

Committee of the Whole Minutes  
November 2, 2022

The Fergus Falls City Council met as a Committee of the Whole on Wednesday November 2, 2022, at 7:00 am in the City Council Chambers. Mayor Schierer called the meeting to order and the following council members were in attendance: Hicks, Fish, Hagberg, Kvamme, Thompson and Gustafson. Rufer and Arneson were absent.

**MPCA Update on PFAS Sampling**

The Minnesota Pollution Control Agency (MPCA) is working on an initiative to determine the presence of per-and polyfluoroalkyl (PFAS) chemicals in landfills. These substances are found in food packaging, upholstery, carpeting, clothing, firefighting foam, and construction materials. While they have some useful traits, these “forever chemicals” may be creating environmental concerns. The MPCA would like to prevent PFAS pollution whenever possible, manage its pollution when prevention is not feasible or if pollution has already occurred and clean up PFAS pollution at contaminated sites. The information they gather would allow them to craft effective policies around PFAS, incorporate this into MPCA programs, identify areas of concern that warrant quick action and support source reduction and pollution prevention. The MPCA prioritized this data collection to landfills with drinking water advisories, facilities with land application of leachate, landfills with unlined areas, compost facilities and lined land disposal facilities based on the risk to human health and the environment. They will use the data to protect human health and the environment, determine where reduction efforts should be prioritized and facilitate the development of an agency-wide regulatory strategy for PFAS. The MPCA would like to enter a Memorandum of Understanding (MOU) with the city to monitor the levels of contamination at the closed landfill. The city has already begun the process of monitoring wells and determined no residential drinking wells have been impacted. The MPCA will pay for one lab approved sampling if the city enters this MOU by mid-November and complete the sampling by June 30, 2023. The city would be responsible for the cost of the second sample which is estimated to cost \$2,000-\$4,500 and this expense would be covered by the city’s closed landfill assurance fund. There is no funding source from the state identified for any remediation work that may need to be done. The Minnesota Department of Health currently makes the determination on the acceptable levels of contamination and while the testing program is voluntary at this point, there is an expectation it will become mandatory once more coordination is completed with the federal government.

Otter Tail County Solid Waste Manager Chris McConn clarified the low levels of contamination that have been found and shared his thoughts that more work should be done to regulate and discontinue the manufacturing of the PFAS products. The county has chosen to not participate in the voluntary program. City Engineer Brian Yavarow asked the council to consider entering into a Memorandum of Understanding with the MPCA to sample the influent wastewater conveyed to the city through the Waste Water Treatment Plant. If the MOU is approved, the city would sample in 2023 and develop a PFAS Pollutant Management Plan. The estimated cost to provide the testing is \$1,600-\$2,000 annually with the sanitary storm sewer enterprise fund to be the funding source. A motion and second were made by Hicks and Thompson to recommend the council authorize staff to enter into the Memorandum of Understanding (MOU) between the City’s WWTP and the Minnesota Pollution Control Agency as a part of the statewide monitoring plan for Per- and Polyfluoroalkyl Substances (PFAS) and the motion carried with Kvamme voting in opposition.

### **Update on Downtown Riverfront Project Phase II Ordinance**

The Fergus Falls Port Authority issued \$1,460,000 in General Obligation Bonds, Series 2021A for the construction of the Downtown Riverfront Project, Phase I improvements. In August of 2021, the City Council adopted Ordinance 16, Eighth Series that provided the Port Authority with the authorization to issue bonds up to \$3,000,000 to finance the downtown riverfront improvements. The council awarded the Phase II construction contract on September 19, 2022 and bonds will need to be issued by the Port Authority to finance a portion of the construction and fundraising to be collected from 2024-2027. The Phase II bonds are estimated to be \$2,125,000. Staff is requesting the original \$3,000,000 bonding authority be expanded to \$3,700,000 to provide the capacity to finance the receipt of donations received from 2024-2027. The bonds are anticipated over a 15 year term and the annual property tax levy for debt service on the bonds is estimated at \$140,000. A motion and second were made by Hagberg and Gustafson to direct the city to adopt an ordinance expanding the bonding authority of the Fergus Falls Port Authority for an additional \$700,000 for the Downtown Riverfront Project, Phase II and the motion carried. The first reading of the ordinance is planned for November 7.

