

**OFFICIAL MINUTES  
OF THE  
CITY OF KEWAUNEE COMMON COUNCIL  
OCTOBER 14, 2019 – 7:00pm**

Present: Mayor Christman, Alderpersons Jackson, Schiller, Jelinek, Kuehl, Mills, and Zimmerman.

Excused: Alderpersons Dworak and Stangel

Others Present: Administrator Schnook, Clerk/Treasurer Decur, Attorney Nesbitt, Public Works Director Strelow, CDECPGW Linsmeier, Librarian Petrina and Police Chief Salentine.

Mayor Christman called the meeting to order at 7:00 pm and the Pledge of Allegiance was recited and followed by a prayer/meditation.

**APPROVAL OF SEPTEMBER 9 & 23, 2019, COMMON COUNCIL MINUTES.**

Aldersperson Mills stated that on page 3, of the September 9, 2019 minutes under Grant Identification it should read “Administrator Schnook; not just “Schnook”.

***Aldersperson Kuehl moved, seconded by Aldersperson Schiller, to approve the September 9 & 23, 2019, Common Council Meeting Minutes with the listed change. Motion carried unanimously.***

**PUBLIC COMMENT/COMMUNICATIONS**

Mayor Christman opened the meeting for any Public Comments.

Hearing none, Mayor Christman Closed Public Comment

**CONSENT AGENDA**

- a. **Boards, Commissions, Committees and Staff Report; (Community Center, Planning, Police and Fire Commission and September Staff Reports)**
- b. **Lighthouse Door Approval**
- c. **ORD 607-19 – Sec 2-31 – Committee of the Whole – (c) Report to the Common Council-First Reading**

Aldersperson Mills asked to have 6.a. Planning Commission Meeting Minutes pulled from the Consent Agenda for further discussion.

Clerk/Treasurer Decur informed the Council that 6. C. ORD 607-19 – Committee of the Whole would need to be removed from the Consent Agenda and placed under 9, new business because it is a first reading.

***Aldersperson Zimmerman moved, seconded by Aldersperson Mills, to remove from the Consent Agenda, under item a. Planning Commission Minutes and c. ORD # 607-19, Committee of the Whole, under old business for further discussion and approve the remaining Consent Agenda as presented. Motion carried unanimously.***

**6. b. Planning Commission Meeting Minutes**

Aldersperson Mills asked if the Council is approving only the minutes or is the Council approving the action the Planning Commission is requesting with their motions.

It was stated that the Council only approves the minutes at this time, any action by the Planning Commissions actions are sent to the Council separately for approval.

***Alderson Mills moved, seconded by Alderson Schiller, to approve the Planning Commission Minutes as presented. Motion carried unanimously.***

## **MAYOR'S REPORT**

### **Seating of Student Council Representative – Elizabeth Lamack**

Mayor Christman stated that because Elizabeth Lamack is not present, this will be placed on the November meeting.

### **Marquette School Demolition Update and ORD – 611-19 – Sec. 62-6 – Construction of improvements without bids – First Reading**

Mayor Christman asked Administrator Schnook to bring the Council up to date on the progress of Marquette School.

Administrator Schnook stated that the City has received permission from the Department of Administration to use a non-competitive proposal/sole source procurement process for the Marquette School Demolition project (CDBG PF 16-20). This will allow the City to be the Site Supervisor and the Project Manager for the Marquette School Project. Attorney Nesbitt has sent an e-mail explained that the City already has an ordinance allowing the City to perform construction of curb & gutter, sewer & water mains & laterals. Attorney Nesbitt has amended the ordinance to include building demolition to the list. Administrator Schnook stated that the Council has in their packet a copy of the current ordinance showing the language that is to be removed and a copy of the proposed ordinance with the verbiage to allow demolition of structures, which may be constructed and demolished by the City without submitting the same for bids under Wis. Stats. 62.15.

Attorney Nesbitt stated this is an important step for the Council to take to ensure there are not attacks on the City for not acting properly. Attorney Nesbitt felt this is a defensible action by the City not to follow the State Statute as the Statute does not apply to public construction or under the definition of public construction since you are demolishing something as opposed to constructing something. By adopting the proposed ordinance the City would be complying with the State Statute and with the requirements of the Grant process.

