

**City of Oconomowoc
Common Council**

**Tuesday, October 03, 2023 - 7:30 PM
City Hall - Council Chambers
174 E. Wisconsin Ave. Oconomowoc, WI 53066**



Notice: If a person with a disability requires that the meeting be accessible or that materials at the meeting be in an accessible format, call the City Clerk's office at least 48 hours in advance to request adequate accommodations. Tel: (262) 569-2186

- 1. Call to Order and Confirmation of Appropriate Meeting Notice**
- 2. Pledge of Allegiance**
- 3. Roll Call**
- 4. Approval of Meeting Minutes**
 - a. Minutes of September 19, 2023
- 5. Comments/Suggestions from Citizens**
- 6. Consent Agenda (Items listed under the Consent Agenda are considered in one motion - a Council member may request to remove an item):**
 - a. Disallowance of Claim - Samantha Hoadley
- 7. Staff Reports**
- 8. Reports and Comments from the Aldermen**
- 9. Reports and Comments from the Mayor**
- 10. Adjourn**

City of Oconomowoc
Common Council Meeting Minutes
September 19, 2023 - 7:30 PM



Aldermen Present: Kevin Ellis, Karen Spiegelberg, Matt Mulder, Charles Schellpeper, Andrew Moroni, Chris Douglas, Matt Rosek, Jennifer Aultman Kloth

Also Present: Robert Magnus, Eric Boettcher, Lucas Caine, Diane Coenen, Kevin Freber, Mark Frye, Jason Gallo, Jason Herzog, James Pfister, Jen Puccini, Laurie Sullivan-Murray, Ivan Lam, Stan Riffle

Mayor Magnus called the Common Council Meeting to order at 8:00 PM.

Pledge of Allegiance

Roll Call

Without objection, Item 14. a. was moved up on the agenda:

a. Proclamation for William (Bud) & Eria Newbecker's 70th Wedding Anniversary

Magnus read the Proclamation into the record and presented it to the Newbeckers. Photos were taken with the full Council.

Public Hearing

a. Conditional Use - Duplex Standards Text Amendment

The purpose is to hear public comment for a proposed text amendment to Section 17.108 Conditional Use – Specific Standards (1) Dwelling, Duplex of the Municipal Zoning Code. This text amendment pertains to standards for granting a conditional use permit for duplex structures. If approved, the change allows property owners relief from paying an additional Impact Fee when asking to convert a single-family dwelling into a duplex, if there is documentation that the structure was previously used as a duplex. The Common Council would have the right to waive the fee if they determine there is no additional impact to the community.

The hearing opened at 8:08 PM. Gallo gave a PowerPoint presentation. No other comments were received. The hearing closed at 8:12 PM.

Approval of Meeting Minutes

a. Minutes of September 5, 2023

Motion to approve the Council minutes of September 5, 2023 made by Schellpeper and seconded by Mulder.

Motion carried 8-0-0.

Comments/Suggestions from Citizens

Lou Kowieski, 131 N. Locust commented on Rockwell Park and the fact it was proposed to be a passive park. The purchase of 517 N. Lake Rd was done through fundraising and 525 was donated by the Herro family. He requested Council make a final decision on the amenities of the park and to be fiscally responsible. Public restrooms should be placed behind City Hall as Council approved in the 2024 Plan and asked that Council make that

decision. He also stated the Splash Pad fundraising group will be sharing information with the City in the near future.

Consent Agenda (Items listed under the Consent Agenda are considered in one motion - a Council member may request to remove an item):

Motion to approve the Consent Agenda made by Rosek and seconded by Schellpeper.

Motion carried 8-0-0.

- a. **Resolution 23-R3151 Exempting the City from the Waukesha County Library Levy 2023 Tax for 2024 Purposes**
- b. **Electric Utility Easement Agreement Between City of Oconomowoc and Olympia Enterprises, LLC (Olympia Fields Redevelopment)**
- c. **Water and Wastewater Utility Easement Agreement Between City of Oconomowoc and Olde Highlander LLC (Olde Highlander Neumann Development)**
- d. **Release of Escrow Funds for the Morgan Station Subdivision - GREMAR, LLC**
- e. **Treasurer's Report**
 1. **August 2023 Treasurer's Report and Financials**

Committee Reports

- a. **Protection & Welfare - Douglas, Chr; Schellpeper, Secy; Rosek**

1. **Consider/act on Approving New Passenger Transportation Vehicle License for Thirsty Bird Saloon and Taxi Driver License for T. Schaeffgen**

Council requested two route changes for the Pedal Tavern, directed staff to work with Bank 59 on one of the changes, asked that a new map be distributed, and discussed approving the license only through December 31, 2023.

