

1 The Meeting of the Common Council was called to order at 7:00 p.m. on Tuesday, October 13,
2 2020. It was noted that the meeting had been announced and a notice posted at City Hall.

3
4 Roll call was taken, with the following members present: Mayor Kim Smith, Ald. Tom Smith,
5 Ald. Jim Olson, Ald. Dan Stevens, Ald. Diane Wulf, Ald. Steven Nott

6
7 Also Present: City Administrator Eric Rindfleisch, City Clerk JoAnn Marcon, Police Chief
8 Charles Ashbeck, Fire Chief Troy Gudie, City Attorney Amanda Jackson, Financial Services
9 Director/Treasurer Fred Buehler. City Engineer Jarrod Holter, Parks and Recreation Director
10 Dan Wick, Human Resource Director Hope Burchell and Planning Manager Katie Aspenson
11 participated remotely.

12
13 **Item 2 – Pledge of Allegiance**

14
15 The Pledge of Allegiance was recited.

16
17 **Item 3 – Rules of the City of Onalaska Common Council and its Sub Committees –**
18 **Harassment Free Forum**

19
20 Mayor K. Smith read the following: *“The City Council and Sub-Committee meetings shall be*
21 *conducted in a courteous manner. Citizens, Council, and Committee members shall be allowed*
22 *to state their positions in an atmosphere free of slander, insults, obscene remarks, threats of*
23 *violence, or for use of Council or Committee as a forum for politics. Sufficient warnings may be*
24 *given by the Sergeant at Arms at any time during the remarks. In the event that any individual*
25 *shall violate the rules of decorum heretofore set forth, such person may then be cut off from*
26 *comment or debate.”*

27
28 **Item 4 – PUBLIC INPUT: (limited to 3 minutes/individual)**

29
30 Mayor K. Smith called for anyone wishing to provide public input.

31
32 **Dan Stevens, Second District Alderperson**
33 **1708 Jennifer Court**
34 **Onalaska**
35

36 “I’d like to take a moment here. I’m speaking today to help spread the word about the Onalaska
37 High School Interact Club’s ‘iFeed Food Drive.’ Interact is an organization of young men and
38 women in high school who have decided to make service to others an element of their life.
39 Essentially, it’s Rotary for high school people. Over the last several years, high school Interact
40 members from area high schools, including our own Hilltoppers, hosted and produced ‘iFeed,’
41 with multiple shifts of teams filling up the Logan High School Gymnasium, some dressed in
42 team costumes. ‘iFeed’ in 2019 prepped, packed, and sent over 100,000 nutritious meals to
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43 hungry people in Central America. At the same time, they collected 34,923 individual food
44 items, which were distributed here to our local food pantries. This year, COVID[-19] is
45 presenting challenges to those hoping to feed those in need. So classic ‘iFeed’ won’t be a thing
46 this year as people can’t gather, but we can still help out. We have an opportunity to show
47 Hilltopper pride and resolve by helping the Onalaska Interact Club win their food drive
48 competition. October 20 and 22, from 5 to 7 p.m., Hilltopper Interact folks will be collecting
49 canned, boxed, or preserved food items at the Onalaska High School circular driveway on
50 Wilson Street. It will feature contactless drop off, and everyone will be wearing masks.
51 Donations can also be made payable with checks to ‘iFeed.’ Items collected will go to our local
52 Hunger Task Force, the Onalaska Food Pantry – Kathryn Stevens, my cute wife, is the President
53 of the Board of Directors – and also the Onalaska School District’s Food Pantry, which I believe
54 was founded in 2012 by our own Alder, Diane Wulf. Perhaps we, the City of Onalaska
55 employees, can throw together our own food drive to help the Hilltoppers win their competition.
56 As it is a competition, let’s help the Hilltoppers beat the [Holmen] Vikings, [Central] Red
57 Raiders, and the [Logan] Rangers. Thank you.”

58
59 Mayor K. Smith called three times for anyone else wishing to provide public input and closed
60 that portion of the meeting.

61
62 **RECOMMENDATIONS FOR APPROVAL AND/OR POSSIBLE ACTION FROM THE**
63 **FOLLOWING COMMITTEES/COMMISSIONS/BOARDS:**

64
65 All items listed under the consent agenda are considered routine and will be enacted by one
66 motion. There will be no separate discussion of these items unless a council member requests
67 removal, in which event the item will be removed from the consent agenda and considered in the
68 order of business in the non-consent agenda.

