

City Council Minutes
September 7, 2021

The Fergus Falls City Council held a regular meeting on Tuesday September 7, 2021 at 5:30 pm in the City Council Chambers. Pastor Kate Bruns gave the invocation and the Pledge of Allegiance was recited. Mayor Schierer called the meeting to order at 5:33 pm. Council members in attendance were Arneson, Gustafson, Hicks, Hagberg and Kvamme. Thompson, Fish and Rufer were absent.

Approval of Agenda

A motion and second were made by Hicks and Hagberg approving the agenda and the motion carried.

Life Saving Award Ceremony

Chief Bergren presented a Citizens Award to Joseph Meyer who came to the aid of his father who was choking.

TIF Public Hearing

Prairie View Development is proposing the development of a new residential housing project on the former RTC campus. The project entails the creation of 36 new owner-occupied twin homes and 10 new rental townhomes. Construction would begin this fall and be completed within 6 years. The developer is requesting a Housing Tax Increment Financing (TIF) district be created to provide financial assistance within the development of the site. The public purpose of the plan fulfills a need to develop an area that would provide safe, decent and sanitary housing for all residents of the city, improve the tax base and general economy of the community. The creation of a TIF district requires certain criteria be met related to the sale and occupancy of the homes and determines the proposed development would not occur solely through private investment within the reasonably foreseeable future. The city retained the services of Baker Tilly to ensure this criteria is being met. Tom Denaway explained 95% of the 36 twin homes be initially purchased and occupied by individuals whose family income is less than or equal to an income limitation of \$107,065. The developer is required to maintain a certain percentage of the rental townhomes be set aside for persons meeting that following income thresholds: either 20% of the units be set aside for persons whose income is equal to or less than 50% of the area median income or 40% of the units are for incomes meeting less than 60% of the median income. Each year the developer must certify their units are being occupied by residents within these guidelines and provide proof to the city prior to receiving the payments.

The TIF projections are based on a taxable per unit market value of \$289,760 for the owner-occupied units and a market value of \$176,000 per unit for the rental townhomes. Baker Tilly has determined the financially feasible rates of return without assistance was 4.05% while with TIF assistance is 7.28%, meaning the project would not occur if not for the TIF funding. The TIF plan provides the city with the budget authority to enter into future TIF development agreements and sets the overall budget for reimbursements and obligations for these agreements. Once the district is created, it will be defined by certain obligations and the district must stay within the prescribed boundaries. Once the obligations have been met, the district will be decertified. The term of the district is for the maximum timeframe of 26 years as allowed by state law, but could be shorter once the specific terms are specified in the Development Agreement. The estimated public cost of the TIF district is \$4,889,087. This covers TIF eligible costs related to acquisition, site improvements, and public improvements, interest on bond obligations and administrative expenses for the city to administer the district. The city will be financing the development's infrastructure improvements and the TIF revenues will be used to

make the bond payments. The first owner of the housing units are must be income qualified, whereas subsequent sales do not count towards the income requirements. The assessments stay with the property until they are paid in full. Tonight the council is being asked to hold a public hearing and consider the approval of the establishment of a TIF housing district and the tax increment financing plan. At a later meeting, they will be approving the Development Agreement. The public hearing was opened at 6:05 pm and as no one appeared, the hearing was closed. Arneson offered **Resolution #179-2021** Establishing Tax Increment Financing (Housing) District No. 4-14 within Development District No. 4 and approving the Tax Increment Financing Plan therefor, which was seconded by Gustafson and was adopted.

Campus View Estates Petition

Donavan Rogness, the property owner for Campus View Estates submitted a petition and fee requesting sanitary sewer main, watermain, lateral services and permanent stormwater facilities to serve Block 1, Lots 1-9, Block 2, Lots 1-14, and Block 3, Lots 1-14 of the Campus View Estates Addition plat. The petition meets the requirements of City Code and Minnesota Statute 429. The Engineering Department and Interstate Engineering would prepare a preliminary engineering report on the estimated project costs and method for special assessment at a future preliminary project hearing. The infrastructure project is proposed to be funded with General Obligation bonds with special assessments and reimbursed through the proposed TIF District. Kvamme said he is not opposed to this development, but thinks the project should include elements of historic design since it is within the RTC historic district. He would like to see the project offer additional parking lots that could be utilized by the apartment complex on the campus and have market value rather than income limits for the proposed houses. Design standards can be a part of the Development Agreement, and the state statutes dictate the TIF income limits. Arneson offered **Resolution #180-2021** accepting the petition from Campus View Estates Development and initiating PI 5345, 7211 and 8226, which was seconded by Hagberg and was adopted.