Motion to approve new Passenger Transportation Vehicle License for Thirsty Bird Saloon expiring Dec 31, 2023 including two route changes pending approval of one change by Bank 59, and a Taxi Driver License for T. Schaeffgen made by Spiegelberg and seconded by Rosek.

Motion carried 8-0-0.

- b. **Utility - Rosek, Chr; Ellis, Secy; Mulder**

1. **Consider/act on Resolution 23-R3150 Awarding Contract for the #1 Secondary Clarifier Drive Replacement and Associated Budget Amendment**

Motion to adopt Resolution 23-R3150 awarding contract for the #1 Secondary Clarifier Drive Replacement to Crane Engineering with a 10% contingency and associated Budget Amendment in the amount of \$67,500 made by Ellis and seconded by Rosek.

Motion carried 8-0-0.

Plan Commission

- a. **Consider/act on Ordinance 23-O1051 Amending Section 17.108(1) of the City of Oconomowoc Zoning Code Regarding Conditional Use - Specific Standards for Dwelling, Duplex - 1st Reading**

Council discussed amending sections 1. h. & i. of the ordinance to include each unit shall have two egress means for exiting and for new construction, each unit shall have a separate garage. Motion to adopt the ordinance with two amendments; each unit shall have two egress means for exiting and for new construction each unit shall have a separate garage and waive the second reading made by Ellis and seconded by Schellpeper.
Motion carried 8-0-0.

- b. **Consider/act on Preliminary Plat for Olde Highlander Subdivision Located East of Paganica Golf Course, North of Briarwood Subdivision, south of Whitman Hills Subdivision and West of Olympia Fields Development**

Gallo gave a PowerPoint presentation and Council requested Gallo keep track of the maintenance of the paths within the development to ensure they are kept up. Motion to approve the Preliminary Plat for Olde Highlander Subdivision located east of Paganica Golf Course, north of Briarwood Subdivision, south of Whitman Hills Subdivision and west of Olympia Fields Development made by Ellis and seconded by Rosek.
Motion carried 8-0-0.

- c. **Consider/act on Condominium Plat for the Reserve at Olde Highlander, Located North of Olde Highlander Drive Between Mackenzie Lane and Scotland Lane**

Gallo gave a PowerPoint presentation and Bryan Lindgren, Neumann Co. stated the project will be done in phases and a preliminary condo plat is being requested for financing.
Motion to approve the Condominium Plat for the Reserve at Olde Highlander, located north of Olde Highlander Drive between Mackenzie Lane and Scotland Lane made by Ellis and seconded by Aultman Kloth.
Motion carried 8-0-0.

New Business

- a. **Consider/act on Developer's Agreement for Olde Highlander Phase I**

Herzog displayed a map of the development project on the screen and stated they hope to pave several roads if weather permits this year along with getting pads done, dewatering, etc. They also plan to install stone columns by the two crossings.

Motion to approve the Developer's Agreement for Olde Highlander Phase 1 made by Ellis and seconded by Aultman Kloth.
Motion carried 8-0-0.

- b. **Consider/act on Approving Jurisdictional Offer Related to Condemnation of Easements and Restrictions for Property Owned by Fleming Investments, Inc., Tax Key OCOC614980004 Located at 1400 Summit Avenue**

Riffle reported restrictions and easements were put together when Baysari owned

the lands that are now the Wangard Olympia Hills development. Due to the new development these restrictions and easements needed to be removed. The City had an appraisal of the Flemings property done and Flemings also had an appraisal done that stated there were turning radius issues without the easements. To address this, the City drafted an easement to help Panera and Flemings, however Flemings still does not approve of the easement. Wangard will bring forward an agreement that they will be responsible for 100% of any damages that may be awarded if Flemings appeals the Jurisdictional Offer to Circuit Court. The offer is the first step to end the easements and Flemings will have twenty days to agree or disagree with it.

Motion to approve the Jurisdictional Offer related to Condemnation of Easements and Restrictions owned by Fleming Investments, Inc., Tax Key OCOC0614980004 located at 1400 Summit Avenue made by Rosek and seconded by Spiegelberg.

Motion carried 8-0-0.

Mayoral Appointments with Council Confirmation

a. Consider/act on Interim Utility Manager Appointment

Motion to approve the Interim Utility Manager appointment of Mark Frye for ninety days made by Rosek and seconded by Ellis.

Motion carried 8-0-0.

Staff Reports

Frye thanked Sullivan-Murray for all the work her and her staff do on the budgets.

Reports and Comments from the Aldermen

Aultman Kloth commented that Fall Fest was an excellent event, however she received complaints that handicapped parking was blocked off and water from the dunk tank affected businesses downstream. She asked that these issues be considered in next year's planning. Also, there were parking issues for downtown businesses and she suggested signage "not for Fall Fest parking" be placed in the private parking areas. Her final comment was that Duffy will be the Homecoming Parade Marshall on Friday, September 29th.