69
70 **Item 5 – Consent Agenda**

71
72 A. Approval of minutes from the previous meeting(s)

73
74 **FINANCE COMMITTEE**

75
76 B. Approval of 2020 Omni Center Financials
77 C. Approval of 2020 General Fund Financials

78
79 **PERSONNEL COMMITTEE**

80
81 D. Update on Recruitment and Open Positions within the City of Onalaska

82
83 **JUDICIARY COMMITTEE**

84
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- 85 E. Approval of parking deposit schedule for Title 10 – Motor Vehicles and Traffic Code
86 F. Approval of **Ordinance 1682-2020** to Correct the Zoning of a Parcel Located in Section
87 32, Township 17, Range 7 in the City of Onalaska, La Crosse County, Wisconsin from
88 Low Density Residential (R-1) to High Density Residential (R-4)
89 G. Approval of **Ordinance 1683-2020** to Amend Title 13 of the Code of Ordinances of the
90 City of Onalaska Relating to Surfacing and Parking
91 H. Approval of **Ordinance 1684- 2020** to Amend Title 13 of the Code of Ordinances of the
92 City of Onalaska Relating to District Specific Standards Open Space Standard
93 I. Approval of **Ordinance 1685-2020** to Amend Title 16 of the Code of Ordinances of the
94 City of Onalaska Relating to Property Maintenance, Public Nuisances and Vacant
95 Building Code and renumber Title 16 to Title 12
96

97 **ADMINISTRATIVE COMMITTEE**
98

- 99 J. Approval of Operator’s Licenses as listed on report dated October 7, 2020
100 K. Approval of Wrecker of the Week Agreements with the City of Onalaska
101

102 **BOARD OF PUBLIC WORKS**
103

- 104 L. Approval of the water system leak survey by Davies Water Services for 2021, 2022 &
105 2023
106 M. Approval of Change Order #1 for 2020 Aquatic Center Resurfacing Project in the amount
107 of \$12,355
108 N. Approval of cold storage Simple Saver liner fabric installation as part of the 2019 Public
109 Works Facility Addition by EnergyCraft Systems in the amount of \$39,810.25
110

111 **PLAN COMMISSION**
112

- 113 O. Approval of the Abbey Court Apartments Planned Unit Development (PUD) Amendment
114 application filed by Abbey Court Apartments, LLC, 9447 Jancing Avenue, Sparta, WI,
115 for the purpose of subdividing the development into three (3) parcels and adding .11
116 acres of land owned by the City of Onalaska to the development located at 2097 Abbey
117 Road, 2091 Abbey Road, 2101 Abbey Road, 2107 Abbey Road, 2111 Abbey Road, 2117
118 Abbey Road (Apts. 101-410), 2121 Abbey Road (Apts. 101-308), and 2169 Abbey Road,
119 Onalaska, WI 54650 (Tax Parcels # 18-4511-300 & 18-6368-0)
120 P. Approval of the Century Place Planned Unit Development (PUD) Amendment
121 application filed by Nick Roush of Roush Rentals, LLC, 1707 La Crosse Street, La
122 Crosse, WI 54601 on behalf of CC of La Crosse, P.O. Box 1625, La Crosse, WI 54602,
123 to allow for a multi-family development on the property located at 430 Century
124 Place/2651 East Avenue North, 475 Century Place, 455 Century Place, 435 Century
125 Place, and 415 Century Place, Onalaska, WI 45650 (Tax Parcels # 18-6303-0, 18-6302-0,
126 18-6301-0, 18-6300-0 and 18-6299-0)

- 127 Q. Approval of a General Development Plan to create a Planned Unit Development (PUD)
128 application filed by Elmwood Partners Limited Partnership, 1859 Sand Lake Road,
129 Onalaska, WI 54650, to allow for Special Building Envelope Setbacks for the properties
130 located at 676 Marcou Road and 546 Marcou Road, Onalaska, WI 54650 (Tax Parcels #
131 18-4479-3 and 18-4479-4)
- 132 R. Approval of text amendments to the Unified Development Code (UDC) regarding Open
133 Space Requirements for the Medium Density and High-Density Residential Districts (R-3
134 and R-4 Districts) and such developments in the Mixed-Use Neighborhood and Mixed-
135 Use Community Districts (MU-N and MU-C Districts) in Sections 13.02.51.C. and
136 13.02.54., respectively, and parking stall striping requirements found in Section
137 13.03.21.B.4 and Table 13.03.21-1 (Off Street Parking Spaces Required)
- 138 S. Approval of a Certified Survey Map (CSM) for the Abbey Court Apartments to
139 reconfigure and subdivide two (2) parcels into three (3) new parcels at 2097 Abbey Road,
140 2091 Abbey Road, 2101 Abbey Road, 2107 Abbey Road, 2111 Abbey Road, 2117
141 Abbey Road (Apts. 101-410), 2121 Abbey Road (Apts. 101-308), and 2169 Abbey Road,
142 Onalaska, WI 54650 (Tax Parcels # 18-4511-300 and 18-6368-0)
- 143 T. Approval of a Final Implementation Plan to create a Planned Unit Development (PUD)
144 application filed by Elmwood Partners Limited Partnership, 1859 Sand Lake Road,
145 Onalaska, WI 54650, to allow for Special Building Envelope Setbacks for the properties
146 located at 676 Marcou Road and 546 Marcou Road, Onalaska, WI 54650 (Tax Parcels #
147 18-4479-3 and 18-4479-4)

148
149 **UTILITIES COMMITTEE**

- 150
151 U. Approval of Shared Ride Financials
- 152 V. Approval to set a Public Hearing date & time to discuss proposed fare increase and
153 agency fare rates for November 4, 2020 at 6:46 p.m.
- 154 W. Approval of the Transit Asset Management Plan (TAM) and approval of the Finance
155 Director to oversee the Cities requirement for TAM and Public Transportation Agency
156 Safety Plan (PTASP)
- 157 X. Update on City of Onalaska Water Utility regarding the upcoming Public hearing and the
158 proposed rates by the Public Service Commission on October 16, 2020

159
160 **PARKS, RECREATION & LIBRARY BOARD**

- 161
162 Y. Approval of contract extension for City Hall elevator maintenance services to Otis
163 Elevator Company

164
165 Motion by Ald. Stevens, second by Ald. Olson, to approve the Consent Agenda, sans Item Y.

