

**COMMISSION ON PUBLIC WORKS/UTILITIES
COUNCIL ROOM
MARCH 28, 2023
6:45 P.M.**

The Commission on Public Works/Utilities met in regular session, Chair Clough presiding.
On roll call: all members present.

The minutes of the previous meeting were declared approved.

Director of Public Works Friemoth reported on four burials at the Cemetery, grounds maintenance, building maintenance, equipment maintenance, tree trimming, pothole patching, opening catch basins, Water Department-daily testing and well rounds, utility locates, SCBA testing, inspections of abandoned wells in the City per the DNR audit, working on our Consumer Confidence Report, Sewer Department-daily testing and rounds, cleaning buildings, vehicle maintenance, having Crane Engineering repair bad relays and floats in the Industrial Park lift station, submitted monthly DNR reports and S.C. Swiderski has filed an application for zoning amendment.

Motion Counsell, second Neville, that Water Bills Nos. 62 to 96 in the amount of \$75,360.22 and Sewer Bills Nos. 43 to 57 in the amount of \$18,572.36 be paid. All Aye.

Motion Poeschel, second Perrine, to adjourn. All Aye.

Daniel M. Clough, Chair

Rex R. Roehl, Clerk

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**COMMON COUNCIL
COUNCIL ROOM
MARCH 28, 2023
7:00 P.M.**

The Common Council met in regular session, Mayor Poeschel presiding. On roll call: all members present. The Pledge of Allegiance was recited.

The minutes of the previous meeting were declared approved.

Council Member Petkovsek reported on the March 14, 2023 meetings of the Tourism Commission regarding: 1) discussion on and filing of the Wisconsin Department of Revenue Annual 2022 Room Tax Report, 2) discussion on and moving the remaining 2021 Room Tax funds to the 2022 fund for disbursement, 3) discussion on 2022 Room Tax grant applications and 4) approval of grants to: Neillsville Area Chamber of Commerce (\$350 administration fee and \$5,700 to support initiatives), Neillsville Heritage Days (\$17,800 to support initiatives), Miss Neillsville (\$813 to support promotional initiatives), Clark Cultural Art Center (\$3,450 to support initiatives and \$3,000 to support the Friends of the Black River initiatives).

Council Member Clough reported on the March 15, 2023 meeting of the Historic Preservation Commission regarding: 1) discussion on the 2023 Historic Preservation Commission Action Plan, 2) discussion on historic properties in need of repairs, 3) discussion on website and 4) reviewed fund balances.

Council Member Neville reported on the March 16, 2023 meeting of the Heritage Days Committee regarding: 1) receiving a grant from the Tourism Commission, 2) discussion on band for Friday night, 3) discussion on renting a tent, 4) discussion with the Friends of the

Black River on possible events, 5) discussion on bartenders, 6) discussion on vendor rules and fees and 7) approved charging the food vendors \$25 per day if they do not bring their own power source and need to connect to City power.

Council Member Neville reported on the March 16, 2023 meeting of the Neillsville Community Fire Hall Board regarding: 1) payment of bills, 2) thanked the City crew for snowplowing, 3) discussion on roof leaks, 4) discussion on getting quotes on a water softener and 5) reviewed and accepted the 2022 Financial Statements.

Council Member Counsell reported on the March 21, 2023 meeting of the Library Board regarding: 1) librarians' reports, 2) discussion on an outside marquee display, 3) discussion on revamping the office, 4) discussion on filing the annual Library reports with WVLS, 5) discussion on and filing the Public Library System Effectiveness Statement and 6) discussion on the Storybook Trail program and grant application for Schuster Park.

Mayor Poeschel reported on the March 27, 2023 meeting of the Economic Development Commission regarding: 1) discussion on the Lisenby Properties, LLC project financing and 2) the recommendation to proceed with going out for bids for a \$3 million, 3 year loan with semiannual payments with a final balloon payment, interest only for the first year (6 month and 12 month) and interest and principal for the rest, the balance amortized over 25 years, no prepayment penalty; they the City will do an Economic Development loan to Mark and Lynda Lisenby for \$3 million at an interest rate of 1% over the bank loan rate received, with semiannual payments, no prepayment penalty with a collateral requirement of \$3 million from the Selma and Thomasville properties and personal guarantee from the Lisenbys.

