



\*\*\* All present are expected to conduct themselves in accordance with our City's Core Values \*\*\*

## OFFICIAL NOTICE AND AGENDA

of a meeting of a City Board, Commission, Department, Committee, Agency, Corporation, Quasi-Municipal Corporation, or sub-unit thereof.

Meeting of: **ETHICS BOARD (ANNUAL MEETING)**  
Date/Time: **Monday, March 11, 2024 at 4:00 PM**  
Location: **City Hall (407 Grant Street) - Board Room (2nd Floor)**  
Members: Douglas Hosler (C), Kay Palmer (VC) Robyn DeVos, Calvin Dexter , Brian Mason

### AGENDA ITEMS FOR CONSIDERATION (All items listed may be acted upon)

Call to Order/Roll Call

- 1 Approve minutes of a previous meeting(s) (10/2/2023).
- 2 Elections of Chair and of Vice Chair for the annual term.
- 3 Discussion of changes that have been made or failed to be made to Chapter 2.03 of the City Municipal Code in the action of Common Council at its January 23, 2024 meeting.
- 4 Adoption of rules as may be necessary to carry out the duties and responsibilities of the board for the annual term.
- 5 Discussion of grounds for recusal as guidelines for members to consider in making decisions about recusal.
- 6 Consideration of what agenda items any member thinks should be included in the agenda for the next meeting, if any member has such suggestions.

Adjournment

Doug Hosler, Chair

**This Notice was posted at City Hall and faxed to the Daily Herald newsroom on 3/8/2023 at 4:00 PM.**

*In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 (ADA), the City of Wausau will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs or activities. If you need assistance or reasonable accommodations in participating in this meeting or event due to a disability as defined under the ADA, please call the ADA Coordinator at (715) 261-6590 or [ADAServices@ci.wausau.wi.us](mailto:ADAServices@ci.wausau.wi.us) to discuss your accessibility needs. We ask your request be provided a minimum of 72 hours before the scheduled event or meeting. If a request is made less than 72 hours before the event the City of Wausau will make a good faith effort to accommodate your request.*

Distribution: Media, Common Council, Jacobson, Rosenberg

## **ETHICS BOARD**

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Time and Place: Monday October 2, 2023, at 3:00 p.m., City Hall (407 Grant St.) – Board Room  
Members Present: Doug Hosler, Calvin Dexter, Robyn DeVos, and Kay Palmer  
Members Absent: Brian Mason  
Others Present: Tara Alfonso, Mary Goede, Kody Hart

Noting the presence of a quorum, at approximately 2:01 p.m., Acting Chairperson Hosler called the meeting to order.

### **(1) Approve minutes of the September 11, 2023 meeting**

Previous minutes listed the incorrect vote for the motion by DeVos, seconded by Dexter, to not accept proposed change in Chapter 2.03.010 (a) - “and avoid conflicts between personal antagonism and public responsibilities,” as Hosler voted no and should be recorded as such. Motion by DeVos, seconded by Palmer, to approve the minutes as amended. Motion carried 4-0.

### **(2) Discussion and possible action on the issues the board had with Chapter 2.03.040 at the last meeting**

Motion by Dexter, seconded by DeVos, to add after the words “or other alternate member is absent,” “or recuses himself or herself from acting on a complaint before the board,” in Chapter 2.03.040 (a). Motion carried 3-1, Hosler voting no.

Hosler stated that the word complaint is too specific and that there should be an allowance for Ethics Board members to recuse themselves from items discussed beyond a complaint such as motions.

### **3 Discussion and possible action on amendments to chapter 2.03 Code of Ethics for Public Officials and Employees**

Motion by Dexter, seconded by Palmer, to add after the words “,shall contact,” “directly or through another person,” in Chapter 2.03.060 (e). DeVos stated concerns as to the difficulty to track who the other persons would be in addition to questions on enforcement. Motion rejected 2-2, DeVos and Hosler voting no.

Motion by Dexter, seconded by Palmer, to add that respondents should also be sent a copy of the issuance or amendment of complaints and outline that in Chapter 2.03.070 (b). Motion carried 4-0.

Motion by Dexter, seconded by DeVos, to rephrase Chapter 2.03.075 to be named “Investigation Powers.” Motion carried 4-0.

Motion by Dexter, seconded by DeVos, to add at the end of the paragraph “For purposes of determining whether a violation of this chapter occurred based in whole or in part on unlawful conduct by the respondent, any different burden or standard of proof that may be applicable in civil or criminal proceeding will be inapplicable,” in Chapter 2.03.080 (b). Motion carried 4-0.

Motion by DeVos, seconded by Dexter, to remove entirely Chapter 2.03.095 Changes Recommended by Board. DeVos stated that the language is duplicative and was outside the scope of the Ethics Board. Dexter stated opposition as the included language codifies what has already occurred on the Ethics Board in which an unethical action, while not explicitly against the ethics code, should be recommended to be part of that code. Motion rejected 1-3, Hosler, Palmer, Dexter voting no.

