



CITY OF PORT WASHINGTON, OZAUKEE COUNTY, WI  
**COMMON COUNCIL MEETING**  
**TUESDAY, DECEMBER 15, 2020 AT 7:30 P.M.**  
Port Washington City Hall, 100 W. Grand Avenue, Port Washington, WI 53074

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**MINUTES**

1. **ROLL CALL-** Mayor Martin Becker convened the Common Council meeting at 7:30 p.m. Members present were Alderpersons Deborah Postl, Paul Neumyer, Mike Gasper, Dan Benning, Jonathan Pleitner, Pat Tearney and John Sigwart. Also present was City Engineer Rob Vanden Noven, City Planner Bob Harris by phone, City Attorney Eric Eberhardt, City Administrator Anthony Brown and City Clerk Susan Westerbeke.

2. **PLEDGE OF ALLEGIANCE TO THE FLAG-** The Pledge of Allegiance was recited.

3. **CONSENT AGENDA**

*All items listed under the Consent Agenda are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which event the item will be removed and considered at this point on the agenda.*

A. Approve Minutes of Previous Meeting

B. Approve November 2020 Invoices

MOTION MADE BY ALD. PLEINTER, SECONDED BY ALD. BENNING TO APPROVE THE MINUTES OF THE PREVIOUS MEEITNG AS PRESENTED AND THE NOVEMBER INVOICES AS PRESENTED. Motion carried unanimously.

4. **MAYOR'S BUSINESS-** Mayor Becker expressed his condolences to the family of Dr. Perez and his wife. Their years of dedication to the residents is appreciated.

5. **OFFICERS'/STAFF REPORT**

A. City Engineer's Report- None.

B. City Planner's Report- The City Planner reminded the Council on the amended December Plan Commission agenda there is a late addition of the proposed used care and repair conditional use at Wisconsin Street and Whitefish Road. The January Plan Commission agenda has many items and 2021 is looking favorable with developments commencing. Those developments will be transforming downtown this coming year.

C. City Clerk's Report

1. Spring 2021 Municipal Election, Candidacy and Nomination Papers-

The City Clerk reviewed the deadlines for municipal candidacy paperwork.

Nomination papers could be circulated starting on December 1<sup>st</sup>, but must be

submitted by January 5<sup>th</sup> at 5:00 p.m. Non-candidacy papers are due on

December 28<sup>th</sup> by 5:00 p.m.

The City Clerk also reported that the Route to Recovery grant money has been received in full by the City.

6. **PUBLIC COMMENTS/APPEARANCES**

*Your comments are welcome. Please limit comments to three (3) minutes. If you need more time, contact the City Administrator, and ask that your topic be placed on a Common Council Agenda.-* None.

7. **FROM STANDING COUNCIL COMMITTEES**

A. **FINANCE AND LICENSE COMMITTEE**

1. Review and Possible Action on the Third Amendment to Lease and Second Amendment to Memorandum of Lease for New Cingular Wireless PCS, LLC to Lease Antenna Space Located at 428 Thomas Drive- Ald. Pleitner and the City Administrator reported that the new Cingular Wireless PCS's (AT&T) representative contacted the City about extending the existing lease of antenna space on the City water tower at 428 Thomas Drive. The lease commenced on October 14, 1998 and has been amended in 2008 and 2016. The current lease expires on November 17, 2022. The proposed lease is for six (6) additional five-year (5) terms – 2022 to 2052. Under the proposed extension, the annual rent amount would be \$22,750 with a 2% increase on the anniversary date of each year. Also, the existing maintenance fee would continue in this agreement as well. The maintenance fee would be \$6,772.72 in the first year with a 5% annual increase each year thereafter. In total, the annual lease rent, including the maintenance fee, would be \$29,522.72 the first year (2022-2023). The agreement was reviewed and approved by the City Attorney. This was recommended for approval by the Finance and License Committee prior to this meeting. MOTION MADE BY ALD. PLEINTER, SECONDED BY ALD. BENNING TO APPROVE THE THIRD AMENDMENT TO LEASE AND SECOND AMENDMENT TO MEMORANDUM OF LEASE FOR NEW CINGULAR WIRELESS PCS, LLC FOR ANTENNA SPACE LOCATED AT 428 THOMAS DRIVE AS PRESENTED. Motion carried unanimously.

