

**City of Stevens Point
REGULAR COUNCIL MEETING**

Council Chambers

November 19, 2012

County-City Building

7:00 P.M.

Mayor Andrew J. Halverson, presiding

Roll Call: Ald. Beveridge, Suomi, O'Meara, Wiza, M. Stroik, Slowinski, Trzebiatowski, Patton, R. Stroik, Philips, Moore

Also Present: City Atty. Molepske, Clerk Moe, C/T Schlice, Directors Schatschneider, Schrader, Ostrowski, Lemke, Assessor Siebers, Emergency Mgt. Director McGinty, Police Chief Ruder, Fire Chief Kujawa, Asst. to the Mayor Pazdernik, B.C. Kowalski-Stevens Point Journal, Matt Brown-Portage County Gazette, Brandi Makuski-Stevens Point City Times.

2. Salute to the Flag and Mayor's opening remarks .

Mayor Halverson stated that the Medical College of Wisconsin has chosen Wausau as the site for the new medical college. He said this will be an asset for the City and all of Central Wisconsin with the opportunities those students will gain from this area.

The City will be releasing the RFP for architectural services for plans for future use of the Mid-State Technical College building. The process for the layout for municipal offices will continue as will working with the Boys and Girls Club on their future building plans. Mayor Halverson mentioned prior conversations with Portage County and the City's future in regard to public office space in the County-City Building.

Mayor Halverson also mentioned Snow Plow Driver Appreciation Day and commended snow plow drivers for their spectacular job performance. He encouraged the Alderpersons to ride along in one of the City's plow trucks to get the driver's perspective.

3. Consideration and possible action of the minutes of the Common Council meeting of October 15, 2012 and the Special Common Council meeting of October 22, 2012.

Ald. R. Stroik **moved**, Ald. Moore seconded, to approve the minutes and actions of the Common Council meeting of October 15, 2012 and the Special Common Council meeting of October 22, 2012.

Roll Call: Ayes: All
Nays: None. Motion carried.

4. *Persons who wish to address the Mayor and Council on specific agenda items other than a "Public Hearing" must register their request at this time. Those who wish to address the Common Council during a "Public Hearing" are not required to identify themselves until the "Public Hearing" is declared open by the Mayor.

Ald. Suomi, 2nd District

Item #5 - Persons who wish to address the Mayor and Council.

5. Persons who wish to address the Mayor and Council for up to three (3) minutes on a non-agenda item.

Ald. Suomi shared the news that UWSP was selected to be the host of the Division 3 Women's Basketball Final Four Championships in March, 2014. She congratulated and commended the UWSP Athletic Director and the UWSP Women's Basketball Coach for a job well done.

City Clerk John Moe thanked the poll workers, greeters and City staff for their hard work and dedication on the November 6, 2012 election.

Mayor Halverson thanked Clerk Moe for his service and the professionalism he brings to the City Clerk position.

6. Minutes and actions of the Plan Commission meeting of November 5, 2012.

Ald. R. Stroik **moved**, Ald. Patton seconded, to approve minutes and actions of the Plan Commission meeting of November 5, 2012.

Roll Call: Ayes: All
Nays: None. Motion carried.

7. Resolution - 3447 Minnesota Avenue (Hedquist) Removal of First Right of Refusal Condition.

Ald. O'Meara **moved**, Ald. Beveridge seconded, to approve the Resolution - 3447 Minnesota Avenue (Hedquist) Removal of First Right of Refusal Condition.

Roll Call: Ayes: Moore, Phillips, R. Stroik, Patton, Trzebiatowski, Slowinski, M. Stroik, Wiza, O'Meara, Suomi, Beveridge
Nays: None. Motion carried.

8. Resolution - Accept the dedication of land at the northeast corner of Highway 10 and Badger Road.

Mayor Halverson noted one change in the Resolution. The word "donation" in the second sentence should be changed to "dedication".

Ald. Trzebiatowski **moved**, Ald. Moore seconded, to approve the Resolution to Accept the dedication of land at the northeast corner of Highway 10 and Badger Road.

Cathy Dugan, 615 Sommers Street, questioned in what part of the northeast corner the dedication pertains and whether or not it is Outlot 2. Ms. Dugan wanted a reconfirmation of the original donation.

Mayor Halverson said it is not. It is the dedicating of the corner specifically for public right of way purposes.

Roll Call: Ayes: Beveridge, Suomi, O'Meara, Wiza, M. Stroik, Slowinski,

Trzebiatowski, Patton, R. Stroik, Phillips, Moore.
Nays: None. Motion carried.

