



**CITY OF RIVER FALLS, WISCONSIN
COMMON COUNCIL PROCEEDINGS**

February 28, 2023

Council President Scott Morrissette called the meeting to order at 6:30 p.m.

City Council Members Present: Todd Bjerstedt, Jeff Bjork, Nick Carow, Sean Downing, Scott Morrissette, Diane Odeen

Members Absent: Mayor Dan Toland; Alyssa Mueller

Staff Present: City Administrator Scot Simpson; City Attorney Chris Gierhart; IT Specialist Jon Smits; Police Chief Gordon Young; City Engineer Todd Nickleski; Economic Development Manager Keri Schreiner; Deputy Clerk Jackie Hanson; Assistant Director of Community Development Emily Shively; Utility Director Kevin Westhuis; Assistant City Administrator Jason Stroud; Assistant to the City Administrator Jennifer Smith; Planning and Engineering Technician Tyler Galde; Community Services Director/City Clerk Amy White; Management Analyst Fellow Ellen Massey

Others: Nathan Wallerstedt; Dana Linscott; Joshua Boiteau; others

APPROVAL OF MINUTES

January 24, 2023, Workshop and Regular Minutes

MSC Bjork/Bjerstedt move to approve minutes. Unanimous.

APPROVAL OF BILLS:

Bills: \$8,703,060.25

MSC Bjerstedt/Bjork move to approve bills. Unanimous.

PUBLIC COMMENT, PETITIONS, REQUESTS AND COMMUNICATIONS:

Council President Morrissette changed the order of the agenda and turned the meeting over to City Administrator Simpson.

Signing of the Agreement for Cost Shared Feasibility Studies for Continuing Authorities Program Projects

Simpson said two actions would be taken tonight. He indicated that he signed the continuing agreement with the Army Corps of Engineers. There would also be a check presentation. He asked Nathan Wallerstedt representing the Army Corps of Engineers to speak.

Nathan Wallerstedt, Project Manager for the St. Paul Army Corps of Engineers, said he was looking forward to partnering with the city and going through the study process together. Simpson asked Steve Goff to come forward.

Steve Goff, Vice President, Kinni Corridor Collaborative, presented \$50,000 check to the City to assist in paying for the costs of the feasibility study. He recognized team leaders for their efforts. Morrissette said it was fantastic news, and he thanked everyone for their efforts.

Public Comment

President Morrissette said public comments would be limited to two minutes. Parliamentarian Odeen will alert speakers at the 30 second and two-minute mark. Morrissette explained public comment is a time for council to receive feedback and not engage with speakers.

Dana Linscott, 11395 County Road M – came to speak regarding a homeless individual and open records requests.

PUBLIC HEARING:

Request for Combination “Class B” Liquor and Class “B” Beer License – JBNS Investments DBA Misfits, 106 N. Main Street, River Falls, WI

At 6:39 p.m., President Morrisette moved into a public hearing. Josh Boiteau, owner of JBNS Investments, was present for questions.

With no other public comments, the president closed the public hearing and moved into Open Session and asked if council had questions. MS Morrisette/Downing move to deny the license.

Morrisette noted his reasons for denial included adverse impact on the peace, quiet and cleanliness of the neighborhood where the establishment is located and proximity to other licensed establishments, residential areas, schools, churches, or hospitals. He thought the city has enough liquor only establishments and the target audience is college age kids. Morrisette has had conversations with staff and understands there has been challenges with a building permit that should have been pulled for sewer work. He believes it has been corrected now but the sewer work was done prior to the permit being pulled and was only caught later. He doesn't see a recommendation from staff which tells him staff are not in favor of it. He wondered how this would impact police coverage. Morrisette asked if Police Chief Young had a statement.

Police Chief Young said the police department has some concerns considering the application. A lot of it has to do with staffing explaining that one of the responsibilities of law enforcement is making sure there is staff to parole and be able to settle calls for service that the business would bring upon it. From his understanding, they are serving alcohol only. With his 30 years of experience, dancing and alcohol have shown that it possibly and likely would generate many calls for service. Young explained what has happened in the past for similar businesses is officers are stationed on the street where the business is located. As people come out, there tend to be brawls or fights on the streets. Getting the crowds to disperse, is a chore. Another factor is the other 16,000 citizens may get no service during that time. He talked about needing to call mutual aid for a fight during that time. Young said this will work a few times but if it continues to happen, other agencies will no longer send officers because they have workloads they have to work with. As a result, he talked about needing to come back to council and ask for more staffing to accommodate the workload. Those were some of the concerns he had off the top of his head.

Morrisette asked if a business or security plan was given to him for review. Young said no.

Alderman Downing said if they had a security plan, it would still be inadequate because they would be stealing resources from the rest of the city. He had questions for Amy White. He asked White what her experience was with the current communication with their management. White said if we are speaking about Bold Burger management, it has been very challenging working with the establishment and the manager. She talked about difficulty in getting them to have licensed operators on staff. It is her understanding that the current applicant is listed as the manager of Bold Burger.