Motion by Dexter, seconded by DeVos, to change the word “shall” to “may” in Chapter 2.03.095 and accept the change as amended. Motion carried 4-0.

Motion by DeVos, seconded by Palmer, to forward for recommendation to the Common Council on the amendments to Chapter 2.03 Code of Ethics for Public Officials and Employees as amended. Motion carried 4-0.

### **Discussion and possible action on the question of whether to ask that our Alternate #2 be changed to Alternate #1**

Motion by Palmer, seconded by DeVos, to recommend that Alternate #2, Jesse Kerns, be appointed by the Mayor to Alternate #1. Motion carried 4-0.

### **Discussion of topics for future meetings, if any**

Hosler suggested that the next meeting should occur at the annual meeting, on the third Wednesday of January of

each year, should the recommendation to the Common Council on the amendments to Chapter 2.03 be accepted.

Dexter suggested that a future discussion should be on recusal guidelines.

**Adjournment**

Motion to adjourn by DeVos, seconded by Palmer, to adjourn. Motion carried. Meeting adjourned at 3:12 p.m.

Respectfully Submitted,  
Mary Goede, Deputy Clerk  
Kody Hart, Deputy Clerk

DRAFT

CITY OF WAUSAU, 407 Grant Street, Wausau, WI 54403

**ORDINANCE OF COMMON COUNCIL**

Amending Section 2.03.020 Definitions, Section 2.03.030 Standards of conduct, Section 2.03.040 Organization and composition of the board, Section 2.03.090 Findings of fact and conclusions--Orders and recommendation, Section 2.03.100 Removal, suspension and censure, Section 2.03.110 Costs; Repealing and recreating Section 2.03.050 Duties of the board, Section 2.03.060 Investigations of complaints, Section 2.03.070 Probable cause of violation, Section 2.03.080 Hearing procedure; and creating Section 2.03.075 Investigative powers.

Committee Action: Ethics Board 4-0

**Ordinance Number:** 61-5953

Fiscal Impact: None

**File Number:** 24-0103

**Date Introduced:** January 23, 2024

The Common Council of the City of Wausau do ordain as follows:

Add ( )

Delete (-----)

Chapter 2.03 – CODE OF ETHICS FOR PUBLIC OFFICIALS AND EMPLOYEES

Section 1. That Section 2.03.020 Definitions is hereby amended to read as follows:

2.03.020 Definitions.

For the purpose of this chapter, the words set out in this section shall have the following meanings:

...

*Immediate family* means:

(1) An individual's spouse;

(2) An individual's relative by marriage, lineal **ascent, lineal** descent or adoption, who receives, directly or indirectly, more than 50 percent of his or her support from such individual . . .

...

*Internal Revenue Code* has the meaning given under Wis. Stats. **§71.01(6)**. ~~§71.02(1)(a) and (2)(b)~~

...

*Official* means any ~~official~~ **individual** holding an elected City office, any candidate for elected City office and all members of boards, commissions or committees appointed by the Mayor or **appointed or confirmed by the** Common Council.

...

Section 2. That Section 2.03.030 Standards of conduct is hereby amended to read as follows:

2.03.030 Standards of conduct.

- (a) No official/employee shall use his or her public position, ~~or~~ office, **or title** to obtain financial gain or anything of value for the private benefit of himself or herself or his or her immediate family, or for an organization with which the official/employee is associated.

...

- (c) No official/employee shall, **without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the City. This includes information protected by attorney-client privilege or discussed in closed session. No official/employee may** intentionally use or disclose information gained in the course of or by reason of his or her official position or activities in any way that could result in the receipt of anything of value for himself or herself, for his or her immediate family or for any other person, if the information has not been communicated to the public or is not public information.

- (d) No official/employee shall use or attempt to use his or her public position, **office or title** to influence or gain unlawful benefits, advantages or privileges for himself, herself or other person.

...

- (j) No official/employee shall in his or her official capacity do any act **or use his or her official title in performing any act**, which he or she knows is in excess of his or her lawful authority or which he or she knows he or she is forbidden by law to do in his or her official capacity.

...

Section 3. That Section 2.03.040 Organization and composition of the board is hereby amended to read as follows:

2.03.040 Organization, ~~and~~ composition **and authority** of the board.

- (a) There is created an ethics board with five members appointed by the Mayor and subject to confirmation by the Common Council. Members should be from diverse segments of the community. Each board member shall be a resident of the City and shall serve without compensation. The term of office shall be five years. Two similarly qualified alternate members may also be appointed by the Mayor and subject to confirmation by the Common Council. The Mayor shall designate such alternate members as first and second alternates. Alternate members shall act with full authority when a member of the board or other alternate member is absent, **recuses himself or herself from acting on a complaint before the board**, or abstains from voting or acting under this chapter ~~because of a conflict of interest~~. On the first appointment of the board, board members

shall be appointed for terms of one, two, three, four, and five years respectively. On the first appointment of the board alternates, the first alternate shall be appointed for a term of five years, and the second alternate shall be appointed for a term of two years.

