma Gaustad. He asked three questions: do you understand the role of an agent; do you understand that if you are not present and there is an alcohol related violation, you are responsible; have you completed your responsible bar servers license? Gaustad answered yes to all. **MS Downing/Morrissette move to approve change of agent for Kwik Trip #301 and #453.**

Aldersperson Plunkett also wanted to ask the agents questions. He asked Gaustad what Kwik Trip is doing to ensure that activities at its establishments do not cause pandemic spread in the wider community. Gaustad said they are all wearing masks, doing a 30-minute sanitation practice, and making sure coworkers are coming to work healthy. Plunkett asked further questions about masks and Kwik Trip's plan about notifying the public if a case happened at a store. Gaustad provided answers. The Mayor told Gaustad to let the Council know if she was unable to provide answers. Plunkett asked questions regarding Kwik Trip's Human Resources response to an

outbreak and Gaustad's opinion on if Council should be in favor of a liquor license without her being able to provide the knowledge about Kwik Trip's response. The Mayor clarified that liquor licenses were not being issued; it was a change of agent. Plunkett wanted his question to stand. Alderperson Gagne called for a vote.

The Mayor asked for a roll call vote on Gagne's call for a vote. The vote passed 6-0. The Mayor asked for a roll call vote for the original motion. The vote passed 5-1 with all voting in favor except for Plunkett.

PUBLIC HEARING:

Resolution Regarding a Special Use Permit for a Wedding/Event Venue at 1165 CTH M

City Clerk White provided a brief explanation of the proceedings. She confirmed compliance stating the meeting notice was posted at one public place, City Hall; posted on the City's website per Wisconsin State Statutes 19.84(1)b2. A Class 2 public hearing notice was published in the Star Observer on June 25 and July 2 and public hearing notices were mailed to property owners within 300 feet.

White provided an announcement of proceedings stating the 2019 2017 Wisconsin Act 67 changed how conditional use permits and special use permits are considered and approved. Decisions must be based upon "substantial evidence", which means "facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a condition use permit and that reasonable persons would accept in support of a conclusion."

The requirement for substantial evidence makes the approval process quasi-judicial rather than legislative. In other words, the City Council will function like a court. Council must give a full and fair hearing to any person whose property interests are affected by the matter before the committee.

Members participating in a quasi-judicial decision must be impartial; if they cannot be impartial, they must recuse themselves. The concurring vote of over 50 percent of the Council members is required to approve the special use permit. If the committee is unsure if the applicant should be granted the special use permit at the end of the hearing, then the applicant has not met their burden of proof and Council must deny the permit. White concluded by explaining the procedure and provided the Council with instructions.

The Mayor stated the City Council has been called to review a request for a special use permit for a wedding and event barn in the City of River Falls Urban Reserve Area in the Town of Kinnickinnic at 1165 County Highway M.

At 6:53 p.m., the Mayor recessed into a Public Hearing. The Mayor asked the Council if any member had made any site inspections. Plunkett drove past the site. He noted the culvert had some dirt that was washed away. He said it was a rural area with some neighbors in the vicinity.

The Mayor asked if the Council members had any related correspondence/ex parte communications to disclose? There was none. The Mayor introduced City Planner Sam Wessel who was providing a presentation. Wessel shared he received some public comments he received. A property owner to the south, Ken Lee, had concerns related to stormwater runoff from the proposed use and setting a precedence of premature commercial growth east of the City limits. The property owner to the west, Wang Excavating, had concerns about the proposed use lowering property values as it could be a site for future residential development. He also received a voicemail from someone unsuccessfully trying to get into the meeting.

Clerk White gave an oath to Wessel. Wessel said the request is coming before Council because it is subject to the City's agricultural zoning district. The project is at 1165 County Highway M. Wessel talked about the 2019 Cooperative Plan with the Town of Kinni saying it sets up parcels for orderly development by using the City's agricultural zoning district to keep it primarily agricultural and residential. The property does not trigger the requirement to attach to the City.

Wessel talked about the project. It is a 100'x60' metal barn that would be used to host weddings and other events with a capacity of 290 and could operate year-round. It is 1.3 acres on a 35-acre site. Its approximate value is \$700,000. December 2020 is the goal opening date.