Consent Agenda

The following items were approved under **Resolution #181-2021** by Hagberg: Motion approving the minutes from the August 16, 2021 City Council meeting and the September 1, 2021 Committee of the Whole meeting. Motion approving the following licenses: Mechanical Mission Mechanical Inc.; Paving Mark Lee Asphalt & Paving; **Resolution #182-2021** authorizing the continuance of billing flat rates for utilities when a property is disconnected for delinquency. **Resolution #183-2021** accepting Interstate Engineering's professional services proposal amendment for design not to exceed \$25,000 and authorizing an increase in the scope of PI 5344 to include Cavour Avenue from Cascade Street to Friberg Avenue and Whitford Avenue from Cavour Avenue to Summit Avenue. **Resolution #184-2021** authorizing the purchase of a WILKENS walking floor trailer. **Resolution #185-2021** setting a public hearing on October 4, 2021 at 5:30 pm in the City Council Chambers to consider the abatement of the property located at 634 W Stanton Avenue. **Resolution #186-2021** approving a street light contract with Otter Tail Power Company for Union Avenue. **Resolution #187-2021** approving a final plat for Campus View Estates. The resolution was seconded by Gustafson and was adopted.

Ordinance 13

Ordinance 13, Eighth Series, Public Nuisances was introduced by Hicks and was declared to have its first reading.

Ordinance 17

Ordinance 17, Eighth Series, Amending the zoning map from R-1 to R-4 for Campus Addition as requested by Prairie View Development was adopted by a roll call vote.

PI 9771

The city has been working with Houston Engineering on PI 9771, the Fergus Falls Closed Landfill (SW-184). The work plan and testing are complete and the MPCA has requested two additional nested monitoring wells be installed to confirm contamination is not spreading. The wells would be placed on private property with the consent of the property owners. Staff are seeking council action to accept Houston Engineering's professional services proposal in the amount of \$72,011 and authorizing staff to initiate ingress/egress negotiations with the property owners. Funding would come from the post closure fund dedicated to expenditures such as this. At last week's Committee of the Whole meeting, Kvamme asked staff to request a delay from the MPCA if this is not an immediate need. Staff confirmed they made a request, but have not heard anything back yet. Hicks offered **Resolution #188-2021** accepting Houston Engineering's professional services proposal in the amount of \$72,011 and authorizing staff to initiate ingress/egress negotiations with the property owner, which was seconded by Arneson and was adopted.

PI 5333 Construction Administration

Bolton and Menk have submitted a professional services agreement for construction administration in the amount of \$98,000 for PI 5333, the Union Avenue street and pedestrian improvement project from Junius Avenue to Lincoln Avenue. Central Specialties was awarded the bid and planned to begin work in September. However, due to unforeseen shortages in materials and shipping delays, they have asked for a change order to delay work on the project until the spring/summer of 2022. Gustafson offered **Resolution #189-2021** accepting the professional services agreement for construction administration from Bolton and Menk in the amount of \$98,000 and authorized Change Order No. 1 delaying work on the project until 2022, which was seconded by Arneson and was adopted.

