

**CITY OF NEENAH**  
**PUBLIC SERVICES AND SAFETY COMMITTEE MEETING MINUTES**  
**Tuesday, October 27 2020, 6:30 PM**

**Due to the Public Health Emergency caused by the COVID-19 Pandemic, these meeting minutes are from a virtual web link (Audio & Video) and conference call (Audio only). There were no in-person attendees from the public.**

**Present:** Alderpersons Bates, Lang, Lendrum, Spellman and Stevenson

**Excused:**

**Also Present:** Mayor Kaufert, Public Works Director Kaiser, Assistant Chief Bernice, Captain Van Sambeek, Deputy Attorney Westbrook, Deputy Director Community Development and Assessment Schmidt, Public Works Office Manager Mroczkowski, Mark Geall, John Manchester, Bernice Meyer

Approval of Minutes of the meetings for October 13, 2020

**Motion Second/Carried Lendrum/Spellman to approve of the minutes of the Meeting of October 13, 2020. All voting aye.**

Public Appearances:

None

**Motion /Second/Carried Lendrum/Lang to move agenda item Revocable Occupancy Permit 617 E Wisconsin Ave to end of agenda since Alderperson Stevenson was not yet in attendance due to a meeting conflict. All voting eye.**

Ord 20-17 Creating Sec. 11-57 Metal Detectors Prohibited on Public Lands and Right-of-Way:

Deputy City Attorney Westbrook reviewed his memo of October 27, 2020 regarding the committees requested changes that were discussed at the Public Services & Safety Committee meeting of October 13, 2020. The ordinance was amended to only disallow metal detectors at Kimberly Point Park and along Lakeshore Avenue. Language related to digging on public land and city parks was removed as that is covered in the posted Park Rules. Language remained regarding the need for a permit to dig in the right-of-way.

Alderperson Stevenson entered the meeting.

Alderperson Lendrum asked if the old playground area near the lighthouse is part of Kimberly Point Park or Riverside Park. Director Kaiser stated that area is part of Kimberly Point Park.

Alderperson Bates asked if no digging signage will be added to the park signs.

Deputy City Attorney Westbrook stated the current park signs only list the park rules. Other signs will be posted with the new ordinance. Alderperson Bates asked what will be on the posted signs at Kimberly Point Park and along Lakeshore Avenue. Deputy City Attorney Westbrook stated the right-of-way signs for Lakeshore Avenue will list the state statute. The signs for Kimberly Point Park will have symbols and the city ordinance.

Alderperson Lendrum asked how enforcement will be handled. Deputy City Attorney Westbrook stated calls will go through the Police Departments non-emergency phone number. He further stated Director Kaiser and Director Haese would also have the authority to issue a citation, but the majority of enforcement will be handled by the police department.

Report Following discussion, **Motion/Second/Carried Lendrum/Stevenson recommend Council approve Ordinance 20-17 creating Sec. 11-57 of the City Code prohibiting use of metal detectors at Kimberly Point Park and along Lakeshore Avenue.** Roll Call Vote. All voting aye.

**Motion /Second/Carried Lendrum/Lang to move agenda item Revocable Occupancy Permit 617 E Wisconsin Ave to top of agenda due to Alderperson Stevenson now being in attendance.** All voting aye.

Revocable Occupancy Permit 617 E Wisconsin Avenue:

**Motion/Second/Carried Lendrum/Stevenson to remove from the table Revocable Occupancy Permit - 617 E Wisconsin Avenue.** All voting aye.

Alderperson Bates stated she requested the City Attorney's Office add a requirement to the revocable permit which states that if the fence becomes in disrepair or if there is a lack of maintenance, the city would have the option to have the fence be taken down or replaced. She further stated she wanted it on record that she asked the property owner to work with the City of Neenah in regards to the fence along the East Wisconsin Avenue side of the property. She requests the fence be moved out of the city right-of-way since there are no utility easement issues along the Wisconsin Avenue side when E. Wisconsin Avenue is reconstructed in 2023.