Attorney Nesbitt stated that before the Council discusses the amended ordinance he wanted to update the Council on the issues regarding Marquette School. What we are trying to accomplish with assistance from the Mayor and Council is to enable the City to take over the remaining demolition, as Dakota Intertek has clearly walked off the job. There have been numerous conversations with the Attorney for Dakota Intertek. We believe we have come to a satisfactory arrangement where the Contractor can walk away from the project, and to enable the City to take over the project. The walkaway arrangement negotiated with the Attorney for Dakota Intertek is a final and unconditional settlement of all claims against the City and the City's related parties, providing an amount up to \$28,402.93, paid to a Sub-contractor, in support of the settlement and to concurrently authorize the Mayor, in conjunction with the City Administrator at their discretion, and at a time of their choosing, to declare in default and terminate the Contract with Dakota Intertek. This would allow the City to walk away without any continuing liability to the Contractor or Sub-Contractors.

Discussion was held regarding the remaining equipment on site from both the Contractor and Sub-Contractor and adding a contingency into the agreement that the payment of \$28,402.93, not be paid until such equipment is removed.

***Aldersperson Kuehl moved, seconded by Aldersperson Mills, to adopt the proposal of the walkaway agreement with Dakota Intertek, with the added condition that the Contractor and Sub-Contractor be allotted 5 days maximum to remove their equipment from the Marquette Lot and at that time the City would be agreeable to pay \$28,402.93, within 15 days, to Advance Disposal per Dakota Intertek's wishes. Upon a roll call vote, motion carried unanimously.***

**ORD – 611-19 – Sec. 62-6 – Construction of improvements without bids – First Reading**

Mayor Christman asked for a motion on the amended ordinance.

Aldersperson Schiller asked Attorney Nesbitt if the Council can pass an amendment to an ordinance under the first reading.

Attorney Nesbitt stated that Council would need to pass a motion to approve the waiver of the ordinance procedure rule.

***Aldersperson Mills moved, seconded by Aldersperson Kuehl, to waive the ordinance procedure rule for passage of the ordinance amendment. Upon roll call vote, motion carried unanimously.***

***Aldersperson Kuehl moved, seconded by Aldersperson Jelinek, to adopt the amendment to Ordinance 611-19, Construction of improvements without bids. Upon a roll call vote, motion carried unanimously.***

**OLD BUSINESS**

**Placement of the Native American Statue**

Public Works Director Strelow stated that borings have been completed in the proposed site for the Native American Statue and they showed that there is an old foundation there, but he is not sure how deep it goes.

Discussion was held on the possibility of using a floating slab, but Engineer Ben Gerold would not put his stamp of approval on it. Further discussion was held on hiring an Engineer to review the floating slab option.

Aldersperson Schiller stated that Dr. Faller needs to be comfortable with any solution we come up with.

***Aldersperson Schiller moved, seconded by Aldersperson Kuehl, to approve the placement of the Native American Statue, with acceptance from Dr. Faller, subject to receiving an acceptable Engineering Report and authorizing the hiring of Engineer, at a cost not to exceed \$4,000 if needed. Motion carried unanimously.***

**Reminder of Economic Development Training**

CEDPGW Linsmeier reminded the Council of the Economic Development Training taking place at Classix on Wednesday, October 23, 2019

**ORD 607-19 – Sec 2-31 – Committee of the Whole – (c) Report to the Common Council-First Reading**

Mayor Christman presented Ord. 607-19, amendment.

Administrator Schnook reviewed the amendment of Ordinance 607-19, Committee of the Whole, Sec. 2, (c) Report to the Common Council; *“Report to the Common Council. Following each meeting of the Committee of the Whole the draft minutes will be prepared by the City Clerk/Treasurer and reviewed by*

*the City Administrator to be submitted to the Common Council at the next Common Council Meeting. The report will consist of recommendations as to action to be taken on matters previously referred to the Committee of the Whole. The Committee of the Whole Report may be accepted in its entirety at the regular Council Meeting, or any Council Member may ask for separate consideration of any item.” of Sec. 2 (c) in its entirety. The Committee of the Whole recommended to Council the removal because this procedure has never been followed.*