9. Minutes and actions of the Public Protection Committee meeting of November 12, 2012.

Ald. Wiza **moved**, Ald. R. Stroik seconded, to approve the Minutes and actions of the Public Protection Committee meeting of November 12, 2012.

Roll Call: Ayes: All
Nays: None. Motion carried.

10. Minutes and actions of the Finance Committee meeting of November 12, 2012.

Ald. Beveridge **moved**, Ald. Slowinski seconded, to approve the Minutes and actions of the Finance Committee meeting of November 12, 2012.

Roll Call: Ayes: Moore, Phillips, R. Stroik, Patton, Trzebiatowski, Slowinski, M. Stroik,
Wiza, O'Meara, Suomi, Beveridge
Nays: None. Motion carried.

11. Artwork Purchase Agreement for Sculpture Park.

Mayor Halverson said the City received a check in the amount of \$75,000.

Cathy Dugan, 615 Sommers Street, stated there has been a fair amount of development of natural spaces and is hoping that Sculpture Park Committee will put a limit on the number of sculptures to be exhibited in the park and cautioned the amount that will be spent by the City on the sculptures.

Ald. O'Meara **moved**, Ald. M. Stroik seconded, to approve the Artwork Purchase Agreement for Sculpture Park.

Ald. Moore questioned the sentence on the bottom of the first page, final sentence under **item A that states: "All risk of destruction, or damage to the Work or any part thereof, from any cause whatsoever, shall be the responsibility of the Artist until delivery, the Work (delivered in June 2011)".** He asked if that is an error in reference to the year 2011.

Mayor Halvorson said no, that is absolutely correct because that was when the City took actual delivery.

Roll Call: Ayes: Beveridge, Suomi, O'Meara, Wiza, M. Stroik, Slowinski,
Trzebiatowski, Patton, R. Stroik, Phillips, Moore.
Nays: None. Motion carried.

12. Resolution - Authorization to apply for the Wisconsin Plant Recovery Initiative Grant.

Ald. Slowinski **moved**, Ald. Beveridge seconded, to approve the **Resolution - Authorization** to apply for the Wisconsin Plant Recovery Initiative Grant.

Roll Call: Ayes: Moore, Phillips, R. Stroik, Patton, Trzebiatowski, Slowinski, M. Stroik,
Wiza, O'Meara, Suomi, Beveridge

Nays: None. Motion carried.

13. Minutes and actions of the Board of Public Works meeting of November 12, 2012.

David Glodowski, Gremmer & Associates, was in attendance to answer questions.

Ald. Phillips **moved**, with the exception of Agenda Item #1, Ald. Moore seconded to approve the Minutes and actions of the Board of Public Works meeting of November 12, 2012.

Ald. R. Stroik noted that he was not present (excused) from that meeting.

Roll Call: **Ayes: Beveridge, Suomi, O'Meara, Wiza, M. Stroik, Slowinski, Trzebiatowski, Patton, R. Stroik, Phillips, Moore.**
Nays: None. Motion carried.

Mayor Halverson stated Agenda Item #1 of the Board of Public Works meeting of November 12, 2012 read: Consideration and possible action to accept the Gremmer & Associates, Inc. proposal for engineering services for the Ellis Street Project.

Ald. Phillips commented regarding the bidding process on excepted Agenda Item #1. He stated that POB came in with the lower bid on the project. Their bid was \$35,000 lower which would save the taxpayers a significant amount of money. Ald. Phillips discussed POB was possibly overlooked due to a lack of experience in this field of work and felt they should be given consideration due to the fact of the savings POB can provide the City on the project. Ald. Phillips said POB was a competitive local business in the area. He compared the POB bid to the bid from Gremmer & Associates and pointed out in which areas the POB bid was lower. Ald. Phillips is against awarding the project to Gremmer & Associates due to the \$35,000 savings POB can provide to the City.

Mayor Halverson said \$55,836 is the amount difference between the responses received from Gremmer & Associates and POB.

Ald. Moore questioned if POB still wanted the job and if they have the necessary requirements.

Mayor Halverson said he received a letter from Scott Groholski of POB in which Mr. Groholski stands by their credentials and price for the project. He assures they have all of the appropriate certifications as well as licenses to accomplish this job. POB stated they want the job, however, they do not want to jeopardize their relationship with City staff or their counter parts in the industry.

Ald. Moore stated taxpayer dollars need to be saved and if POB has all of the requirements, he is in favor of their company performing the job.

Ald. O'Meara clarified this is not a bid, it is a proposal. He stated it is important to pay for jobs done correctly and cautioned problems arising with delivery.