Mr. Geall responded by stating he is willing to work with the City of Neenah regarding the placement of a new fence along the Wisconsin Avenue side of his property. He stated the original intent was to include both S. Park Avenue and Wisconsin Avenue on the same permit. He stated that was not done because he is waiting to see what the reconstruction plan is for E. Wisconsin Avenue.

Director Kaiser stated the plans for the sidewalk installation are complete. E. Wisconsin Avenue road reconstruction is not slated until 2023 so the design phase won't begin for a couple of years. He further stated he can provide Mr. Geall with the location of the new

sidewalk. Mr. Geall stated that the plan was to install the S. Park Avenue fence this year and the Wisconsin Avenue fence next year.

Aldersperson Lendrum asked if the proposed fence will cause any sight line hazards. Deputy Director Schmidt stated it will not. The current fence at the corner of Wisconsin Avenue and S. Park Avenue is out of the vision triangle.

Aldersperson Bates requested that the maintenance requirement that she has requested be added to the revocable permit before it goes to council. Deputy City Attorney Westbrook informed Aldersperson Bates that item 8 of the permit, states, the occupant is responsible for the installation and all maintenance of the encroachment. He stated this implies that the property owner must maintain the fence and the surrounding area. He confirmed this language is sufficient to give the city the option to revoke the occupancy permit in the future if the fence comes under disrepair.

Aldersperson Lendrum asked Mr. Geall if he is in agreement with the terms of the permit. Mr. Geall responded stating he is in agreement with the terms of the permit.

Aldersperson Lendrum stated we have an appeal and variances process in place to deal with situations like this. She further stated this area of the city, S. Park Avenue and Lakeshore Avenue was donated for the residents of Neenah to enjoy. She stated this fence will add an elegance along S. Park Avenue and at the same time benefit the City of Neenah. She stated she is in support of the new fence.

Following discussion, **Motion/Second/Carried Lendrum/Lang to recommend Council approve the Revocable Occupancy Permit to Michael Geall for the installation of a fence on S. Park Avenue for his property located at 617 E. Wisconsin Avenue. Roll Call Vote. All voting aye.**

Report

Licenses:

Beverage Operator's License Appeal:

Deputy City Attorney Westbrook reviewed the criteria that has been set up under the new review process for obtaining a Beverage Operator's License regarding OWI's with the committee and Mr. Manchester.

Deputy City Attorney Westbrook presented the City's case for the denial of Mr. Manchester's application of a Beverage Operator's License. He stated Mr. Manchester has three OWI's on his driving record. The first was prior to 2012 which was a non-criminal offence, the 2<sup>nd</sup> was in 2012 and the 3<sup>rd</sup> was in 2015. This application meets the criteria of the review process for recommendation for denial.

Mr. Manchester addressed the committee and thanked them for the opportunity defend his denial. He stated he has worked at Cranky Pat's off and on for the last seventeen years. He started working there in 2003. From 2003 to 2006 he would worked as a summer camp counselor and then for the remainder of the year would work at Cranky Pat's. In 2006 in joined the military as a medic. He served eight years. During this time he suffered from depression, was in an unhealthy relationship and turned to alcohol to deal with these

issues which resulted in his three OWI's. Mr. Manchester stated Cranky Pat's has gone through staffing issues since the pandemic. By obtaining this bartender license it will relieve some of the staffing issues and it will also provide more employment opportunities for him at Cranky Pat's. He feels because of his past issues and his OWI's he is more equipped to see the signs of someone who has had too much to drink and be responsible and not continue to serve them. He is aware of the city's standard for holding an operator's license. He stated that Cranky Pat's has a zero tolerance for bartenders drinking on duty.

Deputy City Attorney Westbrook asked Mr. Manchester when his license was reinstated. Mr. Manchester stated 2018.