166
167 On voice vote, motion carried.

168
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169 **Non-Consent Agenda**

170

171 **Item 6 – RECAP ITEMS PULLED FROM THE CONSENT AGENDA**

172

- 173 • Item Y: Parks, Recreation & Library Board – Approval of contract extension for City
174 Hall elevator maintenance services to Otis Elevator Company

175

176 Ald. Wulf noted she had reached out to Dan, and she also noted that no cost for these services
177 had been mentioned in the September 28 Parks, Recreation & Library Board meeting minutes as
178 a portion of the meeting was not recorded on Zoom. Ald. Wulf noted there had been an initial
179 contract with the Otis Elevator Company beginning in 2017 in the amount of \$4,968. The
180 duration of the contract initially was three years, and it increased on an annual basis based on the
181 Consumer Price Index. Ald. Wulf explained that this simply was an extension of the contract for
182 an additional three years beginning in 2021 and running through 2023. The clause in the
183 extension of the contract states that Otis Elevator Company may increase the contract on an
184 annual basis based on the CPI.

185

186 Motion by Ald. Wulf, second by Ald. Nott, to approve a contract extension for City Hall elevator
187 maintenance services to Otis Elevator Company beginning in 2021 and running through 2023,
188 and that Otis Elevator Company may increase its rates annually based on the Consumer Price
189 Index.

190

191 On voice vote, motion carried.

192

193 **Item 7 – FINANCE COMMITTEE**

194

195 A. Vouchers

196

197 Motion by Ald. Stevens, second by Ald. Olson, to approve the vouchers expended since the last
198 Common Council meeting on September 8, 2020 in the amount of \$7,155,138.90.

199

200 On voice vote, motion carried.

201

202 **Item 8 – BOARD OF PUBLIC WORKS**

203

204 A. Review and consideration of Green Coulee Road Intersection Project right of way
205 purchases

206

207 Ald. Wulf noted Jarrod had submitted to the Council two offering price reports and submittals.

208

209 Jarrod told Councilmembers they had received two offering price reports for right-of-way
210 acquisition along the Green Coulee Intersection Project. One is to Coulee Golf Bowl, Inc., in the
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211 amount of \$3,950, and the other is to ZRH General Wisconsin Partnership for \$13,800. Jarrod
212 noted right-of-way funds had been allocated within the 2020 Capital Improvements Budget for
213 these right-of-way purchases, and he told Councilmembers they are within the expected range of
214 what was budgeted.

215
216 Ald. Wulf asked Jarrod if he is recommending approval of both dollar amounts.

217
218 Jarrod said he recommends approval of both for the purchase of right-of-way for the project at
219 Green Coulee and East Main Street.

220
221 Motion by Ald. Wulf, second by Ald. Nott, to approve right-of-way purchases to Coulee Golf
222 Bowl, Inc. in the amount of \$3,950, and ZRH General Wisconsin Partnership in the amount of
223 \$13,800 for the Green Coulee Road Intersection Project.

224
225 On voice vote, motion carried.

226
227 **Item 9 – PARKS, RECREATION & LIBRARY BOARD**

- 228
229 A. Approval of Omni Center reopening plans
230 1. Ice Related Activities
231 2. Dry Floor Activities
232

233 Ald. Nott said the purpose behind these plans is to allow the Omni Center to reopen as much as
234 possible within the constraints of the COVID-19 environment.

235
236 Dan said he and city staff have been working on these plans since the COVID-19 pandemic
237 began in March in an attempt to devise ways that will allow the Omni Center to reopen, adding
238 that it has been a difficult document to craft as the situation continues to evolve and change. Dan
239 said he and staff have worked with local youth groups and the high schools so that they may be
240 accommodated in the best possible manner, and also so that the Omni Center may collect as
241 much revenue as possible. Dan noted the Parks, Recreation & Library Board had discussed this
242 topic extensively at its September 28 meeting, including mask requirements. Dan told
243 Councilmembers that Amanda had assisted in editing the reopening plans, and he noted the
244 following requirements:

- 245
246 • Masks would be required in all spaces of the facility, except for when competition occurs
247 on the ice and individuals are wearing a helmet or headgear.
248 • Groups that wish to utilize the facility will be required to create a plan and submit it to
249 staff. The plans must include how groups plan to enforce the guidelines established by
250 the Centers for Disease Control and Prevention, La Crosse County, and the City of
251 Onalaska. Dan noted he had received a document earlier Tuesday from a group that

