

GOLF COURSE SUB-COMMITTEE

FEBRUARY 21, 2013

The meeting was called to order by Mayor Moede at 5:03 p.m. with the following Roll Call:

Members Present: Ald. Pasbrig, Ald. Sertich, Ald. Redeker, Harold Joe Cheesebro, Jr.,
Tony Persha (arrived at 5:31 p.m.)

Members Absent:

Others Present: Mayor Moede, Deanna Boldrey, Kathie Wild, Jim Hammes, Bob Parduhn, Ken
Oechsner

Item #2 – Approve the Minutes from October 6, 2010.

Motion by Ald. Sertich, second by Ald. Pasbrig to approve the minutes from October 6, 2010. Motion carried 3-0-1, with Ald. Redeker abstaining.

Item #3 – Drainage Ditch Clearing Discussion.

Mayor noted the item is on the agenda for discussion of the drainage ditch on the East side of the golf course. Joe reported that Tony Persha, Bob Parduhn, and Don Neitzel walked the ditch and looked at the easement. The ditch from the Bridge to the River is clogged. They want it taken care of because it floods out. Joe reported that Don had commented that he did not budget for the cleaning of the ditch and was concerned of the trees in the middle of the ditch and the equipment required. Joe continued that Don will look at it in the Spring again. The Mayor noted that prisoners from the County may be called in to help. Bob reported that volunteers from the Club may want to help. The lay of the land has a minimal grade, so with the heavier rains we get the back-up of the water.

Item #4 – Review of Golf Course Contract with Possible Recommendations.

With Recommendations on Status of Mayville Golf Club Inc. as Independent Contractor versus Agent.

Mayor Moede introduced the attorney, Jim Hammes to the sub-committee.

Joe Cheesebro, Jr., Mayville Golf Club President, commented that he put together a committee and asked Ken Oechsner to be the facilitator. Joe had asked Ken to come today and introduce what the committee has found from their study.

Ken commented that the committee believed that they heard the City preferred the golf club be separate, by applying for exempt status and having stand alone status, not associated with the City. The committee contacted a large Milwaukee law firm and contacted a top Wisconsin Law School and the response from both was negative about the golf club as a private entity with a tax exempt status under 501 c7 or 501 c3. We cannot be or become a non-profit private entity with a tax exempt status because the club derives most of the income from non-member sources. It is not a private club. Ken continued that in March of 1992 the IRS revoked the clubs 501 c7 status for much the same reason. Nothing has changed.

Ken continued that the committee pursued it further and found they could apply if they could substantiate the club as a charity organization. The law school program for non-profits would not take on the project. The law firm said they would review the item, even though it was a long shot and the estimated research cost would be approximately \$25,000. Both advised to run the golf club as is, owned by the City and managed by Mayville Golf Club Inc. The City would own all assets and the income would be considered city income. This was the set up from 1992. The suggestion was to continue to operate that way using the 1992 format.

Ken continued that based on that advice, the committee attempted to rewrite the agreement and to include policies and practices to meet the IRS rules and standard operating procedures and spell out the responsibilities of the Golf Club and the City. The committee also contacted Baker Tilly because they have been involved with the auditing. Ken noted that Baker Tilly would not write an agreement but would suggest policies, rules, and processes. Their estimate was about \$5,000 and they would bill by the hour. When the committee finished meeting with Baker Tilly, it was concluded that the City owns the land, buildings, and equipment. If any equipment is not shown as City owned, it would be one of

the details to make clear, that all property and all income is the Cities. Ken continued that the record would show that all course and club house assets are owned by the City and that they exist solely for operating the course and club house for the City under the terms of the management agreement.

Ken commented that the goal is to have a management agreement to stand the test of time and would only be modified if the law would require it. The objective was to create a management agreement that could be adhered to by future City leadership and the golf club.

Ken continued that at the end of the year if there is a profit, that money would go to the City. Then, if the golf club needs money the City would have to provide them money to operate until the dues come in. Ken continued that would solve most of the issues between the two organizations.

