

## CITY COUNCIL MEETING

February 27, 2023

Brillion City Center

6:30 PM

### CALL TO ORDER

The City Council meeting was called to order by Mayor Smith at 6:30 pm.  
Pledge of Allegiance was recited by those present.

### ROLL CALL

**Present:** Mayor Mike Smith, Joe Behnke, Kory Davis, Tim Hanson, Shelly Lau, Joe Levash, TJ Moehr, Ruben Piepenburg

Also present: Kirk Schend, Ann Marx, Lydia Dill (via zoom), Heather Gilbertson, Austen Frederickson

**Absent:** Garrett Wenzel

**GUESTS:** Angela Jellum, Ariens Company; Tony Kappell, McMahan Associates Inc; Dan Farrell; David Schwahn; Derek Emmer; Carol Wirth, Wisconsin Public Finance Professionals; Hank Horn Sr (via Zoom) and Brillion New (via Zoom)

### APPROVAL OF AGENDA

**MOTION** - Levash moved to approve the agenda. Seconded by Davis. All in favor. Motion carried.

### APPROVAL OF MINUTES

**MOTION** – Lau moved to approve the minutes from the January 23, 2023, Regular Council Meeting and January 25, 2023 Special Council Meeting. Seconded by Levash. All in favor. Motion carried.

### PUBLIC APPEARANCES

**Citizen Input** – None

**Presentations/Proclamations** - none

**Appointments** - none

### PUBLIC HEARINGS

#### **Wastewater Treatment Facility Plan**

Mayor Smith opened the public hearing at 6:35pm.

Tony Kappell with McMahan Associates Inc gave an overview of the plan in his PowerPoint.

Behnke talked about continuing to use the 40 year old force main and a new one. Kappell states if the old one has some capacity left, the way the projected future flows are showing, one force main would be able to handle the flow with the right size pumps. In this case we would be able to split the head and save energy. If the new one would need to run on its own, it would be able to handle the volume as well.

Majority of the cost of this project is in the new headworks building and pump station. The total cost of the project is estimated at \$21,586,000. Behnke also expressed concern about the growth to 5,000 in population of the city. With having a force main at the same size as before can it handle the increase in population? Kappell states that when putting together a facility plan, established population numbers are what is used is to calculate. However with the past numbers Kappell believes it may be able to the flow. A larger force main is possible however if it is too big the flow would be too low and the force would not have enough scouring to move the solids along the pipe. Behnke questioned what we aren't in compliance with that this needs to be updated. Kappell stated the lack of hydraulic capacity to handle the current flow coming into the plant This facility plan is based on the need for extending the service life of the current facility. There were several hydraulic pinch points that needed to be addressed: headworks, tertiary filters, and screw pumps. Behnke asked why the pumps needed to be replaced with which Kappell respond that the pumps were reaching their service life of 10-20 years and increasing the pump size will help with

future flow requirements. On heavy flow days the design is that two pumps would be running while a 3 pump is used as a backup. Running all three pumps at one time will not do much/show little change as opposed to running just two.

Three calls for public comment.  
Public Hearing was closed at 7:23pm.

## **CONSENT AGENDA**

### **Acceptance of Minutes:**

Brillion Housing Authority – January 16, 2023  
Committee of the Whole – January 23, 2023 and February 13, 2023  
Finance Committee – no February meeting  
Library Board – January 18, 2023  
Park & Recreation Commission – February 2, 2023  
Plan Commission – February 8, 2023  
Protections of Persons & Property – January 10, 2023  
RDA Meeting – February 9, 2023  
Tourism Committee – January 19, 2023  
Utility Commission – February 20, 2023  
Cemetery Committee – no meeting  
Joint Review Board Meeting – no meeting  
Board of Review – no meeting  
**Motion** - Levash moved to accept the Consent Agenda minutes. Seconded by Lau .  
All in favor. Motion Carried.

## **DEPARTMENT HEAD REPORTS:**

### **Park & Recreation**

Report included in the packet.

### **Library**

Report included in the packet.  
3 programs coming back to the library this summer: Summer Reading Program, Brilliant Blooms Succulents, and NEW Zoo Mobile.

**Fire Department** – Report included in the packet.

**Police Department** - Report included in the packet.

**Ambulance** - Report in the packet.

### **Municipal Court**

#### **Brillion Court Report**

#### **Reedsville Court Report**

Reports included in packet.

### **Public Works**

Report included in packet.  
Austen thanks his guys, full time, and part time for working hard especially during winter storm Delilah and getting the snow cleared.