Downing said it is important to note that when we give licenses away in the sense of issuing them as a city, that we only have so many of them. To actually have a negative impact on our city like this, would be a mistake. He is against the idea of having a nightclub hurt the rest of the downtown at night needing more security than we can provide as well as our community.

Morrisette wanted to be fair to Boiteau and asked him if he wanted to respond or make a statement.

Boiteau said the old owner, Brian, is a friend of his. He has been helping him in the last 30 days. He got thrown in a fire so to speak and has been doing his best to clear up the plumbing issue with the building inspector. He did not know about that. Within two days, he had it solved and figured out. The licensing issues he was on top of. He has been trying to work with the city as much as he can given the resources he has had. He thought he was doing a decent job trying to put out fires for everyone.

As far as the nightclub part goes, Boiteau has seven years' experience of running one of the biggest bars/nightclubs in Eau Claire. He said we had a very good reputation for police communication and working well. He apologized for not knowing he should have a security plan. He is more than willing to work with the chief of police. He has done very well with our bouncers in training to handle situations and be on top of everything – to not need police for any fights – to de-escalate situations before it even becomes an altercation. He has had experience with that. Boiteau said he understands the no food, but food is still a possibility if that changes some things. The whole goal is to create a safe place college kids can go and dance and have fun without being overserved and not run bar to bar but have the atmosphere that everyone kind of wants that time of night.

Morrisette asked council if there any questions. There were not. Morrisette asked for other comments.

Aldersperson Carow is in favor of college kids having fun. He thinks it is crucial, but the challenge seems to be on the pre-existing side - meaning operations haven't been that smooth up to date. Transitioning the liquor license doesn't ensure future success. It's always hard to disagree with a recommendation – even if it's informal – from the police chief. He hates to have to rule against private business, but he agrees with fellow councilors and feels it would be wise to deny it as well.

Downing asked Simpson if the council approved a liquor license for high security risk type of establishment, would it be hard to stop that later on if there were inadequacies with our security later on.

Simpson said specific to this application, if the council were to have concerns but issue the license, it is very difficult to under Wisconsin law to pull the license back. At the time of issuance, is the council's best opportunity to determine in their mind if the public health, welfare, and safety of this license is served. Council has near exclusive ability to make that determination as long as it's not arbitrary. Once it's issued, then some property rights have been established and there's a significant process to take it away.

City Attorney Gierhart said that is correct. Right now, the city has broad discretion whether to issue a license to a new applicant. Once the license has been issued, that licensee has a property interest in the license. A Chapter 125 proceeding would need to be filed which requires a formal, sworn complaint and the hearing and charges to remove and take back the license. If there are concerns, this is where you have that broad discretion to say no if that's what you'd like to do.

Downing said that answers his question very well. He is against it. It goes to show if you make a big mistake, it's hard to correct it.

Aldersperson Bjork asked if a license could be issued on a probationary period of two or three months. City Attorney Gierhart said no. Once it has been issued, it can only be revoked using a Chapter 125 proceedings. Bjork asked if it could be limited to three-month license – 12 months or nothing? Gierhart said no. Once they have the license, all they need to do renew it is to submit the application and pay the fee. To non-renew or revoke, you must follow the Chapter 125 proceedings which require a verified, sworn complaint, charges and a hearing. It is difficult to pull a license unless there are egregious issues.

Bjork asked if there are suggestions on what this group can do to prove themselves so in the future they may come back and get a license. Simpson said that would be a question for council to determine. Based on whatever your objections are, that would be what the applicant would need to satisfy. Simpson said new liquor license applicants need to demonstrate that it's in the best interest to issue the license to them. Council is the sole determiner as a group. Simpson provided further details saying there's enough on record to understand your reservations about the current application. That doesn't tell us what we can tell them to change. Morrissette asked for other discussion.

Carow said the applicant mentioned a good history in Eau Claire was that brought into consideration or research. Have we verified if that was true? White said no; we did not contact the City of Eau Claire or their police department for a reference.

Carow asked what if the hours of operation were different? Would there be an appetite if a different time of operation existed that could ease some of that burden along with a security plan coming back. Morrissette wasn't sure if that was a slippery slope. He referred it to City Attorney. Gierhart said you could establish different hours of operation, but no, it doesn't make a difference from the security perspective – that's a question for the chief. He doesn't know if it would or would not.

Morrissette reiterated his concerns – the proximity of other licensed establishments there are plenty – we have plenty of opportunities for that – and the adverse impact of the peace and quiet and cleanliness of the neighborhood. Morrissette has been on the council long enough to have seen it as this type of establishment. He also has gone through a Chapter 125 revocation. It's painful and not easy. He would caution council to try and craft some middle ground. We have an action in front of us and a motion on the table. He thinks we have reasons to meet the criteria laid out in the staff memo.