Council Member Clough reported on the March 28, 2023 meeting of the Commission on Public Works/Utilities regarding: 1) current activities and 2) payment of bills

Mayor Poeschel declared all reports filed as presented with the City Clerk.

Jerilyn St. Amand stated that she had attended a Tourism Committee meeting as a citizen and audio recorded the meeting on her cell phone which is her legal right to do. She received a telephone call from a Council Member questioning why she was there audio recording the meeting, she does not have Charter TV so she cannot watch from home, it is her lawful 1st Amendment right to attend without explanation and not all meetings are broadcasted. She contacted both the Mayor and City Attorney on this harassment and no one contacted her back. The former Clark County Judge also recorded the meeting, was he called.

Jake Brunette stated that he is running for the new Clark County Circuit Court Branch 2 Judge position. Brunette presented his background, values, experience and areas of legal practice. Brunette stated that his wife is the Clark County Circuit Court Branch 1 Judge. He has been asked about there being a conflict of interest for both him and his wife being judges in the same County. He checked this out before he decided to run. The State Judicial Ethics Board has said there is no conflict of interest and there is already a husband and wife set of judges in the State.

Natalie Erpenbach stated that she would like to see the Planning Commission meet once per year to go over the City's Comprehensive Plan, the Grants Committee should be made aware of what annual grant applications are made, the Vibrant Spaces Grant application that went through had someone communicate with the WEDC that it was not supported and didn't have any money-it was approved through the Council, there was a lot of hard work to get it in on time, there is an undercurrent of bullying and intimidation, she is very upset and does not like it, there is no place for it in this community or City government, when redoing the personnel manual or City ordinance civil engagement is necessary.

Penelope Westbrook stated that she has a two lot property across from the elementary school and she would like to have three (3) chickens as pets and for the eggs.

Jon Counsell stated it seems like Déjà vu all over again about a year ago there was concern about the City rushing in to approve over a million dollar proposal for the Swiderski development with little or no committee involvement and almost no due diligence and investigation. That follow up resulted in significant savings, with the dropping of a new road, saving roughly \$600,000.

Jon Counsell stated here we are again considering loaning the Lisenby organization three million dollars with only the Commission on Economic Development meeting on it. When his wife, Council Member Julie Counsell, asked for any documents that the Commission received and considered-there was a two page summary from Donald Quicker, nothing from the Lisenbys-this is not due diligence. Gary Weirauch who was at the Commission will tell you it is not due diligence. None the less the Commission voted to recommend making the loan.

Jon Counsell stated that after reading the Commission minutes, there are concerns-how safe is a second mortgage position (talk of property values, no written appraisal was presented, is any equity available); what kind and what level of risk is involved (information on types of debt against the project); if the project failed and the City had a second mortgage would the City be able to take over the first mortgage of nine million dollars (the City's total borrowing ability is \$7,500,000-after making this loan to the Lisenbys, the City would only have \$1,700,000 of borrowing ability left, not enough to buyout the first mortgage of \$9,000,000); are the Lisenby current on bank and contractor payments-the City should know; what is the Lisenbys overall financial picture (are other funds available, do they have other assets available to give the City a first position on).

Jon Counsell stated that local contractors and suppliers being used is appreciated, but due diligence must come before approved. This decision should be adjourned to a later date or the vote should request due diligence and background information from the Lisenbys. Take two weeks to gather information, study it, make an informed decision. It may turn out to be a great idea, if not the City could lose \$3,000,000 and have to make it up somewhere-roads, equipment, employees.

Mayor Poeschel asked if there were any questions on the Commission on Economic Development (item 2).

Council Member Neville asked if we have seen any documentation or are we taking their word for it. We need more information and should not make a snap decision tonight, we want to make sure it succeeds, are all their bills paid.