**City Administrator** – no report

**Clerk/Treasurer** – Report is in the packet.

**Mayor’s Report** – nothing to report.

**COMMITTEE REPORTS**

**Brillion Housing Authority** – nothing to report.

**Cemetery Commission** – next meeting will be March 7, 2023

**Committee Of the Whole**

**Kennel Application: Mary Jo Krueger**

**Motion** - Lau moved to approve the Kennel Permit for Mary Jo Krueger. Seconded by Levash. All In Favor. Motion carried.

**Review of the Vouchers:**

**General Fund \$ 1,811,194.56**

**Reserves \$ 9,084.01**

**Contingency \$ 0.00**

**TIF Expenditures \$ 184,824.86**

Behnke stated that the General Fund Vouchers were so large due to \$1,338,110.40 payment of taxes to Brillion School District, Calumet County Treasurer, and Fox Valley Technical College

**Motion** – Behnke moved to approve the General Fund vouchers in the amount of \$1,811,194.56, Reserves in the amount of \$9,084.01, and the TIF Expenditures in the amount of \$184,824.86 collectively. Seconded Davis. Call vote. All in favor. Motion carried.

**Review of Payroll**

**Pay Period: 12/31-1/13/2023 paid on January 27, 2023 \$ 67,668.98**

**Pay Period: 1/14-1/27/2023 paid on February 10, 2023 \$ 53,831.14**

**Motion** – Lau moved to approve the payroll report for January 27, 2023 in the amount of \$67,668.98, the and the February 10, 2023 in the amount of \$53,831.14. Seconded by Piepenburg. Call vote. All in favor. Motion carried.

**Gold Cross Ambulance Report**

No action taken, move to next meeting.

**Municipal Advisory Agreement 2023 G.O. Notes - Wisconsin Public Finance Professionals, LLC with respect to the issuance of \$1,435,000 General Obligation Promissory Notes-2023**

Carol Wirth gave a brief background on herself and the company she works for and summarized the plan. She reviewed the “Municipal Advisory Agreement”. Quarles & Brady are the bond council that would be responsible for preparing the resolution, there is one that will be voted on tonight. Bids are then taken on a specific date from underwriters. Once all bids are received they will be compiled as a resolution that will be presented to the Council to act on them. Funds come to the City all at one time into a project account. This money will come in on March 29<sup>th</sup> and the facility will be purchased by March 30<sup>th</sup>. After bids are received final official statement that only have the changes to include the final interest rate and final payment scheduled. One lump sum fee will be paid by bidder.

There has been no formal Offer to Purchase completed at this time. The Mayor and Carol both had an email stating there was an intent however no formalized offer has been completed. Cary Jahn is the attorney that is working on it.

**Motion** – Levash moved to approve the Council Municipal Advisory Agreement 2023 G.O. Notes - Wisconsin Public Finance Professionals, LLC with respect to the issuance of \$1,435,000 General Obligation Promissory Notes-2023.

Seconded by Davis. Call Vote. All In Favor. Motion carried.

### **Dissemination Agent Agreement – Wisconsin Public Finance Professionals, LLC Timely filing of the Annual Report and notices of certain Listed Events**

**Motion** - Behnke moved to approve the Council Dissemination Agent Agreement – Wisconsin Public Finance Professionals, LLC Timely filing of the Annual Report and notices of certain Listed Events. Seconded by Levash. Call vote. All In Favor. Motion carried.

### **Scope of Engagement – Quarles & Brady LLP**

**RE: Proposed Issuance of \$1,435,000 City of Brillion General Obligation Promissory Notes**

**Motion** - Levash moved to approve the Council Scope of Engagement – Quarles & Brady LLP RE: Proposed Issuance of \$1,435,000 City of Brillion General Obligation Promissory Notes.

Seconded by Piepenburg. Call vote. All In Favor. Motion carried.

### **RE23-04 Resolution Providing for the Sale of Approximately \$1,435,000 General Obligation Promissory Notes**

Hanson questioned about the affordability of doing this with TIF Closures. Carol Wirth reviewed the Statutory Legal Debt Limit packet. The Mayor stated that there will be a limited amount of debt if this is closed after April 15<sup>th</sup> but it doesn't affect this budget because it won't take affect till next year.

**Motion** - Levash moved to approve RE23-04 Resolution Providing for the Sale of Approximately \$1,435,000 General Obligation Promissory Notes. Seconded by Behnke. Call vote. All In Favor. Motion carried.

### **Finance & Purchasing Committee**

Meeting held before Council meeting.