Morrissette asked if there was any other discussion. There was none. Morrissette said there is motion on the table to deny request for the license. He called for a vote. Alderperson Odeen clarified that a yea vote was a vote to deny the license. Morrissette said that was correct. The vote was to deny the license 6-0.

White asked for a roll vote call asking each member to affirm vote and reason for denial as stated on the record by Morrissette and Downing.

- **Bjork – voted to deny but did not offer a reason**
- **Odeen – voted to deny – agreed with Morrissette and Downing**
- **Carow – voted to deny – proximity to other establishments and agreement with prior record**
- **Morrissette – yes to deny and had previously stated his reasons**
- **Downing – yes to deny – we wouldn't have adequate security for the entirety of the city**
- **Bjerstedt – yes to deny for all the reasons stated**

Storm Water Permit – 2022 Annual Report

Resolution No. 6743 - Authorizing Content of the 2022 Annual Municipal Storm Sewer System Report

At 6:58 p.m., President Morrissette moved into a public hearing. Tyler Galde, Planning and Engineering Technician, provided a presentation on the city's MS4 storm water permit. Galde provided highlights including North Interceptor stormwater, three illicit discharges reported by the DNR, and there are seven active sites over one acre. He gave information about each. He also said the city's permit will expire in April 2024 and the phosphorus TMDL submittal is due October 31, 2023.

Upon conclusion of the presentation, Morrissette asked for public comments. With no public comments, the president closed the Public Hearing and moved into Open Session at 7:02 p.m. and asked if council had questions. MS Downing/Bjerstedt move to approve the resolution.

Downing asked if these studies included St. Croix Pond because he thinks we need to look at that too. City Engineer Nickleski said when we start working on our next TMDL submittal, we will look at new reductions achieved through the reconstructed St. Croix Pond. Those benefits will be included in our next model run. Downing thanked Nickleski saying that's an important goal to clean up St. Croix Pond.

Morrisette said these are some of the things residents expect us to do and don't pay much attention to. These are important things and keeping an eye on phosphorus is on top of the list.

With no other discussion, Morrisette asked for a vote. The motion passed unanimously. Morrisette thanked Galde and Nickleski.

CONSENT AGENDA

Acknowledgement of the following minutes: Plan Commission Comprehensive Plan Steering Committee Workshop – 1/3/23; Plan Commission – 1/3/23; River Falls Housing Authority Board - 1/11/23; Utility Advisory Board – 12/12/22; West Central Biosolids – 12/29/22; 1/26/23; Historic Preservation Commission – 1/11/23; BID Board – 1/10/23; Park and Recreation Advisory Board – 1/18/23

Resolution No. 6744 - Approving the Specific Implementation Plan (SIP) for Thompson Heights

Resolution No. 6745 - Approving the Development Agreement for Thompson Heights

Resolution No. 6746 - Approving the Final Plat for Thompson Heights

Resolution No. 6747 - Referring an Annexation Petition to the Plan Commission for property located on County Highway U and County Highway M (PIDs 040113010000 and 040113295025)

Resolution No. 6748 - Referring the Proposed Annexation of a portion of City-owned property on County Highway M to the Plan Commission

Resolution No. 6749 - Authorizing St. Croix County Fire Service Agreement

Resolution No. 6750 - Approving Agricultural Lease Agreements for Mann Valley Property

Resolution No. 6751 - Approving Purchase of Playground Equipment

Resolution No. 6752 - Recommending Award of the Water and Sewer Service Area Plan Update

MSC Odeen/Bjerstedt move to approve Consent Agenda. Unanimous.

REPORTS:

Administrator's Report

Simpson talked about Hoffman Park Campground online reservations. He said he would be absent from the next meeting.

Strategic Plan Update

There were no questions.

Legislative Priorities Update

There were no questions.

Comptroller's Report for January 2023

Comptroller Odeen read the following report: General Fund revenues through the end of January were \$470,416 or 3.7 percent of total budgeted revenues for the year. Revenues in January included State Aid for Streets, general property tax and zoning and development fees. Expenditures through the end of January were \$905,607 or 10.3 percent of total budget expenditures for the year. As of January 31, 2023, net expenditures over revenues were \$435,191.

The process for allocating property tax levy revenue has been simplified beginning in 2023. Debt service funds are made whole with levy revenue first, followed by tax increment districts, the library, and capital funds. The General Fund will be made whole with the August settlement. This change causes the General Fund to appear as though revenues lag expenditures early in 2023, but the

General Fund will receive larger shares of levy revenue compared to prior years in subsequent settlements.

MSC Bjerstedt/Downing move to adjourn at 7:10 p.m. Unanimous.

Respectfully submitted,

Kristi McKahan, Deputy Clerk