- 252 wishes to begin the process.
- 253 • Percentages will be utilized for dry floor events. Dan admitted he struggles with having
- 254 to limit events to 50 individuals when one of the Omni Center facilities measures 28,000
- 255 square feet, and the other measures 22,000 square feet. Events will be limited to 50
- 256 individuals under the “Red” category; 50 percent occupancy will be allowed under the
- 257 “Orange” category; 75 percent occupancy will be allowed under the “Yellow” category;
- 258 and 100 percent capacity will be allowed under the “Green” category.
- 259

260 Dan noted the WIAA had released guidelines for all its winter sports, one of which is that

261 athletes are not required to wear facemasks once they begin competing. Dan said he and

262 Amanda have discussed this, and that Amanda has stated her preference that athletes wear masks

263 when competing in dry floor events. Dan also said, “This was just news because a lot of times

264 when we talk with [La Crosse] County and [its] Health Department, they’ll say, ‘Follow what the

265 WIAA is doing.’ These are the guidelines that they have come up with for their

266 recommendations to go with.”

267

268 Motion by Ald. Nott, second by Ald. T. Smith, to approve the Omni Center reopening plans for

269 ice related and dry floor activities.

270

271 On voice vote, motion carried.

272

273 **Item 10 – REPORT FROM THE CITY ADMINISTRATOR**

274 A. Introduction of the 2021 Administrative Budget

275 City Administrator Rindfleisch read the following:

276

277 *“To the Honorable Mayor Kim Smith, Common Council, and residents of Onalaska: I present to*

278 *you the Administrator-Proposed 2021 Budget for the City of Onalaska. This proposal is based*

279 *on my review of staff and committee recommendations, but necessarily uses estimates and*

280 *assumptions until the final budget is approved by you and further information, which is*

281 *unavailable at this time, is gathered and received. Like in most municipalities, the loss of*

282 *revenue due to the COVID-19 pandemic has substantially altered our financial outlook for 2021,*

283 *and beyond. This budget reflects necessary changes in staffing and services provided by the city*

284 *in order to have a balanced budget during these unprecedented times. Some key components of*

285 *this budget include:*

286

287

288

- 289 1. **Budget restraints.** *As in every year, the state imposes two kinds of budget restraints: the*
- 290 *levy limit on the revenue side of the ledger, and expenditure restraints on the expense*
- 291 *side. Exceeding the allowable levy means a reduction in state aid to offset the levy*
- 292 *overage in the current budget. Exceeding the expenditure restraint cap means the loss of*
- 293 *expenditure restraint payments, or ERP, to the city as revenue in a following budget year.*

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294 *This Executive Budget successfully meets both the levy limit and the expenditure restraint*
295 *requirements.*

296 2. **Council goals and priorities.** *This budget includes, but delays, the hiring of the full*
297 *complement of police officers and firefighters that was approved in the 2020 Budget.*
298 *Additionally, in order to continue to be a competitive workplace in the market for quality*
299 *candidates and employees, this budget includes funds to implement in 2021 the results of*
300 *the wage study currently in progress and expected to be completed by the end of 2020.*

301 3. **Services.** *Historically, 75 to 80 percent of the General Fund Budget is for wages and*
302 *benefits. As such, this budget includes the job reductions in 2021 already initiated in*
303 *2020. These were required in order to present the balanced budget. The Council,*
304 *Mayor, and public should recognize that as an already lean organization. These position*
305 *cuts will likely have an impact on the provision of public services by the city.*

306
307 *The budget presented this evening is my recommendation to the citizens of Onalaska, and the*
308 *Onalaska Common Council. I believe it represents the best way to keep Onalaska a desirable*
309 *place to live, work, and play. I look forward to assisting you in the completion of the 2021 Final*
310 *Budget. Respectfully submitted, Eric Rindfleisch, Onalaska City Administrator.”*

311
312 City Administrator Rindfleisch noted the following:

313
314 • The total levy included in this budget is \$11,819,871. This is the cap for the levy limit.
315 City Administrator Rindfleisch said, “Something to keep in mind is that as you look at
316 the programs and the budget, you’ll be unable to increase the levy to generate more
317 revenue for additional spending.”

318 • The budget shows a decrease in the expenditure restraint payment, and City
319 Administrator Rindfleisch said, “As we look forward to 2022 and beyond, we will once
320 again qualify for the expenditure restraint payments. That is provided the state still has
321 such a program come 2022 and beyond.

322 • The tax levy at this time signifies a slight decrease in the mill rate (0.05 percent).

323
324 B. Set Budget Hearing for Monday, November 9, 2020 at 6:00 P.M.

325
326 Motion by Ald. Wulf, second by Ald. Nott, to set the Budget Hearing for Monday, November 9,
327 2020, at 6 p.m.

328
329 Ald. Olson noted he will have to check his schedule as he is not in the city every other Monday.

330
331 Ald. Nott said that while he will participate in the Budget Hearing, he will have to participate
332 remotely as he suspects he will not be in the state November 9.

333
334 Mayor K. Smith told Ald. Nott the Budget Hearing is difficult to attend remotely.

335
336 Ald. Nott told Mayor K. Smith he will speak to her offline and said he cannot alter his plans.
337
338 Ald. Stevens asked if perhaps the Council could entertain a different date if there are multiple
339 conflicts.
340
341 Ald. Nott said he might be in the city if a family member gives birth earlier than her due date, but
342 he also cautioned he might have to call in if his family member goes past her due date. Ald. Nott
343 asked the Council not to adjust the schedule only for him.