Lynda Lisenby stated they have 80 units in Selma, 34 units in Thomasville, 111 units in Mississippi and 104 units in Neillsville. They were hit by the perfect storm, they had put the hospital under contract in 2019, then COVID hit and the hospital was closed down and they could not get in. Demolition began in July, 2020 and a significant roof project was done.

Council Member Neville asked what the buildings are worth.

Lynda Lisenby stated that they have spent the last ten weeks looking for a bridge lender, we cannot cash flow an 8% loan rate and finish the project. The Neillsville project has appraised at \$18.8 million and the Selma property at \$4.6 million. Another \$4 million is needed to complete the project. They sold all their properties in Clark County and Wisconsin to take on this project. They started in 2007 with their first 4-plex, we are not going away. Partners Bank of Marshfield has been the main lender from the beginning, when Partners Bank hit their loan limit of \$6 million they brought in another bank for the next \$3 million.

Council Member Counsell asked if they had any property where we could get a first position on.

Lynda Lisenby stated all our properties have loans on them, they are trying to refinance the Selma property to pull out a million dollars. A relator has listed the Selma property at \$5.5 million.

Council Member Clough asked about documentation on the \$18.8 million dollar appraisal on the Neillsville property.

Council Member Neville stated his other concern is paying it off in three years.

Lynda Lisenby stated once the project is completed with 90% occupancy, the intent is to fully refinance with Freddie Mac or Fannie May.

Council Member Counsell asked if the \$18.8 million appraisal was the future finished value, she would like to see cash flow for the next three years, will the cash flow from Neillsville only pay back the \$9 million debt plus the City's \$3 million.

Lynda Lisenby stated that the \$18.8 million is completed value, the banks are confident the Neillsville project rents of about \$1.4 million annually will cash flow the project.

Council Member Counsell stated you are asking us to be a bank, without any information, we need to do more due diligence, \$3 million is two years worth of all the money the City takes in, we want you to survive, it is in the best interest of the City.

Gary Weirauch stated start by looking at the 200 page appraisal and market study, is it a viable entity, look at financial statements, look at the Alabama properties, give it to the City's auditors to review, Neillsville badly needs the housing.

Joy Palmer, CliftonLarsonAllen LLP, stated that they are the City's auditors, but valuation services are very different than auditing.

Donald Quicker stated that there are benefits of keeping the Lisenbys in control of the project, there is too much invested, the sooner it is finished the better for the community. The more people in the apartments the more money spent locally. The more families, more kids in the school, when the TIF District is finished all taxing jurisdictions benefit. The Lisenbys are community minded-they are donating free of charge an apartment for the Ambulance Service use (\$1,200 per month). They need the additional funding, if they fall behind and the contractors move on to other jobs, it will be hard to get things back together.

Council Member Neville stated show us something.

Council Member Petkovsek stated Gary Weirauch said time was of the essence, can the City go out for bids while we are getting the other information and working with the Lisenbys on an agreement.

City Attorney Wachsmuth stated we could start the title work and other paperwork.

Council Member Petkovsek asked how long can the bids be locked in.

Gary Weirauch stated accept or reject within 30 days.

Motion Petkovsek, second Neville, to proceed with going out for bids for a \$3 million loan, with acceptance or rejection of bids in 60 days, title work on the Alabama and Wisconsin properties and Lisenbys pulling together the paperwork. All Aye.

