

City Council Minutes
July 19, 2021

The Fergus Falls City Council held a regular meeting on July 19, 2021 at 5:30 pm in the City Council Chambers. Pastor Duane Smith gave the invocation and the Pledge of Allegiance was recited. Mayor Schierer called the meeting to order at 5:33 pm and the following council members were present: Hagberg, Kvamme, Rufer, Thompson, Arneson, Gustafson, Hicks, and Fish.

Approval of Agenda

A motion and second were made by Fish and Thompson approving tonight's agenda with the following additions: a grant application for Carleton Companies (ordinances and resolutions), an Airport Management Agreement (old business) and a resolution setting a public hearing for the Prairie View Development project (staff reports) and the motion carried.

Consent Agenda

The following items were approved under **Resolution #143-2021** by Gustafson: Motion approving the minutes from the July 6, 2021 City Council meeting. Motion approving the following licenses: Mechanical CR Plumbing, John's Heating & A/C; Sign Hanger Next Signs, Mortenson Outdoor Sign; Paving Derosier Masonry, Northern Edge Contracting. **Resolution #144-2021** authorizing the city to be the fiscal host for the 150th Anniversary in 2022, accepting donations for the celebration and directing such donations to the city's General Fund. The resolution was seconded by Hicks and was adopted.

Kvamme asked the item regarding an appointment be removed and he spoke about the opportunities to get involved on city boards and commissions. There are a number of upcoming openings due to expiring terms and he encouraged community members to consider serving on the city's boards and commissions. A motion and second were made by Kvamme and Rufer to approve the appointment of Krystyne Knutson/Frandson to the Human Rights Commission and the motion carried.

First Reading Ordinance 16

The council was asked to introduce an ordinance authorizing the Port Authority to issue General Obligation (GO) bonds to finance the Downtown Riverfront improvement project. This project will be done in two phases. The cost for Phase I (west block improvements) is \$4,773,471 and would require \$2,051,471 in GO bonds. The cost for Phase II (east block improvements) is \$2,101,336 and would require \$1,008,336 in GO bonds for a total of \$3,059,807 in General Obligation bonds. The city would bond for a maximum of \$3 million in bonds and would reduce the project cost further by using liquor store funds, American Rescue Plan funds and the city submitted a request for additional state bonding funds for Phase II during the 2022 State Legislative session. Ordinance 16 introduced by Fish and it was declared to have its first reading. Hicks requested staff provide a finance plan update for this project at a future meeting.

Business Development Infrastructure Program, International Drive

Greater Fergus Falls submitted a request for the placement of a new manufacturing business on Port Authority owned site on International Drive. This building would be located on a road not currently serviced by a road or city utilities. The Minnesota Department of Employment and Economic Development (DEED) has an available Business Development Infrastructure Program grant to provide up to 50% of the capital cost of the public infrastructure necessary for an eligible economic

development project. The manufacturing project is eligible for these funds and requested the city make a grant application to extend International Drive and construct city utilities to serve the potential new manufacturing building. Extending this roadway would open up additional future manufacturing options. 50% of the capital costs of the public infrastructure required is estimated at \$1,000,000. Staff has not done a financial analysis for this request, but suggested possible funding sources could come from General Obligation bonds, Enterprise Funds and American Rescue Plan funds. If the grant is successfully awarded, a detailed financial plan would be presented to the council for their approval before the grant is accepted. Hicks offered **Resolution #145-2021** authorizing the submission of a Business Development Infrastructure application for development on International Drive, which was seconded by Thompson and was adopted.

PI 5342, 7210 and 8225

Now that the council has approved the submission of a DEED grant for the extension of International Drive, the City Engineer recommended proceeding with the project design work. Moore Engineering provided a professional services agreement for the design and their services will consist of topographical collection, street, storm, sanitary, a sanitary lift station and watermain design. They would also need to evaluate a wetland delineation and mitigation plan along the preliminary street alignment. If the DEED grant is not successful, the city would have the ability to suspend design work and Moore Engineering would only invoice the city for costs incurred. At a minimum, the City Engineer recommended the street design and potential wetland impacts be determined for future growth and expansion. The design work would be funded by future project allocations. Arneson offered **Resolution #146-2021** initiating Public Improvements 5342, 7210 & 8225; to combine PI 5342, 7210 & 8225 into City Project 5957 and to accept Moore Engineering's professional services proposal for design in the amount of \$108,000. The resolution was seconded by Kvamme and was adopted.