## **NEW BUSINESS**

### **Grants Update: Approval of Match of Grants Which Staff are Pursuing in 2019 and 2020**

CDECPGW Linsmeier presented two grants that she is working on. Both could be used for the possible purchase of Salmon Harbor. The Multimodal Local Supplement (MLS) Program funding pays for up to 90% of total eligible costs with local governments providing a minimum of 10% cost share and the application is due by December 6, 2019. The Wisconsin Coastal Management Program (WCMP) grant projects totaling \$60,000 or less require a 50% match and projects with a total budget larger than \$60,000 require a 60% match and the application is due by November 1, 2019. CDECPGW Linsmeier asked Council if they had any questions.

Mayor Christman wanted the public to know that there has not been a formal approval to purchase Salmon Harbor. If you look at things in perspective the City's Boat Launch may never be able to be used again due to all of the flooding and it looks like there could be more flooding. The purchase of Salmon Harbor would give the City an option to have one boat launch at our disposal. Mayor Christman asked if we could apply for the grant knowing the City has no formal action approved.

Administrator Schnook stated that the WCMP application is due November 1, 2019, and with the closing of the boat launch this year due to the flooding and the potential for not opening the launch again next year if conditions don't improve buying Salmon Harbor is a possible defense.

Aldersperson Schiller stated that the MLS Program anticipates application for grants to acquire properties you don't have a contract on. It is even written in the application paperwork.

***Aldersperson Schiller moved, seconded by Aldersperson Kuehl, to authorize the submission of the applications to the WCMP Grant and the MLS Program. Upon a roll call vote, motion carried unanimously.***

Public Works Director Strelow presented a request for the approval of two grant applications to the Municipal Street Improvement Program (MSIP). The first grant is a 50/50 match, with a maximum of \$13,062.36, for the purpose of chip sealing portions of Third, Lincoln and Sixth Streets. The other grant is the Municipal Street Improvement Discretionary (MSID) Program which is a 50/50 match, with a minimum total of \$250,000, to be used to reconstruct Kilbourn Street by Vollrath as the project.

Discussion was held on contacting Vollrath for their stamp of approval as this will affect their daily business operations. It was also discussed to see if Vollrath would be willing to cover a portion of the cost because the reconstruction is also benefiting them. Discussion was also held on other streets that the money could be used to repair.

***Aldersperson Schiller moved, seconded by Aldersperson Kuehl, to authorize the submission of the application to the MSIP and the MSID Programs. Upon a roll call vote, motion carried unanimously.***

### **Approval of Harbor Master Plan**

CEDPGW Linsmeier reviewed the proposed Harbor Master Plan with the Council.

Lee Luft and Richard Baker from the County spoke in favor of the project.

***Alderson Mills moved, seconded by Alderson Jelinek, to approve the Harbor Master Plan as presented. Upon a roll call vote, motion carried unanimously.***

### **Property Maintenance Update**

Building Inspector/Zoning Administrator Davister informed the Council that a contract with the Contractor and the owner of the property at 1304 Ellis Street has been signed. The Contractors are going to demolish and rebuild the entire porch system, remove the existing chimney to the ground, patch the roof and siding where necessary, remove all layers of shingles, apply new sheathing and shingles, and paint the exterior. Building Inspector/Zoning Administrator Davister also informed the Council that he is working on the procedures related to the condemned homes we have in the City, getting papers served to the owner of Uncorked, and a fence/yard issue.

### **ORD 608-19 Sec 94-131 Permitted Structures and uses in required yards**

Mayor Christman introduced Ordinance 608-19, Sec. 94-131 (d). Permitted Structures and uses in required yards, and presented materials for the first reading.

Alderson Mills had a concern regarding D. 6," City Building Inspector to approve all fencing materials".

Alderson Schiller stated that if an owner wants to appeal the type of material they propose, it will have to go before the Zoning Board of Appeals. Alderson Schiller feels more thought has to be put into the wording of the Ordinance.

***Alderson Schiller moved, seconded by Alderson Mills, to table Ord 608-19 Sec. 91-131 indefinitely.***

Discussion was held on what specific items need to be changed, and how the wording of the proposed ordinance should be handled.