- (b) ~~The members of the board shall select their own chairperson annually and shall adopt such rules as may be necessary to carry out the duties and responsibilities of the board under this chapter. Any rules adopted shall be subject to the approval of the Common Council.~~ The board is empowered to investigate any alleged violation of this chapter upon the properly filed written complaint of a third party. To fulfill such purposes, the board shall have the powers set forth in section 2.03.075 and may prescribe and make available forms for use under this chapter.
- (c) ~~The City Attorney shall furnish the board whatever legal assistance is necessary and proper to carry out its functions. The board or the City Attorney may request the Common Council to authorize special counsel for the board. The board shall be furnished with whatever staff assistance is required to fulfill its duties.~~ Meetings of the board shall be held as needed, except that an annual meeting shall be held on the third Wednesday of January of each year. At such annual meeting, the members of the board shall select their own chairperson and vice-chairperson and may adopt such rules as may be necessary to carry out the duties and responsibilities of the board. Any rules shall be subject to the approval of the Common Council.
- (d) The board may recommend amendments of this chapter to the Common Council.
- (e) Any action or determination of the board requires the affirmative vote of the majority of its members.
- (f) The City Attorney shall furnish the board whatever legal assistance is necessary and proper to carry out its functions. The board or the City Attorney may request the Common Council to authorize special counsel for the board. The board shall be furnished with whatever staff assistance is required to fulfill its duties.
- (g) All documents received in connection with an alleged violation of this chapter are subject to the provisions of the open records law, Wis. Stat. §§19.31 – 19.39. All meetings of the board, including hearings under this chapter, are subject to the provisions of the open meetings law, Wis. Stat. §§19.81 – 19.98.

Section 4. That Section 2.03.050 Duties of the board is hereby repealed and recreated as Section 2.03.050 Advisory opinions.

2.03.050 Advisory opinions.

- (a) Any person who is involved or about to be involved in any matter that could constitute a violation of this chapter may apply to the board in writing for an advisory opinion. Such person shall have the opportunity to present his or her interpretation of the facts at issue and of the applicability of provisions of this chapter before the advisory opinion is rendered. It is prima facie evidence of intent to comply with this section when a person refers a matter to the board and abides by the advisory opinion, if the material facts are as stated in the opinion request. The board will not issue any opinion on

conduct which may, in the judgment of the board, involve a violation of state or federal law.

(b) No member of the board may make public the identity of an individual requesting an advisory opinion or of individuals or organizations mentioned in the opinion. Requests for confidential advisory opinions, records obtained or filed in connection with requests for confidential advisory opinions and confidential advisory opinions shall be closed in whole to public inspection pursuant to the open records law. The board may, however, make such records public with the consent of the individual requesting the advisory opinion or the organization or governmental body on whose behalf it is requested. The board may compile or publish summaries of opinions rendered if identification is not made, directly or indirectly of the requestor or of any organization identified in the opinion. A person who makes or reports to make public the substance of or any portion of an advisory opinion requested by or on behalf of the person waives the confidentiality of the request for an advisory opinion and any records obtained or prepared by the board in connection with the request for an advisory opinion.

(c) Deliberations and actions of the board on a request for an advisory opinion shall be in meetings not open to the public.

Section 5. That Section 2.03.060 Investigations of complaints is hereby repealed and recreated as follows:

2.03.060 Violations and complaints.

(a) Filing of complaints. Any resident of the City, either personally or on behalf of an organization or governmental body, may file a verified complaint, in writing, signed and sworn to under oath, which states the name of any person covered by this chapter, alleged to have committed a violation of this chapter and which sets forth the particulars thereof. The complaint shall be filed with the board in care of the City Clerk. Prior to acceptance of a complaint, the City Clerk shall determine whether or not the complaint is in proper form. If the complaint is not in proper form, the City Clerk shall return it to the complainant for further action. The City Clerk shall forward a copy of a properly submitted complaint and any supporting documents to the board and the respondent within three working days of its acceptance and, upon consultation with the board chairperson, schedule the initial meeting of the board for consideration of the complaint. The City Clerk shall notify the respondent and the complainant in writing of the time and date of the initial meeting of the board.

(b) Time limitation. No action may be taken on any complaint filed more than 12 months after a violation of this chapter is alleged to have occurred.

(c) Initial determination by board. The board shall review a third party complaint at a duly called meeting and determine whether it alleges facts sufficient to constitute a violation of this chapter. If the board determines that the verified complaint does not allege facts sufficient to constitute a violation of this chapter, it shall dismiss the complaint, and notify the complainant and the respondent in writing. If the board determines that the verified complaint alleges facts sufficient to constitute a violation of this chapter, it

may make an investigation with respect to any alleged violation, may proceed directly to order a hearing before the board, or may make a referral to the district attorney's office recommending further investigation and possible prosecution. In the event the board determines to proceed directly to hearing, it shall provide the respondent and the complainant a notice of the date and time of the hearing which shall be commenced within 30 days, unless the respondent petitions for, and the board consents to a later date.