Business Development Infrastructure Program, Carleton Companies

NeTia Baumann of Greater Fergus Falls asked the city to consider submitting a Business Development Infrastructure application to support an extension of Weyren's Road to benefit the new development proposed by Carleton Companies as well as other businesses in their area. Matching funds (50%) for this \$1,000,000 grant would need to be secured. Baumann spoke about the economic impact and opportunities for manufacturing businesses in the area. Kvamme offered **Resolution #147-2021** authorizing the submission of a Business Development Infrastructure application for the Carleton Rail Access project, which seconded by Hagberg and was adopted.

Resolution of Accounts

Fish offered a resolution authorizing payments and claims in the amount of \$1,053,849.15, which was seconded by Hagberg and was adopted.

Prairie View Development

On June 21, 2021 the City Council authorized the city to retain the consulting services of Baker Tilly regarding a tax abatement for Prairie View Development as requested by Donovan Rogness. Their proposal calls for the development of twin homes and rental houses on the vacant land on Park Street, on the former Regional Treatment Center grounds. After extensive conversations with staff, the bond attorney and Mr. Rogness, it has been agreed the project is better served with the use of tax increment financing. This type of financing could capture the increased value and use the tax increment funds to make the bond payments. Tax increment financing can be used for income eligible housing projects. The income eligibility qualification of \$93,100 for a one or two person household and \$107,065 for a

household of three or more would need to be observed through the initial sale of property. Baker Tilly's analysis would determine the "but for" test that this project would not happen but for the use of tax increment financing. The costs of the financial analysis would be paid by the developer and he has already paid the \$2,000 administrative fee plus \$15,000 escrow. Hicks offered **Resolution #148-2021** affirming the city's support for retaining the consulting services of Baker Tilly regarding a tax increment financing district from Prairie View Development as requested by Donovan Rogness, which was seconded by Gustafson and was adopted.

TIF Hearing Date Set

Fish offered **Resolution #149-2021** setting a public hearing for the proposed establishment of a tax increment financing District 4-14 within Development District No. 4 for September 7, 2021 at 5:30 pm. The resolution was seconded by Rufer and was adopted.

Airport Manager

On July 6 the council adopted Resolution #141-2021 approving a Fixed Based Operator/Airport Management Agreement with Sky Crew Services LLC. Since the July 6 meeting, the working group received an email from Sky Crew Services stating they were not satisfied with the contract and they would not be signing it. Arneson spoke about the meeting between the working group for the Airport Manager position and Sky Crew Services on June 23 to finalize the contract where they discussed the concerns Sky Crew Services had about weed spraying, mowing, hangar doors, Otter Tail Power lease agreement, hours of operation and equipment and insurance. The city conceded on all items unless it was determined the action was required by the FAA. Sky Crew Services is now requesting three additional major changes from the contract that was approved on July 6 and these changes are tied to costs to the city.

Under Article 4: Compensation. The city contract states a guaranteed rate of \$90,000 annually for the contract. Sky Crew Services made the following written request "This has to be \$7,500 or \$6,000 and we bill for actual hours without a cap.

Task 4: Fuel Sales. Fuel Storage Trucks: The city's contract reads "No additional fuel storage trucks will be allowed on the airport other than trucks making transport deliveries. Delivery of fuel from a fuel truck to a refueler or fuel storage truck is strictly prohibited." Sky Crew Services asked to have this line removed completely.

Fuel System Maintenance: The city's contract reads "Delivery of fuel from a fuel truck to FBO's refueler or fuel storage truck is strictly prohibited." Sky Crew Services asked to have this line removed completely. Additionally, they made the following written request "Add FBO is entitled to reduce flowage fee for each calendar day the fuel system has malfunctioned by \$200".