***Alderson Schiller moved to amend his previous motion, seconded by Alderson Mills, to forward Ord 608-19, Sec 94-131, to the Committee of the Whole for further discussion. Upon roll call vote, motion carried unanimously.***

### **ORD 609-19 Sec 94-344 Standard for Driveways – First Reading**

Mayor Christman introduced Ordinance 609-19, Article VII, Traffic, Parking and Access, Sec 94-344, Standards for Driveways, with the addition of "(4) A driveway can be no closer than 3 feet from any property line and must be hard surfaced". This is the first reading.

Alderson Schiller was concerned regarding the "must be hard surfaced", and how that could be enforced. What this says is if you are building a new home and have a driveway that is 1000' the property owner must either blacktop or place concrete to conform to the proposed ordinance.

Discussion was held on current driveways that are not paved and if they would be grandfathered in.

***Aldersperson Jelinek moved, seconded by Aldersperson Kuehl, to forward Ord 609-19, Sec 94-344, to the Committee of the Whole for further discussion. Upon roll call vote, motion carried unanimously.***

**ORD 610-19 Sec 94-343 Parking requirements – First Reading**

Mayor Christman introduced Ordinance 610-19, Article VII, Traffic, Parking and Access, Sec 94-343, Entitled “Number of off-street parking stalls required”, for the first reading. Striking “a. Single family dwellings and mobile homes. Two spaces.” and replace with “a. 1. No parking shall be located in the front yard or between the front façade and the street except on a permitted driveway providing access to parking areas beyond the front yard”. And “9. 2. The primary entrance shall be located on the façade fronting a public street.”

Discussion on the purpose of changes was held and whether this is an enforcement issue.

***Aldersperson Jelinek moved, seconded by Aldersperson Zimmerman, to forward Ord 610-19, 94-343, to the Committee of the Whole for further discussion. Upon roll call vote, motion carried unanimously.***

**Budget Update**

Clerk/Treasurer Decur reminded the Council of the October 17, 2019, Budget Workshop at 5:30 pm, the November 4, 2019, Budget Workshop at 6:00 pm, and the Public Hearing November 25, 2019 at 5:00 pm. Clerk/Treasurer Decur also asked that if anyone has a question regarding the draft budget to please let her or Fred know so we can have an answer at the workshop.

Aldersperson Jackson stated that she could not attend the November 4, 2019 workshop and Aldersperson Kuehl stated as of now he will be unable to attend the November 4, 2019 workshop, unless his work schedule changes.

**September - Cash Report**

Mayor Christman asked if anyone had questions on the cash report. Mayor Christman asked why there was \$10.00 balance in the CBDG Grant Account.

Clerk/Treasurer Decur stated that she received a letter from the State saying we were getting the money but it did not say why.

**September - YTD Revenue/Expenditures**

Mayor Christman asked if anyone had questions on the Revenue and Expenditure Reports. No questions were presented.

**Approval of September 2019 Accounts Payable**

Mayor Christman stated that the Council has received a copy of the August 2019 Accounts Payable Report and asked if there were any questions.

***Aldersperson Jelinek moved, seconded by Aldersperson Zimmerman, to approve the September 2019 Accounts Payable and Payroll Report in the amount of \$536,671.63. Upon a roll call vote, motion carried unanimously.***

**ANNOUNCEMENTS**

Mayor Christman stated that Jim Kleiman will be the new Police Chief as of January 3, 2020 and will be filling in for Chief Salentine until then.

Aldersperson Zimmerman stated she has been in contact with Tractor Supply regarding the Shopko building because they have purchased some of the Shopko buildings in other states, but at this time Kewaunee is too far from the rest of their stores.

Aldersperson Kuehl stated that the County has passed an ATV Ordinance and feels it is something the City needs to look into at some point.

Administrator Schnook stated that DeGroot Construction is doing a good job but because of the weather they will not meet the October 20<sup>th</sup> deadline. They have been coming across a lot of inflow and infiltration. There has been one change order in the amount of \$20,000 for additional stone that needed to be added to the project because of the weather.

#### **ADJOURNMENT**

***Aldersperson Mills moved, seconded by Aldersperson Kuehl, to adjourn the meeting at 9:32 pm. Motion carried unanimously.***

Submitted by Clerk/Treasurer Decur