(d) Investigations. The board shall authorize any investigation by resolution which shall state the nature and purpose of the investigation and the actions or activities to be investigated. A copy of the resolution shall be mailed to each respondent identified in the resolution as a subject of the investigation and a general statement of the statutes and ordinances applicable to the investigation. Service of the resolution is complete upon mailing. If the board determines that a verified complaint was brought for harassment purposes or is frivolous, the board will so state.

(e) Contact with board members. No respondent who has been notified that he/she is the subject of an investigation being conducted by the board, or who has been notified that he/she is the subject of a complaint filed with the board or by the board, shall contact, directly or through another person, any board member about his/her case except during a hearing conducted by the board.

Section 6. That Section 2.03.070 Probable cause of violation is hereby repealed and recreated as follows:

2.03.070 Probable cause.

(a) Determination of probable cause. At the conclusion of an investigation, the board shall, in preliminary written findings of fact and conclusions based thereon, make a determination of whether or not probable cause exists to believe that a violation of this chapter has occurred. If the board determines that no probable cause exists, it shall promptly send written notice of such determination to the respondent and, if applicable, to the complainant. If the board determines that there is probable cause for believing that a violation of this chapter has occurred, its preliminary findings of fact and conclusions may contain an order setting a date for a hearing to determine whether a violation of this chapter has occurred and/or a referral to the district attorney's office recommending further investigation and possible prosecution. The board shall serve the preliminary findings of fact and conclusions and the order for hearing, if any, upon the respondent. A hearing ordered under this section shall be commenced within 30 days after the date that it is ordered, unless the respondent petitions for, and the board consents to a later date.

(b) Issuance or amendment of complaint by board. If the board, during the course of an investigation, finds probable cause to believe that a violation of this chapter, other than one contained in the complaint, has occurred, it may amend the complaint, upon its own motion to include such violation. If the complaint is so amended by the board, the board shall send a copy of the amendment to the respondent and complainant within 10 days.



Section 7. That Section 2.03.075 Investigative powers is hereby created to read as follows:

2.03.075 Investigative powers. Pursuant to any investigation or hearing conducted under this chapter, the board has the following powers and authority:

- (a) Require any person to submit, in writing, reports and answers to questions relevant to the proceedings within a specified time period and under oath or as the board may otherwise determine acceptable.
- (b) Administer oaths and require by subpoena, the attendance and testimony of witnesses and the production of documents.
- (c) Order testimony by deposition to be taken before any person designated by the board.
- (d) Pay witnesses fees and mileage in a like manner as set forth in section 814.67, Wis. Stats.
- (e) Retain or designate an investigator to assist the board from a list provided by the City Attorney's Office, based upon the availability of funds.

Section 8. That Section 2.03.080 Hearing procedure is hereby repealed and recreated to read as follows:

2.03.080 Hearing procedure.

- (a) Due process. The board shall conduct a public hearing in accordance with all common law requirements of due process. The respondent or the respondent's representative shall have an adequate opportunity to:
  - (1) Exercise full discovery rights, including adverse examination of witnesses who will testify at the hearing, within a reasonable time before the date of the hearing.
  - (2) Have the board inform the respondent or his/her counsel of exculpatory evidence in its possession.
  - (3) Have witnesses heard.
  - (4) Establish all pertinent facts and circumstances.
  - (5) Question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.
  - (6) Be represented by counsel of his or her choosing at his or her own expense.
  - (7) Upon request of the respondent, have the board issue subpoenas to compel the attendance of necessary witnesses.

(b) Evidence and burden of proof. Chapters 901 through 911, Wis. Stats., apply to the admission of evidence at the hearing. The board shall not find a violation of this chapter except upon clear and convincing evidence admitted at the hearing. No other burden or standard of proof that may be applicable in civil or criminal proceedings shall apply.

Section 9. That Section 2.03.090 Findings of fact and conclusions—Orders and recommendations is hereby amended to read as follows:

2. 03.090 Findings of fact and conclusions ~~after hearing~~---Orders and recommendations.

Within seven (7) days after a hearing, the board shall prepare its written findings of fact and conclusions and deliver a copy to the respondent and the complainant advising of its determination as to whether or not a violation of this chapter has occurred. ~~If the board determines that no violation of this chapter has occurred, it shall immediately send written notice of such determination to the accused and to the party who made the complaint.~~ If the board determines that a violation of this chapter has occurred, its findings of fact and conclusions may contain any of the following orders or recommendations:

...

Section 10. That Section 2.03.100 Removal, suspension and censure is hereby amended to read as follows:

Upon receipt of a recommendation from the board that an ~~officer~~ official be censured, suspended or removed from office ... but no ~~officer~~ official subject to a civil service or to a Police and Fire Commission law ...

Section 11. That Section 2.03.110 Costs is hereby amended to read as follows:

(a) If the board finds that a complaint filed under this chapter was ~~willful~~ willful and malicious and without probable cause, the expenses of investigation and hearing of any such complaint by the board and the reasonable costs of defense of the respondent shall be paid the responsibility of and borne by the person making the complaint. ~~In all other cases such expenses shall be paid by the City.~~ The City shall pay the respondent for the reasonable cost of his or her defense upon assigning to the City any cause or action he or she may have for malicious prosecution against the complainant.