### **Zoning Update for THC Edibles, Beverages, and Manufacturing**

The Planning Commission has been working on proposed language revisions to Chapter 154 of the City Code after the Minnesota State Legislature amended Minnesota Statute 151.72 allowing for the sale of certain edibles and beverages infused with tetrahydrocannabinol (THC), the cannabis ingredient extracted from hemp. The following changes have been suggested:

- Define hemp derived tetrahydrocannabinol (THC) edibles and beverages, hemp processing/manufacturing and hemp/industrial hemp
- Restrict the sale of THC edibles and beverages to B-3, B-5 and B-6 zones
- Amend City Code 154.038, B-3 General Business District, Section B permitted uses to include “retail establishments selling THC edibles and beverages”
- Allow for the manufacturing of THC edibles and beverage products in a zone I-2 (and by extension I-3)
- Amend City Code 154.041, I-1 Planned Industrial District Section B permitted uses to include “hemp processing or manufacturing”
- Permit “hemp processing or manufacturing” by Conditional Use Permit in I-1, B-3, B-5 and B-6 zones

Definitions in City Code Chapter 154.002 should be amended to include:

- Hemp-derived tetrahydrocannabinol (THC) edibles and beverages: any product that is intended to be eaten or consumed as a beverage by humans and contains THC in combination with food ingredients
- Hemp processing or manufacturing: “Processing” means rendering by refinement hemp plants or hemp plant parts from their natural or original state after harvest. Processing includes by is not limited to decortication, devitalization, chopping, crushing, extraction, combining cannabinoids with food ingredients and packaging. Processing does not include typical farm operations such as sorting, grading, baling, and harvesting.
- Hemp or industrial hemp: “Industrial hemp” means the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, including the plant’s seeds and all the plant’s derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight

basis. Industrial hemp is not marijuana as defined in Minnesota Statutes Section 152.01, subdivision 9.

The Planning Commission and local affected business owners are favorable to these suggestions and do not feel this is overly restrictive. The zoning area recommendations match the zoning provided to tobacco sales. Otter Tail County is proposing a moratorium and if the city has their own rules in place, it gives the city the ability to opt of the moratorium, which will help local businesses. A motion and second were made by Hagberg and Gustafson to recommend the council direct the City Attorney to draft these amendments to City Code Chapter 154 as recommended by the Planning Commission and the motion carried.

### **PI 9350, Airport Automated Weather Observation System**

In June of 2022 the council awarded the construction services contract for PI 9350, the Airport Automated Weather Observation System to Neo Electrical Solutions contingent upon the receipt of a state grant offer. Since awarding the bid and the submission of the grant application, the power source to serve this new site was altered. The FAA is requiring an updated exhibit due to the addition of a new utility easement. Due to the time and cost the city requested Neo Electric to provide a price to install the power source from the existing Glide Slope transformer. The final state grant agreement reflects the revised power feed net increase of \$40,000 and a change order would be issued to reflect the contract revision. The total estimated project cost is \$165,120 and the city would be responsible for 30% of the cost, \$49,536. The cost would be funded by Fund 456. A motion and second were made by Fish and Thompson to recommend the council accept Minnesota State Grant Agreement (No. 1050807) for PI 9350 and the motion carried.

### **Otter Tail Power Utility Easement Request**

Otter Tail Power requested an easement from the city north of Pisgah Dam and south the BNSF railroad on city owned property primarily used as an access into the abandoned Wastewater Treatment Plant. Otter Tail Power would install three new electric power poles with guy wire supports and overhead electric lines as a part of their Express Feeder project. A permanent utility easement is needed to facilitate construction and although an existing city owned watermain lies within the pending easement, adequate separation can be achieved. The new overhead lines must maintain 20 feet of clearance from the overhead conductors to the access road existing grade. Otter Tail Power Company will pay for all recording fees and there are no other fees associated with this request. A motion and second were made by Hicks and Fish to recommend the council authorize staff and the City Attorney to execute Otter Tail Power's easement request and the motion carried.

### **Gifting Art to the Otter Tail County Historical Society**

During a tour of the Regional Treatment Center in 2021 staff found drawings and artwork abandoned in a closet. The Otter Tail County Historical Society was able to identify the work as that of a patient and asked the city to consider donating this artwork to them so it can be viewed by the public and properly preserved. A motion and second were made by Fish and Kvamme to recommend the council authorize staff to execute a deed gifting miscellaneous art from the RTC campus to the Otter Tail County Historical Society and the motion carried.

The meeting adjourned at 7:57 am

*Lynne Olson*