Ald. R. Stroik asked the City Attorney about the City's options if the company performing the work does not deliver.

City Attorney Molepske said whatever the particular proposal is and whatever is requested by the City, assuming the work is done properly, there should not be a problem. He said

however, it is something the City would need take into consideration should the work not be done properly. He said this is not a public contract under Wis. Stats. 62.15, which is public instruction. This is professional services being hired.

Ald. R. Stroik asked to hear from Director Schatschneider and Director Lemke as to their review and main concerns of the project. He wanted to know about the differences and felt the City is obligated to save the tax payers money.

Director Schatschneider said three proposals were received. They were from SEH, Point of Beginning and Gremmer & Associates. He explained the project on Ellis Street includes the extent of the water, sewer and storm sewer work to be done as a true urban reconstruct project. Gremmer & Associates listed true urban reconstructs. The projects that POB listed were more road way projects and not to the extent of the water and sewer. Director Schatschneider stated that was really the basis for how they scored each proposal. He said Gremmer & Associates engineers have been doing this kind of work for over 20 years. The POB engineers have around 8-10 years of experience. He explained the amount of difference in the proposals from the three companies and erred with caution on the low bid from POB. City Staff felt comfortable with the proposal from Gremmer & Associates.

Ald. R. Stroik questioned Director Schatschneider if they felt POB missed something in the proposal that would later affect the City.

Director Schatschneider said something could have possibly been missed, but it was priced so competitively that it drew attention and would be hard to turn down.

Ald. R. Stroik stated that POB may be trying to get noticed and deserved to be recognized so they can be considered for future bids.

Mayor Halverson reiterated that the City received quotes for the proposals. He said when proposals are sent out and received, they are different. A lot of important variables need to **be taken into consideration such as references and like-projects.** He said Ald. O'Meara made an important point about public involvement sessions for projects that will be disruptive. Mayor Halverson said the POB proposal quote was limited in regard to these meetings. He said in having worked with Gremmer & Associates on the Academy intersection reconstruction, in which there was disruption to businesses, the end result was positive which gave Gremmer & Associates a higher rating for this project.

Mayor Halverson said the reason POB was considered for this project was through his discussions with Directors Schatschneider and Lemke. However, it was determined that the City needed to look for an engineering firm that has stronger qualifications, specifically in tight right of way applications, and more extensive water and sewer design. Mayor Halverson instructed the Directors to release an RFP.

Mayor Halverson commended POB as a reputable firm in Stevens Point. The question is for a large project, is this the right one for them. He said their bid was for significantly less **money and given Mr. Groholski's commitment and energy, Mayor Halverson felt they would do a good job.** However, as he reviewed the proposals, and given the like-projects that the City saw from the other two engineering firms, Mayor Halverson agreed with the two Directors. He said in terms of qualifications for like-projects, price is important and the variance here is large. He felt the recommendations of the City Engineering staff are totally correct in terms of the references and the like-projects that were in the folders from POB. Mayor Halverson explained to the Council that an objective review team ranks the

proposals and assigns a point value to the different aspects of the responses of the RFP and then recommendations are made. He also added that when there is federal and state money involved in any project, price cannot be a consideration. He said in a qualification based situation, price is not known until a firm is chosen. The Engineering Department and the Department of Public Utilities did the appropriate review based on the type of project.

Director Lemke added that is not the first project in which the City is engaged with POB. There are several open projects in which POB is a sub-consultant to the primary. He is concerned about the utility work on the project in regard to the merits of the proposal. Director Lemke said the components of this project would be about 50% covered by the utilities. He felt there was not a representation in the proposal that resembled an urban reconstruct. He said this portion of Ellis Street has a lot of infrastructure that pre-dates our utility which is approximately pre-1922, in which records do not exist. This gives opportunity for misses and is a concern from the utility perspective.

Ald. Beveridge said that **of the three proposals, two of them are priced similar and POB's price is approximately 42% of Gremmer's proposal. He said this would give him pause in any context and he is inclined to go with the staff's recommendation.**

Ald. Trzebiatowski mentioned he had conversations with both Director Schatschneider and Scott Groholski of POB. In his discussion with Mr. Groholski, he was convinced that he could do the job, stay within budget and make money on the project. Ald. Trzebiatowski stated that if this is not a direct fit, what will ever be a direct fit. He said that if we want business to grow, we need to take a leap of faith. POB is fully bonded and insured and they have the capability to do it.

Ald. Wiza wanted to know what recourse the City would have if the proposals we enter into do not work out.