344
345 Mayor K. Smith noted the city must meet a timeline pertaining to establishing the budget.

346
347 City Administrator Rindfleisch told Councilmembers the Public Hearing is intended for citizens
348 to provide the Council with input regarding the budget, and that much of the discussion and
349 debate pertaining to the budget should occur prior to the Budget Hearing; specifically, at the
350 Finance and Personnel II Committee meeting or meetings. City Administrator Rindfleisch told
351 Ald. Nott that under normal circumstances it likely would be acceptable for him to attend
352 remotely as long as he is able to hear the public and its input. City Administrator Rindfleisch
353 said, "The only other circumstances would be if the Council does not take all the action
354 necessary during the [Finance and Personnel] II [Committee] meeting."

355
356 Mayor K, Smith said there have been instances when the budget discussions that occurred at the
357 Finance and Personnel II Committee meetings have needed to be carried over to the Common
358 Council Budget Hearing. Mayor K. Smith said the Council will proceed with holding the Budget
359 Hearing on November 9, and she promised that the Council will find a way to overcome any
360 obstacles.

361
362 On voice vote, motion carried.

363
364 C. Set date/time for Finance & Personnel II meeting in October or November (possible dates
365 Wednesday, October 21st and/or Wednesday, October 28th at 5:30 P.M.)

366
367 Ald. Wulf expressed concern over holding the Finance and Personnel II meeting October 21 as it
368 is only one week away, and she noted she also had expressed concern in 2019 that the Common
369 Council had met October 8 and the Finance and Personnel II meeting was scheduled less than
370 two weeks later (October 21). Ald. Wulf said two weeks was not a sufficient amount of time for
371 her to examine the 2020 Executive Budget and meet with department heads. Ald. Wulf said she
372 would not be prepared to meet October 21, and she told Councilmembers she would appreciate it
373 if the meeting were scheduled after that date.

374
375 Motion by Ald. Stevens, second by Ald. Wulf, to set the Finance & Personnel II meeting for
376 Wednesday, October 28 at 5:30 p.m.

Reviewed 10/15/2020 by JoAnn Marcon

377
378 Ald. Wulf noted that all the alderpersons are expected to attend the Finance and Personnel II
379 meeting, and she also noted that while the three alderpersons who serve on the Finance and
380 Personnel Committee (herself, Ald. Stevens, Ald. Olson) are the only ones who may make
381 motions and seconds, everyone is allowed to participate in the discussion.

382
383 On voice vote, motion carried.

384
385 Ald. Wulf asked if the Council wishes to entertain possibly holding a second Finance and
386 Personnel II meeting, if needed. The meeting would be cancelled if it is not needed.

387
388 Mayor K. Smith asked Councilmembers how long they are willing to attend the October 28
389 Finance and Personnel II meeting.

390
391 Ald. Wulf noted some city staff members will have been at City Hall from 8 a.m. until 5 p.m.
392 and she also noted some Councilmembers will have worked all day. Ald. Wulf referred to a
393 suggestion City Administrator Rindfleisch had made at the October 6 Board of Public Works
394 meeting, which lasted 3½ hours, and she said that while she believes the meeting could have
395 lasted a little longer and the board could have removed more items from the 2021 Capital
396 Improvements Budget, she also said she believes it was a good idea for board members to stop
397 discussions at the point they did.

398
399 Ald. Stevens suggested having October 29 as an open date, should it be necessary.

400
401 Motion by Ald. Wulf, second by Ald. Stevens, to set a second Finance & Personnel II meeting
402 date, if necessary, for Thursday, October 29, at 5:30 p.m.

403
404 JoAnn said the second Finance and Personnel II meeting must be noticed, and it is acceptable to
405 cancel it with less than 24 hours' notice if it is not necessary to hold it.

406
407 On voice vote, motion carried.

408
409 **Item 11 – REPORT FROM CITY ALDERPERSONS NOTT AND OLSON**

410
411 A. Discussion on possible Resolution stating Council's opposition to Governor Evers'
412 Orders and requesting the Governor and the State Legislature to work together in drafting
413 legislation for the State's response to the Covid-19 pandemic

414
415 Ald. Nott said, "I apologize. It's not going to be as simple as what ... It's worded very well, but
416 there's a lot behind that, so it's probably going to take three or four minutes. I have some notes
417 to go through to maybe spark up the conversation. First off, I want to make really clear what my
418 concerns are not intended to be. They're not intended to be a discussion or a determination on

419 whether or not we agree or disagree with full or limited shutdowns, mask mandates, occupancy
420 restrictions, or any other mitigation strategies imposed or recommended. Of course, it can
421 always go that way, but that is not what my intent is here. Whether or not we agree with the
422 intent of any restrictions to me is irrelevant to what my actual concerns are, as I'm sure we can
423 all agree at least to some level that the ends cannot solely justify means. It's also not intended to
424 be a partisan diatribe on Republican versus Democrat behaviors, actions, or inactions. This has
425 to do with Executive and Legislative branch responsibilities.