(b) If any board proceedings are discontinued or dismissed or are determined favorably to a respondent ~~an official/employee~~, the City shall pay all reasonable expenses which the ~~official/employee~~ respondent necessarily expended by reason of such proceedings.

Section 12. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 13. This ordinance shall be in full force and effect on the day after its publication.

Adopted:  
Approved:  
Published:  
Attest:

Approved:

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Katie Rosenberg, Mayor

Attest:

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Kaitlyn A. Bernarde, Clerk



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Office of the City Attorney

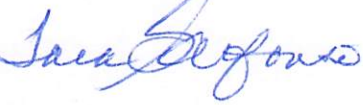
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Anne L. Jacobson  
City Attorney

Tara G. Alfonso  
Assistant City Attorney

Tegan Troutner  
Assistant City Attorney

To: Common Council  
From: Tara G. Alfonso, Asst. City Attorney   
Date: December 13, 2023  
Re: Comments on proposed amendment to W.M.C. ch. 2.03, Code of Ethics for Public Officials and Employees

- In 2022, the Ethics Board was convened to consider a complaint filed against an alderperson who was serving as a City elected official at that time. The consideration of the complaint, which ultimately went through a full due process hearing, revealed certain procedural aspects of the current ordinance found at W.M.C. ch. 2.03, which the Board members felt were cumbersome and could benefit from streamlining.
- The proposed draft amendments to W.M.C. ch. 2.03 seek to make procedures for requesting advisory opinions, consideration and disposition of complaints, and certain other matters, clearer and less cumbersome.
- The proposed draft amendments do not seek to substantively change or alter the types of conduct which fall within the parameters of the ordinance. Were the Common Council to wish to undertake a thorough review and potentially develop additional standards of conduct for employees and officials, it is recommended that the matter be taken up separately.
- The proposed draft amendments to W.M.C. ch. 2.03 were reviewed by the Ethics Board at duly noticed meetings on September 11, 2023, and May 23, 2023. Minutes from those meetings are included. The recommendations of the Ethics Board have been included in the proposed amendment to W.M.C. ch. 2.03 with certain exceptions as follows which have not been incorporated as not being recommended by this office:
  - Changes suggested to Section 2.03.030:
    - Add a definition in Section 2.03.030 defining “unlawful.”
    - Add the word “harm” to Section 2.03.030(a) to read “...to damage or harm another...”
    - Add the phrase “unlawfully damaging or harming another person” in Section 2.03.030(c) to read “...that could result in unlawfully damaging or harming another person, the receipt of anything...”

- Add to Section 2.03.030(d) “to damage or harm another person.”
- Add to Section 2.03.030(j) the word “unlawful.”

These changes are not recommended as words such as “damage” or “harm” are likely unconstitutionally vague, notwithstanding an attempt to add a definition of “unlawful.” Further, there are other more appropriate venues for prosecution, adjudication, and administration of penalty for violations of federal, state, and local law than a municipal ethics board such as federal, state and municipal courts.

- Inclusion of a new Section 2.03.095 Changes recommended by the Board.<sup>1</sup> The language of such a section would be redundant to the proposed language of new Subsection 2.03.040(d) which provides that the board may recommend amendments of this chapter to the Common Council. Furthermore, no ordinance is necessary in order to request the City Attorney to raise a concern to the Common Council, a Standing Committee, the Council President or the Mayor for consideration by the body.

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<sup>1</sup> 2.03.095 Changes recommended by board. If the board unanimously finds that an action of an official or employee is contrary to the Declaration of Policy without technically violating any specific section outside of that Declaration of Policy and the board unanimously finds that the act both violates the trust the community would reasonably have in its city officials and city employees and would lower the public status of those who are peers of the accused, the board shall submit to the City Attorney a request for a restatement of an item on the list of proscribed actions in section 2.03.030 or for an addition to that list – either of which would capture what the board unanimously found unethical but could not charge the accused with committing. This change would be submitted to the Common Council for approval or rejection.

**OFFICIAL PROCEEDINGS OF THE WAUSAU COMMON COUNCIL**  
held on Tuesday, January 23, 2024, in Council Chambers, beginning at 6:31 P.M.,  
Mayor Katie Rosenberg presiding.

**Roll Call**

**01/23/2024**

Roll Call indicated 11 members present.