**Library Board** - Moehr reported everything has been included in the Director's report.

### **Park & Recreation – Hanson**

Horn Park Band Shell has rot and the roof is starting to cave in. This site is not considered to be historical. Hanson feels its just going to continue to rot away and feels it should be taken down. People will be out playing on it, and someone will get hurt. It has not utilized in years. The suggestion is to remove it as there is no power and the seats on the hill have been removed. Marx stated that the Optimist was looking at putting new playground equipment in that area because it is far enough from the road and closer to the pavilion. Piepenburg stated he would like to see if it could be fixed and advertised for use again. Davis agreed he had heard from a couple of people that if they could get the area cleaned up and get some bands coming in there would be interest. Levash states this should go back to Park and Rec for recommendation. Behnke would like to know where the money is going to come from to take it down since it isn't in the budget and a

plan as to what will go in place of it. Pavilion was taken down years ago and people were not happy. Sending back to Park & Rec to review for recommendation.

### **ATC Publication**

Austen explained that grant money was received from ATC, it needs to be used for what the grant is for and an article to submit to the local newspaper. There was an article attached in the packet for Council review. Probably next week for submission.

**Motion** – Piepenburg moved to approve publishing the ATC Publication. Second by Davis. All in favor. Motion carried.

### **Horn Park Band Shell**

Reviewed under Park & Rec. Send back to Park & Rec to review for recommendation. No action taken.

### **Heritage Park - Gazebo**

Derek Emmer spoke about finishing the concrete connection of the 2 wings and adding a Gazebo. He would like to add a 20X20 ft concrete slab and a Gazebo for an additional gathering place. Construction cost is estimated as: Gazebo \$11,186, concrete \$10,500, fancy Gazebo brick \$8,500, and electrical \$2,300. Ran 2 circuits planning for expanse and tie into other circuit for accent lighting on the Gazebo at night. Emmer is looking for approval to move forward. He will finalize the designs after fundraising is complete. Park & Rec has already approved this unanimously. Emmer is not looking for city money. Piepenburg asked how close to the fence it will be and Emmer stated about halfway to the fence. The mayor would like a motion for approval of the preliminary plan but needs to come back with a final drawing of what he will do before he starts building. Emmer's plan is to get this done this summer, depending on fundraising. Benches came in that were donated by the Lions Club and have been put together.

**Motion** – Behnke moved to approve the Heritage Park Gazebo Project Preliminary Plan. Second by Lau. All in favor. Motion carried.

### **Plan Commission**

Behnke stated that Plan Commission has a lot going on and at this time would like to focus on the most pressing, the chickens have been tabled.

### **Schedule Public Hearing**

#### **Rezoning – Deer Run Golf Course**

Mayor Smith reviewed the zoning. Park District most functionally fits with the activities being conducted.

**Motion** – Behnke moved to set the public hearing for Deer Run Golf Course to Park District for April 10th at 6:35 pm. Second by Davis. All in favor. Motion carried.

### **Excavation Ordinance Alterations**

Austen gave a brief update. Ties into the Excavation Permit Application. Found out that we were undercharging people for use of our right of way or work in our right of way. Can't make changes to the application without changing the ordinance first. Behnke states money was budgeted to update ordinances and wants to be cautious to not spend it all on one. Removing fee schedule from ordinance code and putting into policy so can be changed as needed.

**Motion** – Behnke moved to set the public hearing for the Excavation Ordinance Alterations for April 24<sup>th</sup> at 6:35 pm. Second by Levash. All in favor. Motion carried.

### **Conditional Use Permit - Frederickson**

Looking to have a home occupation. FFL license thru ATF to transfer firearms. Chief states has to wait till ATF paperwork comes in. Piepenburg questioned what the rules are for that living near the school. Frederickson states there are no rules at this time. Frederickson stated the previous administrator had suggested one of the conditions of the conditional use would be to lock up all firearms that are not his and for transfer so no firearms that are no his or used for personal protection could get into the hands of other people. Prime concern proximity to the school from Piepenburg.

**Motion** – Behnke moved to set the public hearing for the Conditional Use Permit – Frederickson for April 24<sup>th</sup> at 6:40 pm. Second by Piepenburg. All in favor. Motion carried.

### **Recommendations to Council**

#### **Preliminary Site Plan – Mini Golf Course**

Glen Braun could not attend tonight’s meeting however the house on the property will be moved and there is a driveway that will require an easement for the house to use. Once the house is moved, he plans to build a new 3 car garage. He would like to have this completed by summer. The house is scheduled to be moved and work on the site should be completed in 6 weeks, weather permitting.

**Motion** – Piepenburg moved to approve the Preliminary Site Plan-Mini Golf Course. Second by Lau. All in favor. Motion carried.

#### **Excavation Permit Application**

Frederickson spoke in that this tie into the Excavation Ordinance Alterations. The fee would change from a flat fee to based on the type of project. Behnke questioned if the ordinance change is passed would this become effective at the same, Frederickson stated yes.

**Motion** – Behnke moved to approve the Excavation Permit Application. Second by Lau. All in favor. Motion carried.

#### **Protections of Persons & Property Committee**

Moehr was not present at the meeting.

