

City Council Minutes  
January 3, 2023

The Fergus Falls City Council held a regular meeting on Tuesday January 3, 2023 at 5:30 pm in the City Council Chambers. Chaplain Burke Lindvall gave the invocation and the Pledge of Allegiance was recited. Mayor Schierer called the meeting to order at 5:34 pm and the following council members were in attendance: Arneson, Thompson, Gustafson, Hicks, Fish, Hagberg, Kvamme and Rufer.

**Approval of Agenda**

A motion and second were made by Fish and Rufer approving tonight's agenda as proposed. Earlier tonight at the open forum a point was addressed about having the new council seated immediately to carry out tonight's business as per City Code 31.25 regarding the council reorganization and the language stating at its first regular meeting in January, the Council shall, in the order herein stated and prior to commencing its regular order of business, reorganize by:

- a) Having all new officers and officials take and subscribe their oath of office;
- b) Seat all new members of the Council;
- c) Select a Mayor pro term;
- d) Select a Secretary of the Council who may be the City Administrator and,
- e) Perform other organizational acts or functions as may be permitted or required.

Hicks proposed the new council be sworn in and charged with conducting all business on tonight's agenda. He cited state and federal governments do not have a transition in duties and asked the council to reconsider the motion. Mayor Schierer agreed the code language may not be fully clear, but the city past practices have been to have the "old council" conduct the "old business" while the "new council" attends to the "new business". He said the council told the public they would be acting in that manner as a part of our orderly procedure. The Charter Commission has been asked to look at that language at their April meeting and make a determination if the process should be refined. Schierer also stated that nothing the "old council" does tonight cannot be undone by the "new council". The motion was called to a vote and carried with Hicks voting in opposition.

**Public Hearing Ordinance 34, Shoreline Management**

In 2021 the DNR informed the city they must amend their shoreline ordinance to include waterbodies within its municipal boundaries following annexation. The city and DNR have worked together on revised language to include all water bodies over a certain size within the current city limits; update the height limit of buildings to 30 feet to match other zoning code regulations; designating the part of the river known as the Pisgah Reservoir as General Development, thus reducing the required setback area and updating the city's Planned Unit Development (PUD) section, exempting future developers from having to seek DNR approval for new PUD applications. A public hearing opened at 5:42 pm and as no one appeared, the hearing was closed.

**Ordinance 34, Shoreline Management**

Ordinance 34, Shoreline Management was introduced by Fish and declared to have first reading.

**Retirement-Lori Beske**

Fish offered **Resolution #1-2023** acknowledging the retirement and 38+ years of service from Lori Beske, which was seconded by Hagberg and was adopted.

## **Consent Agenda**

The following items were approved under **Resolution #2-2023** by Rufer: Motion approving the minutes from the December 19, 2022 City Council meeting. Motion approving the following licenses: Minnesota Lawful Gambling Permit MN Darkhouse and Angling Association, West Otter Tail County Chapter for raffle on April 20, 2023 at the American Legion. Metal Recycling Northern Metal Recycling. Mechanical McDowall Company, Esser Plumbing & Heating, Joe's Heating & A/C, All Seasons Heating & A/C, Fergus Home & Hardware. Full On Sale Liquor License Union Avenue Bar and Eatery/Toast/Roasted Meal Prep and Catering, Fergus Falls Lodging/Grey Duck Grill. **Resolution #3-2023** designating the Daily Journal as the 2023 legal publication. **Resolution #4-2023** designating the 2023 depositories. **Resolution #5-2023** delegating the City Administrator, Finance Director, Assistant Finance Director, Payroll Officer and Human Resources Director the authority to make 2023 electronic fund transfers on behalf the City of Fergus Falls. **Resolution #6-2023** adopting the 2023 Elected Officials Out of State Travel Policy. The resolution was seconded by Thompson and was adopted.

## **Ordinance 35, THC Product Sales**

Ordinance 35, Eighth Series, THC Product Sales was adopted by a roll call vote.

## **THC Product Sales License Fee**

A motion and second were made by Hicks and Gustafson to add a \$500 license fee to businesses wishing to sell THC products and incorporate the fee into the 2023 fee schedule and the motion carried.

## **Opt Out of Moratorium**

Upon the passage of the city's THC Product Sales Ordinance, the city must adopt a resolution formally opting out of Otter Tail County's proposed moratorium. Thompson offered **Resolution #7-2023** opting out of the Otter Tail County THC Product Sales Moratorium, which was seconded by Hicks and was adopted.

## **Resolution of Accounts**

Fish offered a resolution authorizing the payments and claims in the amount of \$596,584.46, which was seconded by Hagberg and was adopted after several questions were addressed.

A motion and second were made by Hicks and Fish to adjourn sine die and Mayor Schierer expressed the city's thanks to outgoing council members Justin Arneson, Karoline Gustafson and Krista Hagberg. He commented on the remarkable amount of work accomplished over the past four years by the City Council and wished them well.

## **Swearing In of New Council**

Newly elected council members Laura Job (Ward One), Scott Kvamme (Ward Two), Al Kremeier (Ward Three) and Scott Rachels (Ward Four) were sworn into office by City Attorney Rolf Nycklemoe.

## **Rules of Procedure**

A motion and second were made by Hicks and Rachels to adopt the Rules of Procedure of the City Council as per City Code 31.27 and the motion carried.