City Attorney Molepske said in the proposal, when the contracts are reviewed, there are going to be change orders that are going to be paid for in addition to what was to be originally received. There are a lot of different variables.

Ald. Wiza said he relies on the Engineering staff for these types of issues and questioned if all of the proposals should be rejected and re-submitted.

City Attorney Molepske said that is permissible.

Ald. Wiza asked how much it would set back the project.

Director Schatschneider said it is late in the year to start the topographic survey and there is a tight timeline with the firms. He said he did not know what would be gained by resubmitting the RFPs.

Mayor Halverson said his concern is the change-over environment in which it was stated that there not be any relating to design. The only aspect of the proposal that would remain open for a potential change would be construction administration and oversight. POB responded with a 150 hour recommendation in the RFP. The other firms responded with **more time out of their related "construction management and administration."** Mayor Halverson said for a project this size and scale, and as tight as the right of way is, there may be a change over associated with construction administration or overall construction management. Mayor Halverson stated that Mr. Groholski said there would not be changes.

He questioned awarding POB the contract and saving \$60,000, or pausing and releasing a new RFP, or working within the confines of the one we already have.

Ald. Wiza said that it has been made clear that Mr. Groholski understands the scope of the work and believes we have the recourse available to us if the contract is not completed correctly.

Ald. Wiza **moved**, Ald. Slowinski seconded to approve accepting the proposal from Point of Beginning at \$38,600.

Mayor Halverson read the original agenda item that was forwarded to the Board of Public Works which specifically says: **"Discussion and Possible Action Awarding Gremmer & Associates"**, and asked if there are they any procedural issues with that particular agenda item because it was specific. He reiterated that the agenda item was very specific within the Board of Public Works. He said the agenda tonight is simply the minutes and actions of the Board of Public Works. Mayor Halverson said it is within the authority of the Common Council but paused about proper procedure.

Mayor Halverson called for a recess at 7:50 p.m.

Mayor Halverson called the Common Council back to order at 7:55 p.m.

City Attorney Molepske discussed Section 19.84(2), Wis. Stats., as it relates to public notice of meetings. The only reference on this agenda is the Board of Public Works recommendation, however, the Board of Public Works recommendation for that meeting was Consideration and Possible Action to Accept the Gremmer & Associates, Inc. Proposal for Engineering Services on the Ellis Street Project. City Attorney Molepske said sub (2) sets forth the reasonable standard for determining whether the notice of the meeting is **sufficient that appraises a proper balance between the public's right to information and the government's ability to efficiently conduct its business.** The standard requisite taking into account the circumstances of the case which includes such factors as the burden of providing more detailed notice, whether the subject is of particular public interest, and whether it involves non-routine action that the public would be unlikely to anticipate.

Mayor Halverson said it is the last statement that gives pause.

City Attorney Molepske said there is no question the Gremmer & Associates proposal can be turned down. He said since the agenda item was specifically aimed at Gremmer, and did not consider any others, and the heading of the Board of Public Works refers to the action to accept the Gremmer & Associates proposal, he would say it is questionable whether or not this particular notice for the agenda is sufficient to hire a third party when **Agenda Item #13 specifically reads: "Minutes and actions of the Board of Public Works meeting of November 12, 2012."** He suggested if the vote of the Council is to reject the Gremmer & Associates proposal, there would need to be proper notice for an accepted proposal.

Mayor Halverson questioned if there was enough debate and conversation about other firms and if in the deliberations of the Board of Public Works it was clear.

City Attorney Molepske said yes. The reason being is that there is an outline in the Board of Public Works to accept a proposal of a project. He said this one is specifically tailored to Gremmer & Associates and the recommendation is specifically to Gremmer & Associates. This causes a pause.

Ald. Beveridge said if Council is going to look at the actual discussion that occurred at the Board of Public Works meeting in terms of informing Council of the what the public can reasonably expect to be deliberated on tonight, Ald. Beveridge reiterated that Mr. Groholski said POB no longer wanted the project.

Mayor Halverson said this was true.

Ald. R. Stroik questioned procedural issues. He wanted clarification on what the Council was considering in regard to rejecting the motion or move to award the proposal to Gremmer & Associates with staff recommendation.

City Attorney Molepske said Council could reject the Gremmer & Associates bid then proceed with a motion to direct it back to either the Council or the Board of Public Works at a later time to make a determination on the proposal.

Ald. Wiza felt that his motion was out of order, it should be withdrawn. Ald. Wiza **moved**, Ald. Moore seconded, to refer Item #1, the Ellis Street Proposal Project, back to the Board of Public Works for further review.

Ald. O'Meara said that time is of the essence. He thought a Board of Public Works meeting followed by a Special Common Council meeting would be in order.