2. Review and Possible Action on the Addition of One (1) Limited-Term Full-Time Paramedic Position for Fiscal Year 2021 and 2022- Ald. Pleitner and the City Administrator reported the Fire Department continues to have, issues meeting staffing minimums to run an emergency medical unit. To provide some consistency and coverage a proposal is being presented to add one (1) additional limited-term full-time EMT-P (Paramedic) position for the next two years (2021-2022). The position would serve the community by responding to and dealing with emergency medical situations, natural conditions that pose a threat to life and property, and incidents of service to the citizens. To fund the position there are four (4) primary funding sources: Reallocation of existing funds & carrying them over, the Fire Department will have unused wage and benefit dollars in the 2020 Budget that would be reallocated to this position and carried over into 2021 and 2022; Grant funding, two (2) grants were received this year that reimbursed the Fire Department for departmental expenses, these funds would be utilized for the position; Reallocation of future wage dollars, the Fire Chief would reallocate part-time wages to this full-time position in 2021 and/or 2022; Rolling Vacancy, when a City employee retires the position would be held open to achieve a pre-defined salary savings. The salary for this position in the first year would be \$49,920. The compensation would increase by 10% in the second year and each year until the fifth (5) year of service is reached. The idea is to provide an increase in pay that will incentive an individual to remain with the Department. Having said that, the future year salaries do not have to be determined at this time and can be revisited during the 2022 budget discussions. While the funding is limited to two years the City has put itself in a position to likely have a future staffing plan for the department by 2023. There are two initiatives that should guide the City in developing a plan. The first is the Phase I Feasibility Analysis of Fire & EMS Service Sharing in Ozaukee County being conducted by the Wisconsin Policy Forum. This study is going to be complete in January or February of 2021. It will discuss potential options to expand cooperative efforts, which could include some type of unified staffing. The other effort is a staffing study. The City has allocated funds in the 2021 budget to engage a consultant with fire service expertise to review the existing staffing and recommend modifications to improve coverage. Fire Chief Mitchell was present to review is current recruitment plan and the newly formed committee at the department to address these issues. MOTION MADE BY ALD. PLEITNER, SECONDED BY ALD. BENNING TO APPROVE THE ADDITION OF ONE LIMITED-TERM FULL-TIME PARAMEDIC POSITION FOR FISCAL YEAR 2021 AND 2022 AS PRESENTED. Motion carried unanimously.

**8. FROM CITY BOARDS/COMMISSIONS-** None.

**9. UNFINISHED BUSINESS**

**A. Review and Possible Action to Clarify Effective Date of Ordinance No. 2020-7 Approving “Rezoning Land within City of Port Washington and Amending Official Zoning Map” (OPD for Eight Single-Family Townhomes for Port Washington Townhouses - Jackson East Development, LLC at 306 E. Jackson Street, and Michael and Ruth Schmit at 314 E. Jackson Street-**

City Attorney Eberhardt reviewed, at the November 17, 2020 Common Council meeting the Council conditionally approved the above ordinance. However, the Council directed that it would not take effect until the closing on the sale to Michael and Ruth Schmit (not to Jackson East Development, LLC, as previously understood) of a 5' x approximately 141.51' strip of vacant City land abutting the east boundary of the proposed development site. On further review, I note that the Council did not specify a date by which the closing on that land sale must occur or the rezoning approval would be null and void. This is important since according to the Wisconsin Statutes a city ordinance takes effect on the day after publication in the official newspaper, “*or at a later date if expressly prescribed.*” Thus, to clarify the Ordinance’s effective and nullification dates. A revised Ordinance 2020-7, Sections 1 and 3, have been revised to expressly prescribe when the Ordinance takes effect (upon closing), and when it becomes null and void the Council will determine, and the City Clerk must insert this date. The City Attorney feels that a March 1<sup>st</sup> or April 1<sup>st</sup> date would be a reasonable time for the closing to occur. The City Administrator informed Council that he has had a discussion with Michael Schmit on the value of the parcel and feels that March 1<sup>st</sup> would be a reasonable date. MOTION MADE BY ALD. PLEITNER, SECONDED BY ALD. POSTL TO APPROVE ORDINANCE 2020-7 WITH REVISIONS TO SECTION 1 AND 3 AND THE DATE OF MARCH 1, 2021 AS PRESENTED BY THE CITY ATTORNEY. Motion carried unanimously.