Deputy City Attorney Westbrook stated there was a three year time span between the 2<sup>nd</sup> OWI and the 3<sup>rd</sup> OWI. He asked Mr. Manchester what he has done since his 3<sup>rd</sup> OWI to change his lifestyle in regards to drinking alcohol.

Mr. Manchester stated he left a toxic relationship and is raising his son. He works as much as he can, takes walks in the park and is currently in a healthy relationship and has realized he no longer wants that lifestyle.

Deputy City Attorney Westbrook asked Mr. Manchester if he had an Alcohol or Drug Abuse Assessment. (AODA).

Mr. Manchester stated that he had. He stated it was done after his first OWI even though it was not required. The outcome was his realization that his behavior was stupid and he was not dealing with his personal issues in the right way. He then stated after the 2<sup>nd</sup> OWI he entered an outpatient treatment program and Alcoholic Anonymous meetings.

Deputy City Attorney Westbrook asked Mr. Manchester if he feels he has an alcohol dependency issue. Mr. Manchester stated he does not consider it to be an alcohol dependency problem. He stated he was hiding from his problems by sitting in bars. Deputy City Attorney Westbrook asked Mr. Manchester if his three OWI's were the result of him being an alcoholic or alcohol dependent, or rather making poor, stupid choices in the past. Mr. Manchester replied that he believes it was the latter.

Aldersperson Lendrum asked Captain Van Sambeek if he was aware of a statistic that a drunk driver will drive many times before they are actually stopped for the offense. Captain Van Sambeek stated he has heard of that statistic, but is not confident of its validity.

Aldersperson Lendrum stated three OWI's are appalling to her. She stated the reasons Mr. Manchester has given this committee do not give her comfort of how he has changed his lifestyle. She did not hear a plan or anything specific that his AODA has guided Mr. Manchester away from not drinking and driving again.

Deputy City Attorney Westbrook asked Mr. Manchester if he has a structured AODA plan to address his previous mistakes or if he has a less structured plan. Mr. Manchester replied by stating he has a less structured plan that he follows. He stated it is split into two areas. He now exits Cranky Pat's through a back door so he does not pass through the bar area and he no longer gives rides home to coworkers or friends. Deputy City Attorney Westbrook asked Mr. Manchester why these changes did not happen after his first or

second OWI. Mr. Manchester replied stating he did not take them seriously at the time. Since then he has matured, taken on more responsibility in raising his son and he did not want to expose his son to that type of behavior. He has now realized the severity of what he was doing.

Deputy City Attorney Westbrook stated at the time of the 2<sup>nd</sup> OWI your son was three. Why did you not make the changes you have done since your 3<sup>rd</sup> OWI then. Mr. Manchester stated he was not happy with his life. He did not learn his lesson and continued his bad habits. He stated it took a 3<sup>rd</sup> OWI to make him sit down and take a look at his life and make the changes.

Deputy City Attorney Westbrook stated we have heard the changes you have made at work, but what else have you changed to insure you will drink and drive again and get a 4<sup>th</sup> OWI. Mr. Manchester stated he lives within a mile of work and will walk home if he has been drinking. He has changed his lifestyle.

Aldersperson Bates asked if a person who holds an operator's license receives a 4<sup>th</sup> OWI, are their licenses automatically revoked. Deputy City Attorney Westbrook stated a license can be revoked by this committee if there is just cause. He stated however, that the committee would need to be informed in some manner that a bartender had received that 4<sup>th</sup> OWI or any offense that violates the rules. With the number of operator's licenses and the number of OWI's, informing this committee would be a huge task for the Police Department. He further stated that this is the purpose for the two year renewal process. Aldersperson Bates then asked Captain Van Sambeek if, at the time of renewal a 4<sup>th</sup> OWI is reported, would the review committee deny the license. Captain Sam Vanbeek stated it would be recommended for denial.