Wessel showed a map of the site plan. He talked about wedding barn use which is not currently addressed in our code. "Golf Course/Country Club" use is allowed in the City's agricultural zone. This is the closest use to a wedding barn. Future growth is expected in the urban reserve area but is unclear when. Wessel talked about well, septic, and electric for the facility. He talked about conditional approval mitigating the concerns for the project. Wessel spoke about changes in state law regarding special use permits. The public hearing is quasi-judicial; decisions must be based on facts/conditions; conditions, if imposed, it must be related to agricultural zone's intent; cities must approve SUPs if conditions are met; and applicant must prove conditions will be met.

Wessel said staff recommends the following conditions: special use permit expires when property is sold or transferred; maximum hours of operation are 8 a.m. – 12 a.m.; development must meet all other zoning requirements. Wessel said that additional state/county requirements apply.

The Mayor invited the applicants to make a statement. Clerk White swore in applicants Jennifer and Adam Wennerberg. Jennifer thanked the Council for the opportunity to speak. She provided background and said their goal was to move to River Falls. They intend to embrace the community and hoped the space could be used for a variety of events. She talked about her background, about keeping the majority of land as it is but focusing on the 1.3 acres and provided information about the plans for the facility. Upon completion of Wennerberg's remarks, the Mayor invited others to make comments.

J. Kenneth Lee, N8795 862nd Street – owns the land to the south. He had concerns regarding water runoff onto his property. Lee talked about current problems with runoff and is afraid the addition of blacktop and roads will increase the problem.

Gloria Plunkett, 64 Emerson Valley Road – is 100 percent against the project. She cited concerns about an increase in traffic and noise.

Paul Walker, 1112 County Road M – he and his wife are in the process of buying the property next to this. He is concerned about the traffic and speed limit because he operates a farm.

Michelle Wood, 76 Emerson Valley Drive – referred to a diagram that was shown in the presentation. There are 16 residents on Emerson Valley Drive. She is concerned about traffic and talked about a knoll which impacts visibility. She asked if there had been consideration about a traffic circle or lights. She thanked Alderperson Plunkett for visiting the area. Wood talked about it being in a residential area.

The Mayor asked the applicants if they wanted to respond to the concerns. Jennifer Wennerberg acknowledged there would likely be an increase in traffic, but it would be in spikes. They would encourage large events to use a shuttle especially if there is alcohol served. Adam Wennerberg addressed the water drainage concerns. They will not be changing the slope and drainage will be to the north.

The Mayor asked staff if they had a response to any concerns. City Engineer Crystal Raleigh said there will be spikes before and after events but there will be more traffic on the roadway. Regarding the stormwater issue, the site will be subject to Wisconsin DNR stormwater standards which will require them to slow down their stormwater to a rate slower leaving the site prior to development.

The Mayor asked if Council had any questions. Morrisette asked about the liquor licensing and fire suppression. The liquor license would be overseen by the township. Wessel said that the township would approve the building permit after Council approval of the zoning. The City's fire department has approved the plan but there is not fire suppression in the plans.

Alderson Bjerstedt asked about law enforcement. Wessel clarified that it would be county until the parcel is brought into the City.

Alderson Gagne asked who was responsible for speed control. Police Chief Young said the sheriff's department. Gagne also spoke about water runoff. He is generally in favor of the project but would like speed control reviewed.

Alderson Downing asked if there was any soundproofing in the project. Adam Wennerberg said it would be insulated both for sound and temperature control. Vegetation will also be planted to dampen the sound.

Alderson Watson asked if Council was allowed to take into consideration the intent of the boundary agreement in making the decision. Wessel clarified because the boundary plan refers the "A zone" said it needs to be followed as if it is a special use permit in the city limits because of our zoning. Watson asked if the hours would work for the applicants. Jennifer Wennerberg said they are comfortable with the hours. Watson has concerns about noise and asked if they have plans to contract with an audio engineering firm to keep the sounds from echoing out to adjacent properties. The owners have not looked into it yet.

Watson is hesitant about the project due to its not in the City's zoning classification, and he feels that the intent of the agreement is to preserve the land in agriculture form until it comes into the City. He provided further explanation.