Developer's Agreement for Westridge Addition Plat

The city entered into a Development Agreement with Westridge Mall Associates Inc. after a recent replat of the Westridge Mall parcel. The agreement ensures each separate parcel has their own utility services and fire walls that comply with fire codes. The mall owner intends to cooperate with the terms of the agreement that states the improvements would be complete prior to the sale of the property, but cannot find contractors available to do the work within the prescribed timeline. The mall owner is asking the sale be allowed without completing the work and has offered the following four guarantees:

1. Signed contracts between Westridge Mall Associates Inc. and all contractors need to complete the work with a completion date of July 1, 2022 or sooner.
2. A signed contract between Westridge Mall Associates Inc. and Interstate Engineering to act as project manager and administer the contracts between the owner and the contractors.
3. Evidence of an escrow account that shall hold the sum of 110% of the sum of the total contracts with all contractors and Interstate Engineering to ensure contractors are paid including any potential change orders.
4. A signed agreement from the potential buyer of the property acknowledging they understand and agree to have this work done on this schedule.

Alex Schwarzhoff of Interstate Engineering commented on the consequences of a possible default. He explained all contracts include liquidated damages to incentivize work is complete. Two of the three contractor quotes have been submitted and these contractors believe they can get the work done over the winter months and comply with the July 1 deadline. Additionally, the city would not issue a Certificate of Occupancy until the work is done, inspected and in full compliance. Kvamme offered **Resolution #190-2021** approving a modification to the Development Agreement between Westridge Mall Associates and the City of Fergus Falls, which was seconded by Arneson and was adopted.

Resolution of Accounts

Hagberg offered a resolution authorizing the payments and claims in the amount of \$3,086,296.37 which was seconded by Gustafson and was adopted.

Broken Down Dam

RC Drews, representing the Heritage Preservation Commission shared photos of the condition of Broken Down Dam and a list of priority recommendations they requested the city to undertake. He suggested cooperative work with the Park Board and the Heritage Preservation Commission to come up with a plan for the upkeep and repair of the park. A motion and second were made by Kvamme and Hicks to direct staff to work with the various boards and commissions over the next ten weeks to develop cost estimates and a plan detailing how the city should proceed and the motion carried.

PI 9768 Change Order

Phase I work on PI 9768, the Downtown Riverfront project is ongoing. The majority of the marketplace structure foundation and utility work has been completed and staff has received enhancement requests for the project during the final design phase. Some of the additional work was integrated into the bidding documents as bid alternates while others were not due to the additional time required to evaluate the feasibility of the requests. Comstock Construction provided cost estimates for three of the requested project enhancements. If approved, materials would need to be acquired soon to maintain the project schedule.

1. Vendor utility access proposal request	\$35,200
2. Brick column archway proposal request	\$97,012.43
3. Rain garden proposal request	\$23,166.34
Total	\$155,378.77

The City Engineer Brian Yavarow described each enhancement and said the first item could be funded by the water and sanitary sewer enterprise fund. The second and third projects could be funded by additional bonding funds or private donations. It is possible the rain garden could be an eligible expense from the stormwater utility fund. Arneson offered **Resolution #191-2021** accepting Comstock's proposal for the three enhancements which was seconded by Hagberg. Hicks felt \$100,000 was too much for pillars in the archways. Yavarow said the brickwork in the pillars was initially proposed, but was scaled back for budgetary purposes. City Finance Director Bill Sonmor said the city does not have these funds in the budget and the city's options are to either change the amount of bonding or carry the costs until Phase II of the project. He was more inclined to carry the costs over to the next phase rather than change the amount of bonding. Arneson felt \$100,000 was a small amount in the overall scope of the project and he was in favor of implementing the changes now rather than looking back and wishing the project had these desired features later. Kvamme asked if there would be similar signage in Phase II and he spoke about the delay sign companies are seeing in materials. There will be a smaller sign on the east side of the project as well as kiosks. The resolution

was called to a vote and failed to get the five affirmative votes required as Hicks voted in opposition. Arneson stated his belief it was wrong to not move forward on these enhancements and said it is the time to do a project and to do it right. Hicks felt the project was already expensive and these change orders make it even more costly. Gustafson asked if the council could separate the three items and vote on them individually. Hicks stated he was being bullied for not agreeing with the other council members. He said it was not democratic to change the rules to get the answer they want and left the meeting leaving the council without a quorum. The City Attorney was asked if the council could bring an item back for reconsideration after a resolution has failed. He agreed it is within the council's authority as a governing body to revisit an item that has not yet passed when there is a quorum present..

The meeting adjourned at 7:14 pm

Lynne Olson