<u>District</u>	<u>Aldersperson</u>	<u>Vote</u>
1	Lukens, Carol	YES
2	Martens, Michael	YES
3	Kilian, Tom	YES
4	Diny, Doug	YES
5	Gisselman, Gary	YES
6	McElhaney, Becky	YES
7	Rasmussen, Lisa	YES
8	Watson, Sarah	YES
9	Herbst, Dawn	YES
10	Larson, Lou	YES
11	Henke, Chad	YES

**Proclamations**

**01/23/2024**

The Mayor of the City of Wausau Proclaims:

- Black History Month (February 2024)
- Lunar New Year Day (February 10, 2024)
- Four Chaplains Sunday (February 4, 2024)
- National Children's Dental Health Month (February 2024)
- Wisconsin Salt Awareness Week (January 22-26, 2024)

**Public Comment: Pre-registered citizens for matters appearing on the agenda and other public comment**

**01/23/2024**

- 1) Bill Panzigrau, 2708 W. Wausau Avenue – spoke on Open Door continuing services to the unhoused population.
- 2) Christopher Seel, Open Door – spoke on Open Door continuing services to the unhoused population.
- 3) Christine Salm, 3312 N. 11<sup>th</sup> Street – spoke in favor of current lead lateral replacement program.
- 4) Corina Norrbom, Medical College of Wisconsin – spoke in favor of current lead lateral replacement program.
- 5) Debra Ryan, 702 Elm Street – spoke in opposition of current lead lateral replacement program.

**Presentation: Utility Commission Structure**

**01/23/2024**

A policy discussion to determine how best to govern a utility business was held.

Larson stated that the Executive Committee or the Committee of the Whole should discuss how to better regulate the water utility.

Rasmussen stated support of further discussion to make incremental changes to how the utility is overseen.

Gisselman stated support of a joint meeting with the Wausau Water Commission to get their input on how to build a better commission.

Henke stated support of having any discussion prior to April of 2024 so it could be in place for the new term of the Common Council.

Herbst stated support of having more discussions to understand what is expected of the Wausau Water Commission by the Common Council.

Diny stated that there is a need to address the problems at hand with either a joint meeting of the Common Council or a Committee of the Whole and the Wausau Water Commission.

Without objection, a joint meeting of a Committee of the Whole of the Common Council and the Wausau Water Commission will be scheduled to further discuss this matter.

**Consent Agenda**

**01/23/2024**

Motion by Watson, second by Henke, to adopt all the items on the Consent Agenda as follows:

**24-0101** from the Common Council to Approve Minutes of a previous meeting (12/19/2023).

**24-0104** Resolution from the Public Health & Safety Committee Approving Automatic Aid Agreement with South Area Fire and Emergency Response District.

**24-0105** Resolution from the Human Resources Committee to Approve Notice of Election to Self-Insure Worker's Compensation Program with CVMIC.

**21-1109** Resolution from the Finance Committee Approving First Amendment American Rescue Plan Act Subrecipient Agreement – Catholic Charities.

**20-0822** Resolution from the Finance Committee Approving the Towing Services Agreement with Joe Rader Towing LLC for primary towing services and with Lightning Towing for secondary towing services.

**24-0106** Resolution from the Finance Committee Approving Nominal Payment Parcel for New Highway Right of Way Fee, Permanent Limited Easement, and Temporary Limited Easement at 7000 Stewart Avenue, Parcel 7, Transportation Project Plat 6999-09-02.

**24-0107** Resolution from the Finance Committee Approving Nominal Payment Parcel for New Highway Right of Way Fee, and Temporary Limited Easement at 6631 Stewart Avenue, Parcel 16, Transportation Project Plat 6999-09-02.

**24-0109** Resolution from the Finance Committee Approving Nominal Payment Parcel for a Temporary Limited Easement and Landscaping at 7500 Stewart Avenue, Parcel 2, Transportation Project Plat 6999-09-02.

**22-0912** Resolution from the Finance Committee Accepting dedication of a portion of 7110 Stewart Avenue and a portion of 6601 Stewart Avenue for public right-of-way.

**24-0111** Resolution from the Capital Improvements and Street Maintenance Committee Approving Agreement for the Management and Maintenance of a Stormwater Facility (Wausau School District – 1200 West Wausau Avenue).

**24-0112** Resolution from the Capital Improvements and Street Maintenance Committee Approving Agreement for the Management and Maintenance of a Stormwater Facility (Green Bay Packaging Inc. – 6845 Packer Drive).

**24-0113** Resolution from the Capital Improvements and Street Maintenance Committee Approving Revised Winter Street Maintenance Policy.

**24-0114** Resolution from the Finance Committee Approving a Lease Agreement with City County Information Technology Commission.

**24-0115** Ordinance from the Plan Commission to Rezone 406 N 28th Avenue from SR-1, Single Residential-1 Zoning District to PUD, Planned Unit Development Zoning District and approve the GDP, General Development Plan.