Joy Palmer, CliftonLarsonAllen, presented the City, Water, Sewer, TIF District #2, TIF District #3, Special Revenue Funds and Other Governmental Funds 2022 Annual Audit Reports regarding: 1) auditor's report and opinion, 2) the City has \$2.5 million in the General Fund with \$1.8 million in Unassigned Fund Balance, which is a very good financial condition and very stable, 3) the Water Utility shows a negative change in net position (<\$23,363>) and the Sewer Utility shows a positive change in net position (\$63,914) with Rates of Returns (Water <1.34>% and Sewer 1.69%) these were very close – oversight is needed to make sure the fluctuations are monitored and utility rates are updated and sufficient to cover increasing expenses and remove changes. Water rates were updated in 2013 when the PSC approved a 2.5% rate of return – a rate study would be required, 4) TIF Districts #2, #3 and #4 were reviewed – TIF Districts are a large up-front investment (\$2.1 million, \$1.8 million and \$619,987) recovered in future tax increments from the individual TIF Districts. The Council needs to be aware that TIF #2 has a deficit of \$166,462 with 10 years remaining, the district was extended by the granting of distressed status in February 2016 by the State of Wisconsin, with a dissolution date of 2032. TIF #2 should pay off early. TIF #3 has 4 years of remaining life with a deficit of \$364,615 which may not break even unless more development occurs. TIF #4 has a deficit of \$618,941 with 19 years remaining, 5) risk disclosure on the City's cash and investments were reviewed at year end – the majority (93.9%) was FDIC or NCUSIF insured or collateralized - the remaining 6.1% was under the State Deposit Guarantee Fund, which is not considered to be insured or collateralized, 6) reviewed the City's long term debt – City Statutory limit is \$7.5 million with current borrowing of \$2.3 – \$5.2 million is available, the City is in good financial shape, 7) reviewed the GASB 68 and 71 Statements regarding the City's share of the

Wisconsin Retirement Pension Plan, 8) the General Fund Budget Comparison was reviewed, 9) reviewed the Complied Schedule Report of long term debt, non-lapsing funds, insurance, water and sewer rates of return – regulatory basis, 10) reviewed the City’s internal control structure – lack of separation of duties, preparation of financial statements, audit adjustments and new lease standards and 11) in conclusion the records are in very good working order, the staff was open and cooperative, the City had an overall good year with good financial planning in place.

Discussion followed on the audit communication letters; the new GASB Statement No. 87 on Leases was immaterial for 2022, but it has to be reviewed each year; new for 2023 will be audit standards for subscription based information technology (includes things like-Microsoft, SCADA and Police programs).

Palmer thanked the Clerk’s office staff for their work and stated that the Water and Sewer utilities rates of return should continue to be monitored.

Motion Petkovsek, second Clough, to accept and file the 2022 Annual Audit report as presented. All Aye.

City Clerk Roehl presented a report on the City’s continuing appropriation accounts and their respective balances as of December 31, 2022. The following is a list of said accounts: Account No. 52100 Police Department Administration (K9 and Police Training), Account No. 53450 Parking Lots and Meters, Account No. 55110 Library, Account No. 55250 Parks and Recreation – Room Tax 30%, Account No. 55340 Celebrations – July 4th, etc., Account No. 55360 Christmas Decorations, Account No. 56300 Planning (Historic Preservation), Account No. 56600 Urban Development, Account No. 56700 Economic Development, Account No. 56750 Tourism Promotion – Room Tax 70%, Account No. 57140 Public Buildings, Account No. 57220 Public Safety – Fire Department Vehicles, Account No. 57320 Machinery and Equipment, Account No. 57330 Street Construction, Account No. 57332 Bridges and Culverts, Account No. 57350 Airport and Account No. 57620 Parks.

Discussion followed on donation restrictions within each category.

Motion Clough, second Perrine, to carry forward to 2023 the continuing appropriations as presented. All Aye.

8:23 P.M.-Mayor Poeschel declared a recess.

8:25 P.M.-Mayor Poeschel reconvened the meeting.

City Clerk Roehl presented an email from Clark County Treasurer Renee Schoen asking if they City would be interested in purchasing the Scott Davis property at 305 E. Fifth Street (Parcel No. 261.0604.000) for back taxes. The County plans on tax deeding the property in May, 2023. The purchase price right now is \$20,775.42 but there will be addition interest accruing until the property is taken.

Roehl stated that the City has \$13,573.75 in special assessments and charges against the property for razing the house and weed cutting. The 2022 Fair Market Value of the property was \$7,000. Whether we take it back or not the City will end up writing the costs off in the future.

Council Member Counsell stated that it is an empty lot on E. Fifth Street with a huge drop off.