Gagne asked if the project goes before the township for approval and also if the Wennerbergs had any other concerns including about property transfer if it was sold. Jennifer said they were willing to accept the conditions. Gagne asked further about hours of operation.

Alderson Plunkett asked for details on the planting for noise issues. Jennifer said they are consulting with a landscape architect for this including the types of plants.

Bjerstedt asked about a noise ordinance. His biggest concern is noise to the neighbors. There was further discussion about noise. Watson talked about the City not having jurisdiction for noise complaints because it is not in the City limits. He was concerned about the project use not being what was envisioned for this area.

Morrisette talked further about noise pollution and also light pollution. Downing shared the concerns.

Alderson Odeen asked about criteria that can be used to approve or deny the permit – can noise be considered? Wessel said criteria needs to be tied to farmland preservation. Odeen asked the applicants to talk about their research regarding the project. Jennifer provided a response.

Gagne shared that he had talked to St. Croix County dispatch and law enforcement would follow township ordinances.

At 7:54 p.m., the Mayor closed the Public Hearing and moved back into Open Session. The Mayor stated what each voting option means: approve the special use permit (requires a majority vote); approve the special use permit with conditions (requires a majority vote) - Council may approve the recommended conditions listed or modify, add, or remove conditions); or deny the special use permit - an evenly split vote (50%) results in denial. **MS Gagne/Bjerstedt move to approve special use permit for a wedding or event barn at 1165 CTH M subject to conditions listed.** The Morrisette noted there had been a lot of discussion about noise and felt now would be the time to address it. He suggested changing operating hours. The Mayor asked about conditions. Wessel explained the conditions needed to be related to the ag zone. There was more discussion about noise. Odeen noted that the applicants would have to follow township ordinances regarding noise.

City Administrator Simpson said Council should focus on things that are reasonable, facts provided by the testimony, and characteristics of what a golf course/country club would be. The boundary agreement was related to preserving the character of the area until orderly development could be done. The Council has to decide if this

is contrary to that. Hours can be modified but it has to be reasonable and based on fact. As a Council, you can make the determination there's too many outstanding issues or there are not enough facts to prove it is consistent with the agricultural zoning. Simpson talked about the township issuing a liquor license with conditions. Regarding law enforcement response, he told Council not to get the impression that the City's resources wouldn't be impacted by a facility of this type.

Plunkett asked if wedding barns were required to get a liquor license. Simpson couldn't answer the question definitively; it depends on the operating model. Clerk White also noted the same. There was further clarifying discussion.

Council will be voting electronically on the special permit. A practice vote was taken. There were questions about the process. The Mayor will vote on this item.

The official vote took place. Clerk White read the results. With eight voting, the results were 4 voting in favor - Mayor Toland, Bjerstedt, Gagne, Odeen; and 4 voting against - Downing, Morrissette, Plunkett, Watson. A tie resulted in a denial of the permit.

CONSENT AGENDA:

Resolution No. 6491 Authorizing 2020 Chip Seal Program

Resolution No. 6492 Awarding 2020 Microsurface Contract

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

ORDINANCES AND RESOLUTIONS:

Resolution No. 6493 Accepting 2019 Audit Report

Kim Shult from Baker Tilly provided a presentation on the audit. Final audit reports were issued in June. Shult talked about the general fund balance at the end of 2019 which was \$10.6 million. There are two categories of fund balance – non-spendable and unassigned. Shult provided an analysis of the fund balance. The City measures favorably to other cities. She talked about general fund revenue/expenditures and outstanding debt. Shult also covered the electric utility, sewer utility, storm water fund, and EMS fund. The Council had no questions for Shult. Shult thanked Finance Director Sarah Karlsson and her team for their assistance with the audit. **MS Odeen/Morrissette move to approve resolution. The roll call vote passed 7-0 with all voting in favor.**

Resolution No. 6494 Ratifying Chief of Police Proclamations

MS Morrissette/Odeen move to approve resolution. Morrissette asked for clarification on rescinded items 6 and 7. **While staff was seeking the answer, Morrissette made an amendment to modify the approval to only items 2 and 3. The amendment was seconded by Odeen.** Clerk White found the original proclamation and said item 6 was 'disconnection of utilities' and item 7 was 'no late fees will be assessed'. **Morrissette retracted his motion.**