**24-0116** Ordinance from the Plan Commission to Amend Wausau Municipal Code § 23.02.51 – (NMU) Neighborhood Mixed Use Zoning District; Wausau Municipal Code § 23.02.52 – (SO) Suburban Office Zoning District; Wausau Municipal Code § 23.02.53 – (SMU) Suburban Mixed-Use Zoning District; Wausau Municipal Code § 23.02.54 – (UMU) Urban Mixed-Use Zoning District; Wausau Municipal Code § 23.02.55 – (DPMU) Downtown Periphery Mixed-Use Zoning District; Wausau Municipal Code § 23.02.56 – (DHMU) Downtown Historic Mixed-Use Zoning District; Wausau Municipal Code § 23.02.57 – (DRMU) Downtown High-Rise Mixed-Use Zoning District; Wausau Municipal Code § 23.02.60 – (LI) Light Industrial Zoning District; Wausau Municipal Code § 23.02.61 – (MI) Medium Industrial Zoning District; Wausau Municipal Code § 23.02.62 – (HI) Heavy Industrial Zoning District; Wausau Municipal Code § 23.03.05 – Table of land uses; Wausau Municipal Code § 23.03.10 – Commercial land uses; Wausau Municipal Code § 23.03.28 - Accessory land uses and structures; Wausau Municipal Code § 23.06.20 – Exterior lighting standards; Wausau Municipal Code § 23.09.05 – Definitions and rules related to sign groups, sign categories, and sign types; Wausau Municipal Code § 23.09.11 – permitted sign uses.

**23-1109** Resolution from the Finance Committee Authorizing the modification of fees to the City of Wausau Fees and Licenses Schedule adopted pursuant to Wausau Municipal Code §3.40.010(a) (2024 Comprehensive Fee Schedule).

Yes Votes: 11

No Votes: 0

Abstain: 0

Not Voting: 0

Result: PASSED

Motion by Henke, seconded by Watson, to confirm the Mayor’s Appointments to the Building Advisory Board.

- Frank Opatik to Building Advisory Board (Reappointment - Term expires 10/31/2025)
- Buckley (Buck) Birkholz to Building Advisory Board (Reappointment - Term expires 10/31/2025)
- Dave Brandenburg to the Building Advisory Board (Reappointment - Term expires 10/31/2025)
- Mark Dillman to the Building Advisory Board (Reappointment - Term expires 10/31/2025)

Yes Votes: 11                  No Votes: 0                  Abstain: 0                  Not Voting: 0                  Result: PASSED

24-0108

Motion by Lukens, seconded by Diny to adopt the Resolution from the Public Health & Safety Committee Approving or Denying Various Licenses as Indicated.

Yes Votes: 11                  No Votes: 0                  Abstain: 0                  Not Voting: 0                  Result: PASSED

23-1215

Motion by Watson, seconded by Martens, to call the question to end debate.

<u>District</u>	<u>Aldersperson</u>	<u>Vote</u>
1	Lukens, Carol	YES
2	Martens, Michael	YES
3	Kilian, Tom	NO
4	Diny, Doug	NO
5	Gisselman, Gary	NO
6	McElhaney, Becky	YES
7	Rasmussen, Lisa	YES
8	Watson, Sarah	YES
9	Herbst, Dawn	YES
10	Larson, Lou	YES
11	Henke, Chad	YES

Yes Votes: 8                  No Votes: 3                  Abstain: 0                  Not Voting: 0                  Result: PASSED

Motion by Kilian, seconded by Diny, to Reconsider the Resolution from the Common Council Approving Master Partnership Agreement between the City of Wausau, Wausau Water Works and Community Infrastructure Partners LLC for lead service line replacement and related infrastructure work.

Kilian questioned if the Common Council received the documentation, specifically the statement of qualifications, necessary to decide on the merits of this program. Kilian stated that further vetting should take place with new information coming forward on the previous employer of the current contractor for this program.

Rasmussen stated that the city is in direct competition with other municipalities to secure federal funding to replace lead laterals. There were concerns that the narrative of the former employer of this contractor was being used to slow down the process for political purposes. *Point of order* raised by Kilian against questioning motives. *Point of order was well taken by the chair* and Rasmussen redirected statements to speak about the results a reconsideration would have which would waste the rest of the year’s construction season.

Larson agreed with Rasmussen that the agreement was good for the residents of the city because this is a performance-based contract and stated opposition to the reconsideration.

Diny stated that information on the past activities of the contractor’s former employer was not brought forward until after passage of the resolution. Diny stated that it was unusual for this contractor to have the ability to leave their former employer to start a new company and not be subjected to a noncompete clause of an employment contract. *Diny asked the chair to yield to a question, for which the chair agreed.* Diny asked the chair if there was prior knowledge of the connection between the contractor and their previous employer. The chair stated that the connection was not known until after this information had been made public. Diny further stated that this is a problem with improper vetting.



Kilian outlined the situation of the contractor's previous employer in previous housing construction programs which prompted the motion for this reconsideration. It was also stated that little information was provided during the public roll-out of this program and asked that alders allow those who supported this program originally to change their vote upon new information.

Lukens stated concerns a reconsideration would have on delaying a program to remove lead laterals which could impact the health of children and families.

Martens took issue with the reconsideration as there were ample opportunities to discuss and modify the contract and the details that result in its execution. It was stated that the performance-based contract ensured that verification of the work is being done correctly to code before moving forward for another year.

Diny stated skepticism of the ability for this program to be correctly conducted at the volume of replacement. It was also stated that the business practices of the contractor in the start-up of their business are unusual which cause concern to prompt this reconsideration.