**10. NEW BUSINESS**

**A. Approve Ordinance 2020-9 Amending Municipal Code Provisions Relating to Application, License & Permit Fees, Costs, Taxes, etc. – 2<sup>nd</sup> Reading-**

The City Attorney reviewed the purpose for amending the existing ordinance. This change would allow the City to make changes to the fee schedule as needed by resolution and not require a full ordinance change each time. Following approval of this ordinance would be a drafting of a resolution to include the fee schedule. The State Statutes allow municipalities to set their own fees at a reasonable rate and the City Attorney would recommend approval of the ordinance with the inclusion of the statutory language. MOTION MADE BY ALD. PLEITNER, SECONDED BY ALD. GASPER TO APPROVE ORDINANCE 2020-9 AMENDING MUNICIPAL CODE PROVISIONS RELATING TO APPLICATION, LICENSE AND PERMIT FEES, COSTS, TAXES AND TO INCLUDE STATE STATUTORY LANGUAGES AS RECOMMENDED BY THE CITY ATTORNEY. Motion carried unanimously.

**B. Review & Approve Third Amendment to Redevelopment Agreement-Fish Cleaning Station Completion/Operation Date, and Project Completion Date-**

The City Attorney reviewed the reasonable for a timeline to be extended for March 31, 2022. The property will need to be dewatered before concrete is poured. The deadline for the developer to extend the timeline to move the Fish Cleaning Station to July 31, 2021 has been added and language changes were also made to include the existing station should remain operational as long as possible before the new station is completed and running. Ian McCain was present to answer questions and informed Council that Ansay Development will do their best to keep the current Fish Cleaning Station open as long as possible. Ald. Benning asked Ansay to give the City advance notice 2 to 3 days before closing the current station so we can inform residents on the City Website and Facebook of the change. MOTION MADE BY ALD. BENNING, SECONDED BY ALD. SIGWART TO APPROVE THE THIRD AMENDMENT TO THE REDEVELOPMENT AGREEMENT AS PRESENTED. Motion carried unanimously.

**C. Discuss and Possible Action on Addendum to Master Development and Land Purchase Agreements (Prairie's Edge Subdivision)-** The City Attorney asked the Council to table this item to a future meeting or indefinitely. MOTION MADE BY ALD. GASPER, SECONDED BY ALD. PLEITNER TO POSTPONE THIS ITEM INDEFINATELY. Motion carried unanimously.

**D. Consideration and Possible Action to Include Lake Street in the 2021 Street Design Agreement with Gremmer and Associates-** The City Engineer reported in conjunction with the reconstruction of Newport Shores, the east half of Lake Street south of Jackson Street will need to be reconstructed. Because the street is in poor condition, the water main needs repair, the storm sewer outfall at the marina is failing, and the City has a Stewardship Grant for extending a multi-use path from the Interurban Trail to the Lakefront on Jackson Street, now is the time to completely reconstruct the road from Jackson Street to the north side of the north slip. The City is working with Ansay on coordinating the work as well as their financial contribution toward the project. Gremmer and Associates has provided the City with a cost estimate for water main replacement, including design, inspection, and construction is \$100,000. The estimated cost for street reconstruction, including design, inspection, and constructions is \$200,000 with Ansay to cover approximately 25% of the cost. This project is already included in the TIF plan. The cost to reprofile Lake Street with associated grading work is estimated between \$80,000 and \$100,000. The request for approval of an amendment with Gremmer and Associates to design and include the improvements in the 2021 Street Improvement Plan. The Board of Public Works and Finance and License Committee met prior to this meeting and both recommended approval. MOTION MADE BY ALD. SIGWART, SECONDED BY ALD. GASPER TO APPROVE THE INCLUSION OF LAKE STREET IN THE AGREEMENT WITH GREMMER AND ASSOCIATES FOR THE DESIGN WORK FOR THE 2021 STREET IMPROVEMENT PROJECT AS PRESENTED. Motion carried unanimously.

**E. Discuss and Possible Action on 2021 Common Council and Standing Committee Meeting Dates-** The City Administrator reviewed the upcoming meeting schedule for 2021. Discussion was held on the meeting dates that would be moved due to the elections and whether meeting should be held virtually due to Covid, once the new Audio Visual system is completed. There may be an issue with live streaming and televising the January 5<sup>th</sup> Council meeting due to the completion and testing Fearing Audio Visual needs to perform on the new system being installed. Ald. Postl reported on the redrafting of an ordinance she is currently working on with regards to council meeting start time and the order of items as they appear on the agenda, including the possibility of holding closed sessions first. There will be a draft sent out to the Alderpersons in the next week to review before our next meeting.