Reports and Comments from the Mayor

Magnus stated he was invited to the Folds of Honor Golf Tournament at Lac La Belle and stated it was a wonderful, moving and special event. The focus of the group is to provide scholarships for fallen heroes' families. The events have raised over \$250M and scholarships have been given to over 50,000 people.

Adjourn

Motion to adjourn made by Mulder and seconded by Spiegelberg.

Motion carried 8-0-0.

The meeting adjourned at 9:22 PM.

Minutes taken by Diane Coenen,
City Clerk



MEMORANDUM

FINANCE DEPARTMENT

Date: September 27, 2023
To: Mayor Magnus, Common Council
Mark Frye, City Administrator
From: Laurie Sullivan-Murray, Finance Director
Re: Denial of Insurance Claim-S Hoadley injury

RELATES TO THE STRATEGIC PLAN

Strategic Goal-NA

BACKGROUND

We received a "Notice of Claim" submitted by Attorney Korb on behalf of Samantha Hoadley in which she is alleging she was injured on the steps of the outdoor football stadium bleachers at the Oconomowoc High School on October 17, 2020.

The City filed the claim with the Claims Division of our insurance carrier, Statewide Services, Inc.

ADDITIONAL ANALYSIS

Based on the insurance investigation, it was confirmed that the City of Oconomowoc does not own, inspect or maintain the Oconomowoc High School football stadium bleachers. The City officials do not have jurisdiction to make any changes to the bleachers or the football stadium where this incident occurred.

Because this incident occurred on Oconomowoc School District Property and not City property, the City of Oconomowoc has no involvement in this claim.

FINANCIAL IMPACT

N/A

RECOMMENDATION

Recommendation to disallow this claim pursuant to the Wisconsin Statute for disallowance of claim 893.80(1g). The disallowance of the claim in this manner will allow us to shorten the statute of limitations period to six months.

SUGGESTED MOTION

Motion to disallow the Claim for City liability in the matter of injury to Samantha Hoadley.

Statewide Services, Inc.

Claim Division

1241 John Q. Hammons Dr.
P.O. Box 5555
Madison, WI 53705-0555
877-204-9712

September 1, 2023

CITY OF OCONOMOWOC
ATTN: DIANE COENEN
174 EAST WISCONSIN AVENUE
OCONOMOWOC, WI 53066

via email

RE: Our Claim #: WM000672650307
Date of Loss: 10/17/2020
Claimant: Samantha Hoadley, W358N7131 Rainbow Ter, Oconomowoc WI 53066
Attorney: ***Hupy and Abraham, Attn: Todd Korb***
111 East Kilbourn Ave, Suite 1100, Milwaukee WI 53202

Dear Ms. Coenen:

Statewide Services, Inc. administers the claims for the League of Wisconsin Municipalities Mutual Insurance, which provides the insurance coverage for the City of Oconomowoc. We are in receipt of the "Notice of Claim" submitted by Attorney Korb on behalf of Samantha Hoadley in which she is alleging she was injured on the steps of the outdoor football stadium bleachers at the Oconomowoc High School on October 17, 2020.

Based on our investigation, we have confirmed that the City of Oconomowoc does not own, inspect or maintain the Oconomowoc High School football stadium bleachers. The City officials do not have jurisdiction to make any changes to the bleachers or the football stadium where this incident occurred. Because this incident occurred on Oconomowoc School District Property and not City property, we do not believe the City of Oconomowoc has any involvement in this claim. Therefore, we recommend that the City of Oconomowoc disallow this claim pursuant to the Wisconsin Statute for disallowance of claim 893.80(1g). The disallowance of the claim in this manner will allow us to shorten the statute of limitations period to six months.

Please send the disallowance, on your letterhead, directly to the claimant and the Attorney at the above listed addresses. These should be sent certified or registered (restricted) mail and must be received by the claimant within 120 days after you received the Notice of Claim. Please send me a copy of the Notice of Disallowance for our file.

Thank you.

Sincerely,

Ginger Kimpton
Senior Casualty Adjuster
855-828-5515 direct
866-828-6613 fax
gkimpton@statewidesvcs.com

Cc: Rick Kalscheuer, Agent

**NOTICE OF DISALLOWANCE OF
CLAIMS OF
AGAINST MUNICIPALITY OF**

TO:

PLEASE TAKE NOTICE that on the _____ of _____,
_____ the City Council of the city of _____, a
municipal subdivision in _____ County, Wisconsin, denied the
claims of _____ against the _____,
dated _____ of _____, _____

You are notified pursuant to Wis. Stat. 893.80(1g) that no action on the
above claims may be brought after six (6) months from the date of service of this Notice
of Disallowance upon you.

Dated this _____ of _____, _____

(Signature of Representative of the Municipality)