Jim Hammes confirmed that if the money and income is with the City as Ken just described than the Manager would be an employee of the City.

Jim Hammes noted two options, one to go with independent contractor you are hiring someone to operate the golf course and if there is money at the end of the year it would go with the independent contractor. If on the other hand the operation is an agent of the City, the money comes back to the City.

Jim commented to look at what Naga-Waukeee does. Look at how they work and how they have that set up. It appears they are independent.

Ken continued that they do have a paid person to manage their books, is that something that is appropriate or should the City be managing the books. The Mayor commented that we have tried the City managing the golf course books, and it did not work.

Ken continued that there should be process rules for both the golf club and city, the assets on both books is confusing.

Ken noted at one time the Golf Club employees were on the payroll of the City's but it did not work.

Kathie Wild commented that it was an Enterprise Fund, and it did not work. When closing the fund it was negative \$400,000 approximately. That is partly why the general fund is negative the way it is now. That is why the City is not controlling the operations there. The City owns the property and some of the equipment. The contract allows them to own assets. We keep track of the assets on an equipment list as to who owns what asset and who insures what. They have purchased assets with money that is given to them. Ken noted that they were led to believe that no matter what once the asset purchase is made the asset is owned by the City. Kathie noted they are still their own entity with their own tax id number and own tax reports. Not a tax exempt entity.

(Tony Persha arrives 5:31 p.m.)

Bob Parduhn noted the Bachhuber Foundation gives donations for equipment. All donated funds are kept in a segregated fund for use by Mayville Golf Club Inc. Joe noted confusion, that if they purchase a piece of equipment they do not get the tax exemption; but if they rent a fleet of carts and can get a substantial discount, they can use a municipal lease. He questioned why it wasn't consistent. The lease on the golf carts is with the City. Ald. Sertich noted the original conflict was the Mayville Golf Club Inc. cost was much higher than what the City of Mayville could get. Ald. Sertich continued that in good faith, to save money, the City voted in an open meeting to take the lease. Ken questioned why isn't this the same for other equipment. Jim noted that if the City purchased the mower than the golf club would have to lease or purchase from the City. Jim noted that we need a fundamental understanding of the relationship.

Kathie Wild commented that there is an additional misunderstanding, as far as the cash at the end year. She noted that the City has no control of the money for the entire year, and turning it over to the City is going back to the enterprise fund and city employees. Ken commented that if the City accepts the fact that it “hires” Mayville Golf Club Inc. to manage the golf course, then he does not understand because you are putting them in charge of managing the club.

Jim commented that this is a policy decision. The Common Council would have to hire someone to run the course or create an enterprise fund.

The bond payment was discussed. The payment of the bond fluctuates from year to year. There is nothing in the management contract in regards to the bond payment. The payment arrangements were never in the contract. Jim questioned how the bond payments are handled. It is not a monthly payment. The payments are in June and December.

Bob commented that most equipment is 10-18 years old. Newest piece is 8 years old. No new equipment purchased last year. Bob noted he requested money for a greens mower from the Bachhuber foundation. He is looking at a used greens mower for about \$18,000.

Tony Persha noted that the City holds the money that the Bachhuber’s donate. He questioned what is the difference between holding that money and not being able to hold profits. Kathie Wild reported that the donation is held as an accounts payable. The reason is that the golf club is not a 501 c3.

Ald. Sertich noted that there is wordage in the contract for \$10,000 or more to come before Council. She noted that the remodeling needs to come before the Council.

Jim commented that there is no reason why the City cannot purchase and own the equipment. The lease payments would have to be in an amount to satisfy the City’s obligations like the bonds. Therefore, the City would purchase and own the equipment.

Jim will look at the Naga-Waukee agreement and see how they operate.

Item #5 – Set Possible Future Meeting.

There was consensus to meet late March. It was said that the audit review is set for March 7.

Item #6 – Adjournment

Motion by Ald. Pasbrig, second by Ald. Redeker to adjourn at 6:10 p.m. Motion carried unanimously.

Deanna Boldrey, City Clerk