Plunkett expressed concern that the City would be disconnecting customers who are unable to pay bills because they haven't received their unemployment checks. The Mayor asked Simpson to speak to this but said the City doesn't disconnect customers without speaking to them and figuring out something first. Simpson said there is a process in place for disconnections under Wisconsin statutes to place unpaid utility bills on the property tax of the property owner at the year's end. He also said that if you try to make a payment plan, you will not be disconnected. Disconnections are reserved for people that do not respond to attempts by the City to make a payment plan. Simpson explained if Council passed the resolution, disconnections would again be a possibility. He provided further details.

Assistant City Administrator Stroud believed the action to do this follows the Wisconsin's Public Service Commission lifting their non-disconnect moratorium tomorrow allowing disconnects to begin July 25. Utilities does have a plan of action laid out to continue to work with customers and identify the larger past due accounts first.

Bjerstedt asked how big of problem this is. Stroud said numbers in June showed 81 customers over \$500 delinquent, 46 customers over \$750 delinquent, 27 customers over \$1,000 delinquent, 9 customers over \$1,500 delinquent, and one over \$2,000 delinquent.

Gagne asked about comparisons to last year. Utility Director Westhuis said we are a little higher this year. In a typical year, 750 late payment notices are sent. We get it down to about 40 to call with 3-5 that become eligible for disconnection. We work aggressively with customers on payment arrangements. We focus on those with a balance of \$500 or more. Westhuis said the timeline will happen over the next couple of months. He talked about connecting customers with resources for assistance. Gagne encouraged customers to pay their bills or get on a payment plan if needed.

Downing suggested waiting a month or two. Westhuis said we are waiting. There will be a month of notification. This is be a deliberate process that will start in the middle to the end of August. Downing asked about the criteria. Westhuis said they looked at how far customers were behind in payment. There was further discussion.

Odeen, who has served on the Utility Advisory Board, noted the utility has a good track record of working hard with people helping them to get caught up.

With no further comments, the Mayor asked for a vote. The roll call vote passed 5-2 with all voting in favor except for Downing and Plunkett.

REPORTS:

Administrator's Report

Simpson said staff continues to meet regularly with county health officials. He talked about masking. He talked about the virtual meetings and thanked the Council for its patience.

Morrisette asked about monitoring at the splashpad. He asked Simpson to speak to policy. Simpson said it is an unguarded, unmonitored, use at your own risk wonderful facility. Staff is not monitoring capacity nor behavior. They are monitoring water quality and functioning of equipment. We are asking the community to enjoy the new amenity and take responsibility at the facility. There are rules posted. Simpson spoke further.

Plunkett asked about the process for getting items on the agenda. Simpson said under the emergency order, the Mayor, Chief of Police, or he could put something on the agenda. Under normal circumstance, the Council bylaws provide guidance. We have talked about two Councilors sponsoring an item. He is not sure that an individual Councilor could add an item.

Plunkett asked about a timeline for ordinance. Simpson talked about the timeline and newspaper publications. He thought ordinance implementation could take 5-6 weeks. Simpson said a masking ordinance may be on the next meeting for discussion. He talked in more detail. Plunkett talked about UWRF move in and its timing regarding a masking ordinance.

Gagne asked about polling places and absentee ballots for the August 11 election. Simpson thought 2,000 ballots have been processed. He said there have been changes in state law and talked about Badger Books for the November elections. City Clerk White said the August polling locations would be City Hall, Falcon Center, high school and the library. Gagne asked White to explain the process of absentee ballots. White said if an absentee ballot is requested, a voter would receive an absentee ballot for every election that year regardless of whether they return a ballot or not.

ANNOUNCEMENTS:

Mayor's Appointments

Library Board

New appointment of Whitney Rudesill to fill Janet Johnson's vacancy through July 2021

MS Downing/Bjerstedt move for approval of the Mayor's appointments. The roll call vote passed 7-0 with all voting in favor.

MS Bjerstedt/Watson move to adjourn at 9:05 p.m. The roll call vote passed 7-0 with all voting in favor.

Respectfully submitted,

Kristi McKahan, Deputy Clerk