426
427 What my concerns are is that the Governor needs to stay within the power of the Executive
428 Branch and not seize powers reserved for the Legislative Branch. And the Legislative Branch, in
429 a bipartisan manner, needs to be working together with the Executive Branch to update current
430 and develop future pandemic response legislation that will address the current pandemic and any
431 future pandemic. My last concern is that a failure to hold the Executive and the Legislative
432 branches accountable to abide by constitutional authorities and responsibilities ultimately
433 becomes a road to tyranny, which is what we fought a revolution to oppose.

434
435 A real quick review of authorities and powers which I took ... They're pretty simple concepts,
436 and you're all going to know them already. I took them from the 2019-20 Legislators Brief
437 Book – Chapter 1: Structure of Government and Law. [I have] just two quick comments.
438 Wisconsin has a tripartite form of government, with three separate but equal branches. Our
439 Constitution lists core powers of each branch and creates a separation of powers which other
440 branches may not intrude. That's taken right out of that book. The Executive Branch's core
441 powers are to execute and administer laws, programs and policies created by the Legislative
442 Branch. None of the aforementioned should be too surprising because basically those two
443 comments are reflective of our Constitutional Republic at the federal level.

444
445 Next, a real quick general timeline on what got us here. [On] March 25 we had that first stay-at-
446 home order come down from the Governor under his original Emergency Order. On May 13, the
447 Wisconsin State Supreme Court curbed the Executive Office from acting unilaterally during
448 emergencies, [which] basically restricted some of the powers. The Governor was given until the
449 20th of May to draw up a new plan with the Legislature, and neither branch acted. During oral
450 arguments, Justice [Rebecca] Bradley asked, 'Isn't it the very definition of tyranny for one
451 person to order people to be imprisoned from going to work, among other orderly, lawful
452 activities?' Chief Justice [Pat] Roggensack said in his ruling opinion that rulemaking exists
453 precisely to ensure that kind of controlling subjective judgment asserted by one unelected office
454 – this was referring specifically to Secretary of the Wisconsin Department of Health Services,
455 Andrea Palm – is not imposed on Wisconsin. Also keep in mind the Governor Evers also tried to
456 unilaterally postpone the primary election, and the Wisconsin State Supreme Court had to get
457 involved with that as well.

458
459 The Legislative Branch's elected officials at the state level have disagreed with the Governor,
460 and although they have the power to overturn any Emergency Declaration, they are not

461 redefining or repealing his actions. The legislators are largely inactive on this matter. This is a
462 situation that we're at that actually involves both branches. What do current state statutes
463 authorize? This is specifically 323.125(a)(1): *'The Governor's Emergency Powers are limited*
464 *for any one emergency to 10 days prior to the declared emergency, plus 60 days after a declared*
465 *State of Emergency.'* The state statutes do not list options to extend this period without going
466 through the Legislature. Governor Evers himself stated, as reported on July 31, that his new
467 orders are likely limited by the Wisconsin State Supreme Court May decision, but he issued three
468 more orders anyway.

469
470 Now, let's talk about the oath of office taken by all elected officials, including those sitting in
471 this room. Governor Evers and our legislators, and every person here at this table, have sworn to
472 support the Constitutions of the United States, and of Wisconsin. [Now, about] the Emergency
473 Power history, real briefly. ... Those 60-day powers were first enacted after World War II,
474 specifically in the 1940s. I believe the date was in 1947, but don't quote me on that. [It was]
475 very reasonable then. Communications and transportation, [and] technology and infrastructure
476 was very different than it is today. Many rural areas had poor roads, and could become
477 impassable during inclement weather. Not everybody even had automobiles, and even
478 telephones, especially in rural areas, were not universal. It would take several weeks to inform
479 and then convene the Legislative Branch. Today, we have robust interstate, state, and county
480 highways; [and] cellphones with voice and text and email. Telephone service and rapid
481 transportation capability is basically universal. It seems to me that the current powers are
482 obsolete, and that our legislative body should work to create conditions for current and future
483 pandemics that will avoid confusion and contention. Personally, I would start with limiting
484 gubernatorial powers to 14 days, but that's just my opinion.

485
486 So, where am I going with this? My initial proposal for a resolution is that Governor Evers cease
487 issuing emergency orders that assume legislative powers, and that the Legislative Branch work
488 with Governor Evers to determine responses to our current and future pandemics; to outline
489 limited and reasonable duties and powers for these emerging threats; and that these actions take
490 into account constitutional rights and the safety of the citizens; and that the City of Onalaska
491 considers current and future gubernatorial Emergency Orders addressing the current emergency
492 as having exceeded the Governor's powers. That's where we are at this moment."

493
494 Ald. Olson asked Ald. Nott if he is suggesting that the Common Council should send some type
495 of correspondence to Governor Evers.

496
497 Ald. Nott said, "I have a proposed resolution. Certainly, it's symbolic that shows the citizens of
498 Onalaska that we take our oaths seriously and understand that there are limits to powers within
499 each branch. But I'd have no problem if we wanted to send that resolution not just to the
500 Governor, but [also] to the Legislature. I'd send it to both parties' heads both in the Senate and
501 in the Legislature if we're going to send it out. I'd send it to all five of those folks. Right now,
502 what we have is nothing is being done by the Legislature. And the Governor, I think clearly

503 anyone who reads that statute can't come to any other conclusion [that] he has exceeded his
504 authority. He admits that he's exceeding his authority and he's doing it anyway, and that's very
505 concerning."

