



"Wild Goose Center of Wisconsin"



City of Waupun

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Waupun Committee of the Whole Minutes of Meeting Tuesday, September 27, 2016

The Waupun Committee of the Whole met in session on Tuesday, September 27, 2016 at 5:30pm in the Common Council Chambers of the Waupun City Hall with Mayor Nickel presiding.

City Staff present are City Clerk Hull, Attorney VandeZande Administrator Schlieve, Police Chief Heeringa, Fire Chief Demaa, Library Director Jaeger, Public Works Director Flynn, Utility Manager Posthuma, and Finance Director Oosterhouse.

No audience is present.

Mayor Nickel called the meeting to order at 5:30pm.

Members present on roll call are Alderman Johnson, Alderman Westphal, Alderman Mielke, Alderman Vanderkin, Alderman Matoushek, and Alderman Kaczmarski. No members are absent.

The claim filed against the City of Waupun from Dean Kreuziger was heard. Mr. Kreuziger, nor a member of family or someone to speak on his behalf, is present.

Dean Kreuziger filed a claim, in the amount of \$2,075, against the City of Waupun due to damages his home at 114 E. Franklin Street sustained due to a fallen tree located in the terrace. Kreuziger claims that on July 7, 2016 at approximately 1:30pm a storm with possibly tornado/straight line winds came through the City. In front of their home, in the terrace, an old dead tree landed/fell onto their home causing damage to their siding, roof (3 holes), gutters, and soffit. He states he told the City guys about 3 years ago when they were working across the street to cut it down before it landed across the road.

Flynn states he was absent during the time of this incident but his staff found no record of the discussion between Kreuziger and the "City guys". It is questioned if the employees he states he spoke with were City, Utility, or possibly a private company.

Hull states that this claim was forwarded to the City's liability carrier, Cities and Villages Mutual Insurance Company, who provided a recommendation to deny this claim. In review of weather reports from that day there was a severe thunderstorm with high winds which would appear as though the tree falling on to the claimant's house was the result of an "Act of God" and not the result of city negligence.

Motion Westphal, second Kaczmarski to deny the claim from Dean Kreuziger of 114 E Franklin Street, Waupun, for damages his property sustained on July 7, 2016. Motion carried 5-1 on roll call with Vanderkin voting nay.

The claim filed against the City of Waupun from Ryan Hetzel of Hetzel Law Office LLC, on behalf of Cami Torres, was heard. Attorney Hetzel, Cami Torres, nor a member of family or someone to speak on their behalf, is present.

The City of Waupun was served with a claim, in the amount of \$150,000, on September 9, 2016 at 1:42pm in relation to Cami A. Torres, 810 W. Jefferson St., Waupun, who sustained an injury(s) on January 4, 2016.

The claim, provided by Ryan Hetzel of Hetzel Law Office LLC, states Torres slipped on an icy portion of the Waupun Junior-Senior High School parking lot while walking to her vehicle, causing her to land on her head and back. Due to this, Torres was treated at Waupun Memorial Hospital and received numerous chiropractic and occupational therapy appointments. The claim states it is the responsibility through statutes and municipal code to furnish a place of employment safe for employees and frequenters.

Flynn states there is an indemnification agreement between the Waupun School District and the City of Waupun. The City agrees to salt the School District parking areas in lieu of the School District spraying weeds on City property.

Hull states that this claim was forwarded to the City's liability carrier, Cities and Villages Mutual Insurance Company, who provided a recommendation to deny this claim. The claims specialist states that there are statutes that provide immunity such as, Wis. Stat. 893.83, provides immunity for municipalities for up to three weeks to clear highways and in addition, the case law for this statute provides that a public parking lot falls under the definition of a highway. In review of weather reports, it was found that there was snowfall on December 31, 2015, which would be within the three week window for immunity. An argument can also be made that the City is immune from liability under Wis. Stat. 893.80(4), which provides immunity for discretionary acts and how and when a municipality snow plows is a discretionary action. It may be felt there is negligence on the part of the claimant as she has an obligation to watch where she is walking and to keep a proper lookout as to where she is walking. The fact that she slipped and fell would seem to indicate that she was not keeping a proper lookout and therefore she is negligent.

Motion Matoushek, second Johnson to deny the claim from Ryan Hetzel of Hetzel Law Office LLC, on behalf of Cami Torres, for injuries she sustained on January 4, 2016. Motion carried 6-0 on roll call.

Chief Heeringa requests to fill a Patrol Officer vacancy due to the retirement of Officer Cochran.

Motion Matoushek, second Kaczmarek to approve the hiring of a Patrol Officer due to the vacancy. Motion carried on roll call 6-0.

At the September 13, 2016 Board of Public Works, recommendation was made to the Council to adopt an ordinance for extending "no parking" on the south side of W. Jefferson Street/south side of Beaver Dam Street due to visibility and safety issues to include signage.

Motion Matoushek, second Vanderkin to recommend adoption to the Common Council for an ordinance amendment to extend no parking on the east side of Beaver Dam Street at curb line of W. Jefferson Street going south 61 feet to reflect the no parking length of W. Brown Street with signage to match. Motion carried on rollcall 6-0.

The City employee's health insurance program is provided through Employee Trust Funds (ETF). The current plan provides no dental coverage with the City paying 88% of the premium in the lowest qualified plan in Dodge County. ETF now offers a dental plan in combination with the health insurance program. The 2017 premium rates for the dental/health program are higher than the no-dental

program, however, it would be the discretion of the employee if they wish to enroll in the dental/health plan or decline as the employee would assume the additional cost. The City would pay 88% of the no-dental premium in the lowest qualified plan in Dodge County for which ever plan the employee wishes to enroll. Existing Employer Option Selection Resolution WI Public Employer's Group Health Insurance Program must be signed by the Agent prior to October 1, 2016 if wishing to participate in the dental/health program.

Motion Westphal, second Matoushek to approve the Existing Employer Option Selection Resolution WI Public Employer's Group Health Insurance Program for the participation in the 2017 health and dental insurance option for the City of Waupun. Motion carried on roll call 6-0.

Motion Vanderkin, second Westphal to approve the Operator Licenses to Salvador Chaves, Audrey Davis, Samantha Clark, and Megan Koehler and the Temporary Class B license to Waupun Fine Arts on October 7- 8, 2016 for An Audition for a Murder and November 11, 2016 for 60th Anniversary Salute to Sun Studio at City Hall. Motion carried 6-0.

Motion Matoushek, second Vanderkin to authorize City Clerk to release payment of the monthly expenses. Motion carried on roll call 6-0.

Motion Vanderkin, second Mielke to adjourn in closed session under Section 19.85 (1) (e) of the WI Statutes for reasons of possible negotiations for development in TIF 4. Motion carried 6-0.

Motion Vanderkin, second Matoushek to reconvene in open session under Section 19.85(2) of the WI Statutes. Motion carried 6-0.

No action from Closed Session.

Motion Matoushek, second Westphal to call the meeting adjourned at 6:21pm. Motion carried 6-0.

Angela Hull, Clerk