Lukens stated that printing things in the media before the Common Council had a chance to discuss that matter was not comparable to watching the meetings of the Common Council because the full picture of the matter was not being covered. *Point of order* raised by Kilian against making accusations against a particular member of the body. *Point of order was not acted upon by the chair* as Lukens clarified that the comments were not made against a particular member of the body.

Larson shared concerns for reconsideration when the city could utilize funding now when there is not a mandate as opposed to in the future when an unfunded mandate may be imposed upon by the state or federal government.

Watson stated that questions of the contractor are valid, but it is common for principals of a company to leave to start their own company. There were also concerns stated of losing the funding that makes replacing lead laterals in a shorter time period possible.

*Point of order* raised by Larson against Diny speaking for a third time. *Point of order was not well taken by the chair* as Diny's comments were a procedural question.

Rasmussen stated that reconsideration would not only allow alders to revote on a matter decided upon at the previous meeting, it will also hold up the contract over a variety of other matters further delaying the program to replace lead laterals.

<u>District</u>	<u>Aldersperson</u>	<u>Vote</u>
1	Lukens, Carol	NO
2	Martens, Michael	NO
3	Kilian, Tom	YES
4	Diny, Doug	YES
5	Gisselman, Gary	YES
6	McElhaney, Becky	NO
7	Rasmussen, Lisa	NO
8	Watson, Sarah	NO
9	Herbst, Dawn	NO
10	Larson, Lou	NO
11	Henke, Chad	NO

Yes Votes: 3                      No Votes: 8                      Abstain: 0                      Not Voting: 0                      Result: FAILED

Kilian questioned if various committees outlined in the original statement of qualification of the contractor would be subject to open meetings laws and directed staff to mitigate that concern when negotiating the contract. If a contract cannot be agreed upon it will be placed back on the Common Council agenda.

**Suspend the Rules** **01/23/2024**

Motion by Watson, second by Rasmussen, to suspend Rule 6(B) Filing and 12(A) Referral of Resolutions.

Yes Votes: 11                      No Votes: 0                      Abstain: 0                      Not Voting: 0                      Result: PASSED

**24-0103** **01/23/2024**

Motion by Lukens, seconded by Herbst, to approve the Ordinance from the Common Council and Ethics Board Amending Section 2.03.020 Definitions, Section 2.03.030 Standards of conduct, Section 2.03.040 Organization and composition of the board, Section

2.03.090 Findings of fact and conclusions--Orders and recommendation, Section 2.03.100 Removal, suspension and censure, Section 2.03.110 Costs; Repealing and recreating Section 2.03.050 Duties of the board, Section 2.03.060 Investigations of complaints, Section 2.03.070 Probable cause of violation, Section 2.03.080 Hearing procedure; and creating Section 2.03.075 Investigative powers.

<u>District</u>	<u>Aldersperson</u>	<u>Vote</u>
1	Lukens, Carol	YES
2	Martens, Michael	YES
3	Kilian, Tom	YES
4	Diny, Doug	NO
5	Gisselman, Gary	YES
6	McElhaney, Becky	YES
7	Rasmussen, Lisa	YES
8	Watson, Sarah	YES
9	Herbst, Dawn	YES
10	Larson, Lou	YES
11	Henke, Chad	YES

Yes Votes: 10

No Votes: 1

Abstain: 0

Not Voting: 0

Result: PASSED

**24-0105**

**01/23/2024**

Motion by Rasmussen, seconded by Lukens, to adopt the Resolution from the Common Council and Airport Committee Recommending that the Common Council authorize staff to send a letter to the City of Schofield regarding the installation of an unauthorized improvement to Radtke Point Park.

Yes Votes: 11

No Votes: 0

Abstain: 0

Not Voting: 0

Result: PASSED

**22-0406**

**01/23/2024**

Motion by Rasmussen, seconded by Watson, to adopt the Resolution from the Finance Committee Approving Memorandum of Understanding between Marathon County, North Central Health Care and Metro Ride for specialized transportation assistance.

Yes Votes: 11

No Votes: 0

Abstain: 0

Not Voting: 0

Result: PASSED

**24-0110**

**01/23/2024**

Motion by Lukens, seconded by Rasmussen, to adopt the Resolution from the Finance Committee Approving the alleged claim for recovery of unlawful tax – 901 S. 22nd Avenue (Drake).

Yes Votes: 11

No Votes: 0

Abstain: 0

Not Voting: 0

Result: PASSED

**23-1109**

**01/23/2024**

Motion by Lukens, seconded by Watson, to adopt the Resolution from the Finance Committee Approving 2024 Budget Modification – Outreach Coordinator Funding.

Yes Votes: 11

No Votes: 0

Abstain: 0

Not Voting: 0

Result: PASSED

**Public Comment and Suggestions**

**01/23/2024**

- 1) Debra Ryan, 702 Elm Street – spoke on transitional housing for women.

**Adjourn**

**01/23/2024**

Motion by Lukens, second by Diny, to adjourn the meeting. Motion carried. Meeting adjourned at 9:25 P.M.

Katie Rosenberg, Mayor

Kody Hart, Deputy City Clerk