Aldersperson Spellman asked if the license renewal could be on a yearly basis. Deputy City Attorney Westbrook stated the state statute is clear on what type of licenses we can issue, a provisional which is a 60-day license or a two year license. The city cannot create their own license.

Aldersperson Stevenson asked Mr. Manchester to restate his work history at Cranky Pat's. Mr. Manchester stated he started working there in October 2003. The summer of 2003 through 2005 he worked as a summer camp as a counselor and then in the off season he would work at Cranky Pat's. In 2005 he took a two year break from the summer camp counselor job, but continued to work at Cranky Pat's. In 2006 he joined the army. In 2007 he returned to Camp Nan A Bo Sho to be a program director for six months. He did try a machinist job at Plexus for 6 months, but that did not work out. He returned to Cranky Pat's in 2013 as a shift leader and has been there ever since.

Aldersperson Stevenson stated Mr. Manchester has worked at Cranky Pat's off and on for over seventeen years. He has a letter of recommendation from the owner, who is a well-respected business owner in the City and who is putting his liquor license on the line by supporting Mr. Manchester's request for an operator's license. He stated Mr. Manchester has been there full time for the last seven years. He further stated he will support the application. Mr. Manchester is a veteran and has admitted to his past mistakes.

Aldersperson Stevenson asked Mr. Manchester why this license application did not come three years ago. Mr. Manchester stated there was not a need for him to hold an operator's

license because they were fully staffed. He stated that when the COVID-19 pandemic hit they lost the bar manager and assistant bar manager prior to shutting down in March. After we reopened, none of the bartenders returned along with the assistant bar manager. The only employee to return was the bar manager. He stated that he was the one who suggested to his general manager that he apply for the license knowing that the likelihood of it being approved was not good based on his driving record. He stated that after the reopening, the employees that remained all stepped in when needed as a bartender. He stated getting this license will enable him to be put on the schedule and relieve the pressure of the general manager who has been having to do all the new bartender training.

Alderson Stevenson stated Mr. Manchester was proactive in his attempt to get an operator's license to help the business knowing that his OWI's would come into question.

Mayor Kaufert asked Mr. Manchester if his main job is in the kitchen. Mr. Manchester confirmed that it was. Mayor Kaufert further stated, bartending will not be his full-time job at Cranky Pat's. This license will provide some scheduling flexibility for the general manager. He stated that the owner is willing to put his liquor license on the line and support Mr. Manchester getting his Operator's License. He noted that says a lot to him about the trust the owner has in him.

Alderson Bates asked Mr. Manchester what establishments had he been drinking in at the time he received the OWI's. Mr. Manchester responded by stating the first and the third were at Cranky Pat's and the second one was a different bar.

**Following discussion Motion/Seconded/Carried Lendrum/Stevenson to approve the Beverage Operator's License for John Manchester.** Roll Call Vote. Motion passed. 4-1 (Alderson Bates voting no)

Public Works General Construction and Department Activity:

- 1) Contract 7-19 (Breezewood Sanitary Sewer) – Work is complete. A final pay request is being taken to the Board of Public Works.
- 2) Contract 1-20 (Abby, Bond, Center, Clybourn) - Utility work is complete. The lower course of pavement has been placed on Bond, Center and the west half of Abby.
- 3) Contract 2-20 (Utilities - Van, Monroe) – Work is complete. A final estimate is being prepared.
- 4) Contract 3-20 (Street - Van, Monroe, Gillingham)
  - a) Gillingham, Van, Monroe, Cavalry – Work is complete.
  - b) Shootingstar – Work is on hold pending resolution of boundary issues. A CSM is being prepared.

Bernice Meyer, 116 Armstrong Street, Town of Neenah addressed the Committee to ask what boundary issues are being discussed.

Deputy City Attorney Westbrook stated that we are in discussion with the Town of Neenah over several boundary agreement issues. Shootingstar Street and

Armstrong Street are among them. He stated that is all the information he can share at this time.