Mayor states they would like to discuss EMS & Ambulance issues and Town of Woodville & Town of Brillion Ambulance contract. Mayor would like to set a date for them to come for a joint meeting. No real motion needed. Behnke suggested doing it the night of the special meeting on April 10<sup>th</sup>. Mayor agreed to send an invite to attend COW meeting.

#### **Redevelopment Authority Commission**

Davis – no report just a recommendation to council about the Zero Interest Loan.

#### **Zero Interest Loan – 30 day notice for defaulting loans with a 90-day 20% Interest & Attorney fee addition**

Davis reports they found a loan very delinquent, and no one paid on it. RDA would like to change the contract so this doesn’t happen in the future. 0% interest on the loan unless they default in 30 days. A notice would then be sent stating if the loan goes past the 90 day due date, the interest rate would be increase from 0% to 20% for the remainder of the loan. RDA is asking for a motion to accept the new plan and to seek attorney guidance on rewriting the contract. Levash suggested to better screen the applicants; Hanson asked if they have to put any money; Davis said no, they looked at that, but this is the better option.

**Motion** – Lau moved to approve Zero Interest Loan – 30-day notice for defaulting loans with a 90-day 20% Interest & Attorney fee addition. Second by Piepenburg. All in favor. Motion carried.

### **Tourism Committee**

None

### **WATER, SEWER & UTILITY COMMISSION**

Levash – recommend to council 2023 McMahan General Engineering Agreement.

#### **McMahan General Engineering Agreement**

Annually scheduled, anything under \$5000 does not require additional approval.

**Motion** – Levash moved to approve the McMahan General Engineering Agreement.

Second by Piepenburg. Call vote. All in favor. Motion carried.

### **Wastewater Treatment Facility Plan**

Mayor next step Approving the plan and submitting the preliminary plan to the DNR for Approval

Behnke is not for the plan. He doesn't think that McMahan gave us or the utility commission what we need or can afford. Asked a lot of questions and got no definitive answers: population goals that we have we got maybes if it will work for that; force main we are relying on that is 40 years old and a phosphorus treatment sand filter is not in the plan but that maybe could be added. Our administrator told us over and over it was his job to get us this plan but he was going to give us the financing for it and how to pay for the plan. The last thing he addressed was no grants and to finance was going to be funded by 15 % increase in the last 2 years and increase sewer rates 3% every year for the next 10 years and this was to service the cost of this upgrade meaning it would cover the interest on this only; after 10 years we would still be over 20 million dollars in debt with no plan to pay for it. Behnke cannot see approving this. Behnke wanted to see what the plan would be right now to stay in compliance. Piepenburg states if we do not go forward and we continue to grow and the system fails, then how much will cost. Levash states Utility has done the research, taken the best parts that can be salvaged and added to it. Levash feels we need to trust our engineers. Piepenburg clarified that the new would be primary and old would be back up. Kappel states yes that is the plan, however this is Facility Plan, and city can make changes if they would like, just means cost may increase. Piepenburg plan has to get done, agrees with Levash. Mayor Smith understands Behnke concerns since it is such a huge investment however with the goal of increasing in population growth, maple ridge development, he has talked with McMahan regarding there being extra space for capacity increase. Mayor recommends submitting this plan to the DNR by the end of March as a first step. Davis questioned financing set up. Mayor states increases over the next ten years will cover the interest and then after that look into the 20-year loan pay off.

**Motion** – Levash moved to approve the Wastewater Treatment Facility Upgrade Plan. Second by Piepenburg. Call vote. In Favor- Davis, Hanson, Lau, Levash, Moehr, Piepenburg. Opposed- Behnke. Motion carried.

**Personnel**

**Closed Session per W.S.S. 19.85 (1)(c) for considering employment, promotion, compensation, or performance evaluation data of any public employee over which the governmental has jurisdiction or exercises responsibility.**

Closed Session per W.S.S. 19.85 (1) (c) Department of Public Works Director - Performance

**Closed Session Motion** - Hanson moved to Convene in Closed Session at 8:44pm.

Closed Session per W.S.S. 19.85(1)(c). Second by Lau. Motion carried.

**Reconvene in Open Session to take action if necessary and appropriate.**

**Session Motion** – Lau moved to reconvene in Open Session at 9:29 pm to take action if necessary and appropriate. Second by Levash. Motion carried.

**Motion** - Davis moved to extend supervision for 30 more days. Seconded by Moehr. All in favor. Motion carried.

**Old Business** - None

**New Business** – None

**Communications**- None

**Press Time** – None

**ADJOURNMENT**

The meeting adjourned at 9:32 pm.

Heather Gilbertson  
Administrative Assistant