Motion Counsell, second Neville, to notify Clark County that the City of Neillsville is passing on the offer to purchase the Scott Davis property at 305 E. Fifth Street (Parcel No. 261.0604.000). All Aye.

Mayor Poeschel stated that the next item is a request from Penelope Wesbrook to keep chickens at 607 E. Fifth Street under ordinance Section 10-1-22.

Council Member Clough stated that he drove by and the property, looks big enough and he asked if she had talked to the neighbors.

Wesbrook replied she had not talked to the neighbors, she has a double lot, she wants three hens for a pets and the eggs, the chickens would be in the backyard by the tree line.

City Attorney Wachsmuth asked about fencing.

Wesbrook replied they would be building a fence for the chickens.

Director of Public Works Friemoth stated that the property is assessed Residential with .82 acres.

Council Member Neville stated that if you do this for one more will come.

Mayor Poeschel stated it is on the outskirts of town and we review requests on a case-by-case basis.

Council Member Counsell stated she has no problem with it, our ordinance needs updating.

Council Member Perrine stated only three chickens.

Wesbrook replied three hens, no roosters.

Motion Perrine, second Clough, to grant Penelope Wesbrook permission for 607 E. Fifth Street to have three (3 hen) chickens, subject to review if complaints are received or excess numbers of animals occur, because of acreage and location of the property. Council Member Neville-Nay. All other members-Aye. 4-Aye, 1-Nay, Motion carried.

Mayor Poeschel stated that the proposal from Weld Riley Law Firm regarding available legal services was requested by Council Member Counsell.

Council Member Counsell stated we have been discussing for a while if it would make sense to look at options for more specialized legal support. We have had some very tough issues the past couple of years. Instead of continuing to talk about this, she contacted Weld Riley and asked them to come in and talk to us about what they can offer us in the way of expertise. She knows there are discussions going on with the League of Municipalities also. That's great, they more we know the better decision.

John Behling, President of Weld Riley, introduced himself and gave his background. Behling and Nathan Miller would serve as the primary contacts for the City. Nathan Miller is a former Assistant Attorney for the City of Wausau.

Behling stated Weld Riley has been around for three decades and has 56 employees in four offices across the State. Municipalities are the heart and soul of their business. He presented a list of specialized services they provide whether on a full-time or part-time specialty basis. The City would have 24/7 access availability via telephone or text as bad things happen in the middle of the night or on weekends. The number one complaint about attorneys is turnaround time. Their firm is multi-generational with attorneys in their 70's to their 20's. Maggie McLoone specializes in employee handbooks. Rich White in civil litigation It is up to the City how much or how little you use us. It used to be the City Attorney was at every single meeting, but that is changing (especially since COVID and Zoom). They work with other law firms in the area.

City Clerk Roehl reported that Clark County Emergency Management will start monthly storm siren testing on April 5th, testing on the first Wednesday of every month between 5 P.M. and 6 P.M.

Soda Water License Application:

Shivaa, WI, Inc., Super 8, Vischnzi G. Chadhasi, Agent, 1000 E. Division Street

Motion Neville, second Clough, to grant. All Aye.

Hotel/Motel Room Tax Permit:

Shivaa, WI, Inc., Super 8, Vischnzi G. Chadhasi, Agent, 1000 E. Division Street

Motion Perrine, second Clough, to grant. All Aye.

Mayor Poeschel stated that he would be meeting with Council Members to go over Committee assignments ahead of the reorganizational meeting.

Motion Neville, second Counsell, that City Bills Nos. 277 to 315 in the amount of \$104,077.27, CDBG Housing Escrow Account Bill No. 5 in the amount of \$30.00 and TIF District No. 4 Account Bill No. 2 in the amount of \$5,780.00 be paid. All Aye.

City Clerk Roehl stated that the Common Council annual reorganizational meeting is scheduled for Tuesday, April 18, 2023 at 4:00 P.M. followed by the Board of Health annual meeting at 4:30 P.M.

Motion Counsell, second Perrine, to adjourn. All Aye.

Duane G. Poeschel, Mayor

Rex R. Roehl, Clerk

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