5) Contract 4-20 (Green Bay, Tullar, Marathon)

c) Tullar, Marathon – Work is complete.

d) Green Bay – Water main work is complete. Concrete pavement is done with the exception of a gap in the northbound lane. Concrete driveway aprons and sidewalk are ongoing. Terracing has been completed on the west side and about half of the east side. Asphalt aprons are scheduled for the week of October 26.

Alderson Stevenson asked when Green Bay Road will be open to two-way traffic. Director Kaiser stated we are hoping by the end of this week.

6) Contract 5-20 (Utilities - Lakeshore) – Utility work is complete.

7) Contract 6-20 (Millview Drive Utility Relocation) – Utility work and concrete pavement repairs are complete. Asphalt pavement paving on Millview Drive is scheduled for late in the week of October 26.

8) Contract 7-20 (Fire 32 Roof) – Work is complete.

9) Contract 9-20 (Misc. Asphalt Pavement Repairs) – Work has not been scheduled.

10) Contract 10-20 (Misc. Concrete Pavement and Sidewalk Repair) – Work is nearly complete for the year.

11) Contract 11-20 (Street - Lakeshore) – Archaeology mitigation is complete. Monitored excavation is scheduled to resume on October 26. This work is being staged to maximize the availability of access to the residents. In looking at the work remaining, the most likely project status at the conclusion to this construction season is that the roadway and trail areas are excavated and graveled. This is based on the expectation that asphalt plants will close around November 20. After the monitored excavation is complete and the burial features within the roadway are addressed, the contractor has about two weeks of excavation and graveling, which will put us very near the time of plant shutdown. If weather allows, additional progress on the project may be made. We will be discussing the full schedule with the contractor in the coming week.

Mayor Kaufert asked if given the late completion of a number of the projects, the contractors will return in the spring to complete the terrace restoration. Director Kaiser stated we provide a punch list to the contractor in the spring of items that need to be addressed.

Alderson Bates asked if there as many artifacts on the west side towards the people's homes than were on the east side. Director Kaiser stated they did find artifacts on the west side with that initial investigation that was done in August. Based on what we've seen since August, most of the issues have been along the east side. Director Kaiser stated that they did uncover another burial feature today on at south end. There appeared to be evidence that his area had previously been disturbed. Director Kaiser stated mostly likely from plowing.

October 27, 2020

Page 8

Alderson Stevenson asked about the expenditures to date. Director Kaiser confirmed we are short approximately \$7,400.

Alderson Bates asked if there is a possibility of getting the curbing in or the trail paved this year yet. Director Kaiser stated if we're not putting the asphalt down we would rather not put the curb down because of the potential damage that could occur over winter with plowing. The concrete trail and sidewalk would be a possibility, but staff needs to have a discussion with the contractor. The contractor can pour in cooler weather, but we may get into additional cost and cold weather curing.

Alderson Bates asked what is the procedure when a project is not completed in the year it was supposed be. Director Kaiser stated we've had discussions with this contractor providing them status reports along the way. We've done this in the past with other contracts, where we are carrying work over to the following year. He stated we always clear it with the contractor to make sure that they're comfortable doing that and will be able to proceed with the work in the following year. He further stated Sommers Construction is good with the plan.

Director Kaiser stated he had a discussion with the Jeweler Park/ Bridgewood Trail consultant. They raised an issue with the plan to widen out the road grade over a box culvert. Their analysis is that that it will cause structural issues with the box culvert. Staff met with the consultant discuss alternatives to widening the roadway in that area without reducing the amount of dirt over the top of that box culvert. A solution has been developed.

Director Kaiser stated they've also been finishing the hydrology work on the crossing of the Neenah slough covering options. Once we have this information, a route selection can be made and permitting started.

Adjournment: **Motion/Second/Carried Lendrum/Spellman to adjourn at 8:06 p.m.** All voting aye.

Respectfully submitted,



Lisa Mroczkowski

Public Works Officer Manager