Ald. R. Stroik restated that voting on the motion before the Council, in favor of sending the agenda item back will delay the project.

Ald. Moore said he felt the information provided to the Council wasn't sufficient and he wants to see it go back to the Board of Public Works.

Mayor Halverson said if approved, there will be more supplemental material provided.

Ald. Patton questioned when a Board of Public Works and Special Common Council meeting could be held.

Mayor Halverson restated the motion before the Council is to send this back to the Board of Public Works for further consideration and more information to ensure that any remaining uncertainties are cleared up.

Mayor Halverson called for a hand vote to send the motion back to the Board of Public Works.

Call for the Vote: Ayes: Majority
Nays: Minority

Motion adopted to be sent back to the Board of Public Works for a special meeting as well as a Special Common Council meeting as the earliest possible time.

14. Ordinance Amendment - Sects. 9.05(g) and 9.06(a) of the RMC - Creation of No Parking and Stop signs on newly developed Third Street.

Ald. Beveridge **moved**, Ald. Suomi seconded, to approve the Ordinance Amendment - Sects. 9.05(g) and 9.06(a) of the RMC - Creation of No

Parking and Stop signs on newly developed Third Street.

Roll Call: Ayes: Moore, Phillips, R. Stroik, Patton, Trzebiatowski, Slowinski, M. Stroik, Wiza, O'Meara, Suomi, Beveridge

Nays: None. Motion carried.

15. Minutes and actions of the Board of Water & Sewerage Commissioners meeting of November 12, 2012.

Ald. R. Stroik **moved**, Ald. O'Meara seconded, to approve Minutes and actions of the Board of Water & Sewerage Commissioners meeting of November 12, 2012.

Roll Call: Ayes: Beveridge, Suomi, O'Meara, Wiza, M. Stroik, Slowinski, Trzebiatowski, Patton, R. Stroik, Phillips, Moore.

Nays: None. Motion carried.

16. Minutes and actions of the Board of Park Commissioners meeting of November 7, 2012.

Ald. M. Stroik **moved**, Ald. Wiza seconded, to approve Minutes and actions of the Board of Park Commissioners meeting of November 7, 2012.

Roll Call: Ayes: All

Nays: None. Motion carried.

17. Minutes and actions of the Transportation Commission meeting of September 26, 2012.

Ald. Moore **moved**, Ald. M. Stroik seconded, to approve Minutes and actions of the Transportation Commission meeting of September 26, 2012.

Roll Call: Ayes: All

Nays: None. Motion carried.

18. Minutes and actions of the Police and Fire Commission meeting of November 7, 2012 and the Special Police and Fire Commission meeting of October 24, 2012.

Ald. Wiza **moved**, Ald. R. Stroik seconded, to approve Minutes and actions of the Police and Fire Commission meeting of November 7, 2012 and the Special Police and Fire Commission meeting of October 24, 2012.

Roll Call: Ayes: All

Nays: None. Motion carried.

19. Statutory Monthly Financial Report of the Comptroller-Treasurer.

Ald. Trzebiatowski **moved**, Ald. Suomi seconded, to approve the Statutory Monthly Financial Report of the Comptroller-Treasurer and place it on file.

Roll Call: Ayes: All

Nays: None. Motion carried.

20. Creation of Zoning Code Rewrite Advisory Committee and Related Appointments.

Mayor Halverson said it has been difficult to continue the zoning re-write process specifically with the inability of the Plan Commission to meet. This would be a small group that would advise the Plan Commission. Any actions and recommendations by this group would need to be affirmed by the Plan Commission and Common Council.

Cathy Dugan, 615 Sommers Street, said she attended several of the Zoning Rewrite meetings as an observer. She stressed good plan and zoning principals for growth and development.

Ald. Patton **moved**, Ald. Wiza seconded, to approve Creation of Zoning Code Rewrite Advisory Committee and Related Appointments.

Roll Call: Ayes: All
Nays: None. Motion carried.

21. Motion to adjourn into closed session pursuant to Section 19.85(1)(e) of the Wisconsin Statutes for the purpose of deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session (providing certain incentives to a developer - i.e. TIF District #6 Grant and use of public parking lot).

Ald. Beveridge **moved**, Ald. Patton seconded, to enter into closed session at 8:18 p.m.

Roll Call: Ayes: Moore, Phillips, R. Stroik, Patton, Trzebiatowski, Slowinski, M. Stroik, Wiza, O'Meara, Suomi, Beveridge

22. Adjournment.

The meeting adjourned at 8:55 p.m.