**F. Review and Approve Collateral Assignment of Redevelopment Agreement and TIF Payment Rights – Newport Shores redevelopment project (324 Lake Street, LLC, Developer)-** The City Attorney reviewed the document which is an agreement between the developer and their lender. The City must consent to the redevelopment agreement between them. It would obligate the City to pay the TIF incentives to the lender should the borrower default. MOTION MADE BY ALD. NEUMYER, SECONDED BY ALD. POSTL TO APPROVE THE COLLATERAL ASSIGNMENT OF REDEVELOPMENT AGREEMENT AND TIF PAYMENT RIGHTS AS PRESENTED BY THE CITY ATTORNEY. Motion carried unanimously.

**11. FORTHCOMING EVENTS-** Various events were mentioned.

**12. PUBLIC COMMENTS/APPEARANCES-** None.

- 13. MOTION TO CONVENE IN CLOSED SESSION PER WIS. STAT. § 19.85(1)(E), FOR PURPOSES OF DELIBERATING OR NEGOTIATING THE PURCHASE OF PUBLIC PROPERTY, INVESTING OF PUBLIC FUNDS, OR CONDUCTING OTHER SPECIFIED PUBLIC BUSINESS, WHENEVER COMPETITIVE OR BARGAINING REASONS REQUIRE A CLOSED SESSION, TO-WIT: DISCUSS EXISTING AND PROPOSED FINANCIAL AND OTHER OBLIGATIONS OF DEVELOPER (BLACK CAP HALCYON HOLDINGS, LLC), AND CITY'S RIGHTS, REMEDIES AND OPTIONS, UNDER THE TERMS OF THE LAND PURCHASE AGREEMENT AND MASTER DEVELOPMENT AGREEMENT DATED 8/15/2017 (AS AMENDED), AND PROMISSORY NOTE DATED 8/16/2018, AND DEVISE BARGAINING STRATEGIES REGARDING THE TERMS AND CONDITIONS OF THE SALE AND DEVELOPMENT OF PHASES AND LOTS WITHIN PRAIRIE'S EDGE SUBDIVISION.-** Mayor Becker read the closed session item on the agenda. MOTION MADE BY ALD. PLEITNER, SECONDED BY ALD. POSTL TO GO INTO CLOSED SESSION AT 8:58 P.M. FOR THE REASONS STATED ON THE AGENDA. ROLL CALL VOTE TAKEN: AYE: POSTL, NEUMYER, GASPER, BENNING, PLEITNER, TEARNEY AND SIGWART. Motion carried unanimously.
- 14. MOTION TO CONVENE IN CLOSED SESSION PER WIS. STAT. § 19.85(1)(C), FOR THE PURPOSE OF CONSIDERING EMPLOYMENT, PROMOTION, COMPENSATION, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT OR PERFORMANCE EVALUATION DATA OF ANY PUBLIC EMPLOYEE OVER WHICH THE GOVERNING BODY HAS JURISDICTION OR EXERCISES RESPONSIBILITY, TO-WIT: CITY ADMINISTRATOR'S 6-MONTH PERFORMANCE REVIEW.-** Mayor Becker read the closed session item on the agenda. MOTION MADE BY ALD. PLEITNER, SECONDED BY ALD. NEUMYER TO GO INTO CLOSED SESSION AT 8:59 P.M. FOR THE REASONS STATED ON THE AGENDA. ROLL CALL VOTE TAKEN: AYE: POSTL, NEUMYER, GASPER, BENNING, PLEITNER, TEARNEY AND SIGWART. Motion carried unanimously.
- 15. RECONVENE INTO OPEN SESSION TO TAKE ACTION RELATING TO CLOSED SESSION DISCUSSIONS OR DELIBERATIONS, IF ANY.-** The Council reconvened into open session. MOTION MADE BY ALD. POSTL, SECONDED BY ALD. PLEITNER TO FINALIZE THE AMENDMENT TO THE CITY ADMINISTRATOR'S EMPLOYMENT AGREEMENT AS DISCUSSED IN CLOSED SESSION. Motion carried unanimously.
- MOTION MADE BY ALD. POSTL, SECONDED BY ALD. NEUMYER TO DIRECT CITY STAFF TO PROCEED WITH COURSE OF ACTION ON PRAIRIE'S EDGE AS DISCUSSED IN CLOSED SESSION. Motion carried unanimously.
- 16. ADJOURNMENT-** MOTION MADE BY ALD. POSTL, SECONDED BY ALD. NEUMYER TO ADJOURN THE MEETING AT 10:01 P.M. Motion carried unanimously.

Respectfully submitted  
Susan L. Westerbeke, City Clerk

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