When the FBO/Airport Management position process started two years ago, the city was aware the contract was out of date with the aviation industry's best standards. The city looked to neighboring communities such as Moorhead, Detroit Lakes and Alexandria to provide their updated contract language. The working group created a contract that would provide Sky Crew Services with a path of success using their proposed deliverables from their interview. Arneson was frustrated that Sky Crew Services is now telling people the city is creating roadblocks and being hard to work with when the contrary is true. The city conceded on a majority of their requests to maximum extent practical possible and were surprised when they received the additional written comments on July 16, after a

contract was finalized and approved by the council. A motion and second were made by Arneson and Fish to allow staff to work through the immaterial changes to the contract proposed by Sky Crew Services, but to not deviate from the three material changes they requested and to give Sky Crew Services until July 23 at noon to sign the contract. If they elect not to sign the contract, then this topic would be added to the July 28 Committee of the Whole meeting agenda for council discussion and staff would come ready with a recommendation with next steps.

City Attorney Rolf Nycklemoe said since there is no signed agreement in place, the council is free to continue discussions so the contract can be completed. The floor was opened for discussion. Hicks understood there is frustration on both sides and he did not feel the council should make a decision tonight. He commented on what he felt was an excessive number of pages (46) for a city contract and encouraged the council to allow Sander Habraken of Sky Crew Services to share their side of the story. Hagberg said the contract approved by the council on July 6 mirrored the deliverables Sky Crew Services provided in their interview and the length of the contract was due to the deliverables they had promised had been inserted into the document. She suggested maybe Sky Crew Services is realizing the entirety of the responsibilities of running an airport now that the expectations are in print. Arneson felt there was a good and productive conversation with Sky Crew Services on June 23 that addressed all of the outstanding issues and he was surprised they were bringing so many changes after the contract had been finalized. He felt their requests for more compensation and fuel sale charges should have been worked out prior to a contract being finalized.

Sander Habraken addressed the council and agreed there have been good conversations with the city. He said there were multiple versions of the document and they felt they needed to read the contract word for word to ensure they fully understood the contract and felt rushed for time. He felt the language requiring the delivery of fuel from a fuel truck to the FBO's refueler or fuel storage truck is strictly prohibited was unnecessary. He said putting the fuel in and out of the city's truck creates unnecessary wear and tear on city equipment and said they could use their own fuel truck, which they could monitor and report the amount of fuel being delivered and dispensed. They wanted the language added that would entitle the FBO to reduce the flowage fee for each calendar day the fuel system has malfunctioned by \$200. They are requesting compensation of \$7,500 per month or \$6,000 per month and they be allowed to bill for actual hours without a cap. He felt the contract, although too lengthy in his opinion, can be salvaged with more discussion and stated they want to ensure they can deliver on all of the points before signing the contract.

Nycklemoe said contracts are meant to be reviewed, be current and hold feet to fire. This contract is actually 18 pages including signatures, which is not out of line considering the size of the neighboring community's documents and the need to update our contract which was out of compliance with the most recent aviation industry standards. Twenty pages of the document are the deliverables that Sky Crew Services provided in their interview. These responsibilities are not unreasonable and should not be unexpected for running an airport. The city is taking a risk by hiring an Airport Manager/FBO without experience and the details laid out in the contract will help Sky Crew Services find success if they follow the deliverables. Arneson said the working group was aware the contract was outdated and their input, along with the Sky Crew Services interview proposals were used as a guide to write the contract. Rufer felt the sticking points could be addressed with more conversation tonight. Questions about mowing responsibilities, and reimbursements from the city and state were reviewed. Mowing and snow removal invoices are to be submitted to the city monthly and a quarterly reimbursement request is then forwarded to the state. Habraken felt they are taking a risk of losing

money if there are excessive amounts of snow removal or mowing to complete. He also commented on the fuel charges and felt they could self-monitor the fuel being dispensed and provide invoices to the city. Both the City Attorney and Finance Director said the fueling system was set up to go through the city's system for auditing purposes and were opposed to using any system other than the city's.

After asking the council how they would like to proceed, Rufer said he wanted a final contract to review. Nycklemoe suggested bringing this discussion back to the Committee of the Whole meeting on July 28 after re-distributing a final contract showing all changes in red-line fashion to Sky Crew Services and the council. Thompson was concerned with the lack of accountability in their proposed fueling scenario and did not want the city to veer from their contract language. Arneson amended his motion to give staff until July 28 to come up with their final recommendations for a contract with Sky Crew Services, which was seconded by Fish and was adopted by the following vote: AYE: Hagberg, Kvamme, Rufer, Arneson, Gustafson, Hicks, and Fish. Thompson did not cast a vote.

The meeting adjourned at 6:44 pm

Lynne Olson