506
507 Motion by Ald. Nott, second by Ald. Olson, for the City of Onalaska to issue a Resolution in
508 three parts: That Wisconsin Governor Tony Evers ceases issuing Emergency Orders that assume
509 Legislative powers; that the Legislative Branch work with Governor Evers to determine
510 responses to our current and future pandemics, to outline reasonable duties and powers for these
511 emergency threats, and to take into account constitutional rights and the safety of the citizens;
512 and that the City of Onalaska considers current and future gubernatorial Emergency Orders
513 addressing the current emergency as having exceeded gubernatorial powers and authority.

514
515 Ald. Nott said, "I wanted to clarify when I said gubernatorial Emergency Orders exceeding his
516 authority, I'm talking specifically to this emergency. Under the state law he certainly has the
517 authority for a different event to have another 10 plus 60 days."

518
519 Ald. T. Smith asked if he had recently read a report stating that the courts had just determined
520 that Governor Evers could continue with the same order "because it really hasn't changed, so
521 there is an extension. That was an appellate court, I believe. It wasn't the [State] Supreme
522 Court. ... I don't know if it's going to the Supreme Court next or not. I think their thought was
523 that he was allowed to extend it – right or wrong – from the initial 30-day, to extend it because it
524 was the same standard. That's what I heard. I was just wondering if anybody else had heard
525 that."

526
527 Ald. Nott noted it is 60 days and not 30 days, and he said, "The state statute, which I referred to
528 here, actually only allows an extension that goes through the Legislature. Courts can rule the
529 way that courts rule, but I think pretty much anyone with the common understanding of English
530 can read that and understand that he doesn't get that authority. The whole purpose of these
531 emergency declarations is to allow time for the full government to gather and start having the
532 discussion and decide what we're going to do. That's the whole point of it – not to suddenly
533 crown somebody as king."

534
535 Ald. T. Smith addressed the wording of Ald. Nott's resolution and said, "I don't like the
536 opposition to Governor Evers thing, but I like the idea that we need to request the Governor and
537 the State Legislature to work together to come up with a solution, because you're right. The
538 State Legislature, where are they? Who knows where they are, no matter what side you're on.
539 Nobody is doing anything, and if we're going to do anything, I would support something saying,
540 'You two should work together to come up with solutions' without necessarily saying we're in
541 opposition to it. We're just requesting. That's how I would word it better. That's my own
542 thought."

543
544 Ald. Nott told Ald. T. Smith, "I appreciate that. Certainly what you mentioned on the second
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545 piece is a very important part of that. But again, we took our own oaths, too. And it's very clear
546 that there [is a] separation of powers. And I do think it's clear ... We're seven months into this,
547 and we're still under a Governor's Emergency Orders. I don't believe this was ever the intent of
548 an Emergency Order law that was initially passed back in the 40s. It's been modified since then,
549 obviously. I personally would like to see it, if not say the word 'opposition,' that we believe that
550 [Governor Evers] has exceeded his powers is ultimately what it comes down to – his powers and
551 his authorities as stated in state statutes. It doesn't have any kind of legal power behind that. It's
552 just letting him know that at least there's one city out there that's getting concerned that seven
553 months of kingship is enough. He's acting without any legislative authority on this, and that
554 should really concern people. It has nothing to do with what he's saying; I mentioned that early
555 on [with] the mask mandates [and] what have you. That's not my issue here. It's how we're
556 going about doing it. We are going outside of constitutional processes to do this.”

557
558 Mayor K. Smith asked Ald. Nott, “With this motion that's on the floor, are you proceeding that
559 to mean if the Council is supportive, then you would put together a formal resolution with the
560 exact wording that at that point the Council could address? Or are you saying this is the
561 resolution you would already go vote ...? How do you see this unfolding?”

562
563 Ald. Nott said, “I'm flexible. If we're moving forward, that's fine. If you're thinking that
564 maybe I put together a resolution and we consider it at another meeting ...”

565
566 Mayor K. Smith told Ald. Nott she is asking what his intention is.

567
568 Ald. Nott said, “That's fine with me.”

569
570 Mayor K. Smith said she believes the alderpersons would have several reservations about
571 agreeing to something that they do not see before them. Mayor K. Smith also told Ald. Nott she
572 does not believe he wants to spend time on a resolution if a majority of the alderpersons will not
573 support it.

574
575 Motion by Ald. Nott, second by Ald. Olson, to amend the previous motion to state that he will
576 work with city staff to produce a resolution that can be presented before the full Common
577 Council at its regular November 10 meeting.

578
579 City Administrator Rindfleisch noted Ald. Nott had addressed some of his questions, and he said
580 he believes it would be appropriate this evening to pass a motion, but without a resolution that is
581 posted for public consumption prior to that.

582
583 Amendment to the motion restated:

584
585 Ald. Steven Nott will work with city staff to draft a resolution that will be brought forward at a
586 future meeting.

587
588 On voice vote, motion carried, 4-0, with one abstention (Ald. Wulf).

589
590 Mayor K. Smith asked JoAnn to take a roll call vote on the amendment.

591
592 On roll call vote: Ald. Dan Stevens – aye, Ald. Steven Nott – aye, Ald. Jim Olson – aye, Ald.
593 Tom Smith – aye, Ald. Diane Wulf – abstain. Motion carried, 4-0, with one abstention.

594
595 Original motion, as amended:

596
597 To move forward with Ald. Steven Nott, with the assistance of city staff, drafting a three-part
598 resolution: That Wisconsin Governor Tony Evers ceases issuing Emergency Orders that assume
599 Legislative powers; that the Legislative Branch work with Governor Evers to determine
600 responses to our current and future pandemics, to outline reasonable duties and powers for these
601 emergency threats, and to take into account constitutional rights and the safety of the citizens;
602 and that the City of Onalaska considers current and future gubernatorial Emergency Orders
603 addressing the current emergency as having exceeded gubernatorial powers and authority. The
604 resolution will be considered at a future Common Council meeting.

605
606 Ald. Wulf requested a roll call vote.

607
608 Ald. Stevens said, “I was looking at this resolution as it stands with relation to what we do in city
609 government. In the amended form, it looks like we’re asking the State Legislature and the
610 Governor to work together to pass laws and do state government, which is essentially we’re
611 telling them to do their job. It seems like that’s kind of something we’d normally take for
612 granted. Just saying something like they need to work together, to me that seems very vague. If
613 this resolution is adopted, how do we gauge its success? They work together and have some sort
614 of legislation? Is it any legislation relating to COVID? Or is it different than what we’re seeing
615 right now? Are we expecting one side to budge? Does it have to be the Governor or the State
616 Legislature? What happens if they don’t? What’s the point of our resolution? Does it just fail?

617
618 I really see this as a state issue, and we have an election three weeks from today. I think the
619 more appropriate place for Onalaskans to voice their opinion on how COVID is handled at the
620 state level or regarding executive actions [and] whether you like them or you don’t like them is
621 at the ballot box in three weeks. We are not the state government. We’re not the Governor,
622 we’re not the State Legislature. We’re not a health department. We are a municipality, and as
623 such we should be doing municipal things. We should not be dictating health policy, and we
624 should not be intruding ourselves into partisan battles at the state level. Anyone wanting to
625 effect that change should bring that to the appropriate venue, which I believe is in Madison. You
626 can run for State Assembly. You can run for State Senate. This is a nonpartisan venue, and
627 really it ought to stay that way.

628
Reviewed 10/15/2020 by JoAnn Marcon

629 I would say also that, again, I don't think that knowing that this can be a contentious issue, you
630 may have half the city that likes Executive Orders that come down, and you have half the city
631 that doesn't. For us as a municipal body to take a position and say, 'This is the position of the
632 City of Onalaska' is in a way disenfranchising a portion of our citizens. Again, the appropriate
633 place for them to voice their opinion is on November 3. If anything, a single municipality
634 reprimanding state government for not doing their job is maybe not the place for an individual
635 city of 19,000 people. A better approach, if it is the will of this body to proceed with this, is
636 maybe work with other municipalities and get some sort of consensus, whether it's western
637 Wisconsin or all municipalities of between 10,000 and 50,000 people. That might seem to have
638 a little bit more weight and might be something that might be easier to buy into. I guess I'd like
639 to say I don't necessarily disagree with some of Alder Nott's sentiments, but this really is not, in
640 my opinion, the appropriate venue or utilization for such a resolution. With that said, and for
641 those reasons, I'm inclined to vote against it."

642
643 Ald. Nott said, "Going back to my very first comments, I just want to reiterate this wasn't about
644 COVID response. That's not what it is to me. To me, that's irrelevant. It's not about whether
645 we like or dislike the Executive Orders. That's not the point of what I'm bringing before us. It's
646 the process that is being used that is clearly outside the constitutional processes. We are all
647 bound by our oaths, including all of us in this meeting right now, and I just think it's very
648 important that somebody starts speaking up. Now, this is largely symbolic, but we do symbolic
649 resolutions all the time. We've voted for them multiple times already this year where we just
650 state, 'This is what we think,' and that's it. I fully understand that the City of Onalaska passing
651 this resolution will have absolutely no power or authority over what the Legislature does or does
652 not do, or over what the Governor does or does not do. But what this would do is it would be
653 providing a message that hopefully will start to resonate – I would think, I would hope – that,
654 enough already. Seven months of ruling by fiat is enough, and the Legislature and the Governor
655 need to start working together, and as you said, do their job. And that's all it says."

656
657 On roll call vote: Ald. Tom Smith – aye, Ald. Dan Stevens – nay, Ald. Steven Nott – aye, Ald.
658 Jim Olson – aye, Ald. Diane Wulf – nay. Motion carried, 3-2.

659
660 **Adjournment**

661
662 Motion by Ald. T. Smith, second by Ald. Olson, to adjourn at 7:58 p.m.

663
664 On voice vote, motion carried.

665
666
667 Recorded by:

668
669 Kirk Bey