## Acting Mayor

A motion and second were made by Fish and Rufer nominating Scott Kvamme to serve as the 2023 Acting Mayor. Laura Job nominated Anthony Hicks as the Acting Mayor and the council was asked to vote on the original motion. The motion carried with Rufer, Rachels, Fish and Thompson voting in favor of Scott Kvamme. Job, Kremeier and Hicks voted in opposition and Kvamme abstained.

## 2023 Mayor's Appointments

A motion and second were made by Rachels and Hicks approving the Mayor's council appointments as follows:

Board of Equalization:	Ward One Laura Job	Ward Two Scott Kvamme
	Ward Three Al Kremeier	Ward Four Scott Rachels
Business Development for Fergus Falls	Anthony Hicks	
Fire Department Relief Association	Fire Chief, City Administrator, Brent Thompson	
Fire Department Trust Fund	Fire Chief, Scott Kvamme	
Golf Board	Jim Fish	
Hockey Association	Scott Rachels	
Investment Committee	City Administrator, Finance Director, Assistant Finance Director, Certified Financial Planner, Al Kremeier	
Legislative Committee	Mayor, City Administrator, Tom Rufer, Anthony Hicks	
PEG Access Board	Scott Kvamme	
Personnel Committee	Laura Job, Jim Fish	
Senior Citizens Board	Brent Thompson	
Tax Levy Committee	City Administrator, Mayor, Laura Job, Scott Rachels	
Visit Fergus Falls	Al Kremeier	
West Central Initiative Econ Dev District	Tom Rufer	

## Legislative Bonding Request

- City Administrator Andrew Bremseth explained the City of Fergus Falls had a \$1,000,000 bonding request for Phase II of the Downtown Riverfront Project in the last legislative session, but it stalled out when the session adjourned without passing the bill. The council proceeded with Phase II of the project with private fundraising rather than waiting for the state bonding funds to be approved. Staff at Minnesota Management and Budget (MMB) asked the city if there was another project that could be tied into the downtown riverfront project as a placeholder in the upcoming session. Last week the Legislative Committee (Mayor Schierer, Council Members Hicks and Rufer and the City Administrator) met and proposed the following \$5.2 million request:
  - \$1.2 million for the acquisition of the river buffer parcel on the dairy site from the Port Authority
  - \$1.3 million rail crossings on Broadway Avenue and St. Andrew's Street
  - \$1.5 million for trail and amenities through the dairy property on the river buffer parcel
  - \$1.2 million towards the renaissance of Old Smokey (lifts, groomer, snow making equipment and a warming house)

The non-state funds related to Phase 2 total \$5.2 million and would provide a 50/50 match for these funds. This request would not restrict the city from making any other budget requests to the state, but it would hold the city's place in the existing bill by tying it into the other riverfront projects. Potential language for the bill may include: "This appropriation includes money for the acquisition of 11.57 acres along the Otter Tail River for public access and includes the engineering, design and construction of a river balcony, trail, play system, accessible public parking, fishing pier, and two \$600,000 railroad crossing points between Buse Avenue and Barefoot Park. Further recreational amenities, including trail, restrooms/warming house, snowmaking and a ski lift are also included for Old Smokey." Hicks spoke in favor the moving forward on the request, citing this may be the city's best option to move forward on the redevelopment of the dairy project, finance projects without using local funds and bring back the Old Smokey amenity. The Port Authority will be reviewing and distributing the property's RFP at their next meeting. Hicks offered **Resolution #8-2023** approving a bonding request of the Minnesota State Legislature for Phase 3 of the Downtown Riverfront Project, which was seconded by Rufer and was adopted.

### **Other Business**

Hicks asked if the Charter Commission could be asked to look at the rules of conduct for council members as there is a member of the council under the review of the Office of Administrative Hearings for alleged election campaign violations. The City Attorney explained this complaint would be conducted by the state body assigned to look into the alleged violations. The City Charter addresses the recall process of an elected official.

The meeting adjourned at 6:11 pm to a reception honoring the past council members and welcoming the new council members.

*Lynne Olson*

### **Open Forum**

Al Frank, 1209 S Concord Street, addressed the open forum regarding City Code 31.25 regarding the council reorganization and the language stating at its first regular meeting in January, the Council shall, in the order herein stated and prior to commencing its regular order of business, reorganize by:  
(A) Having all new officers and officials take and subscribe their oath of office  
(B) Seat all new members of the Council

He pointed to city's website listing council member terms conclude on December 31 and felt the new council should be sworn in immediately to take care of all council business on tonight's agenda. The City Attorney's position "the old council has conducted the old business and the new council does the new business as long as he can remember" is of no consequence as it contradicts the code language. He said the new council members were elected by the will of the people to go a new direction and the people want the new council sworn in and seated immediately.

City Attorney Rolf Nycklemoe explained the term sine die means the old council has concluded their business and it is the time to transition into the new council's business. He interprets the code language as the business after adjourning sine die is the new council's business to conduct. He said the new council has the authority to overturn the actions of the previous council with enough votes if they

choose and the city has used the first meeting, rather than the calendar year to transition new council's as there are sworn in members of the council to take action in the event of an emergency.

Mayor Schierer said he would give the council the authority to make the determination of how they want to proceed when the meeting is called to order and a roll call is taken of the "old council". He stated the agenda has been presented to the public and they will complete the business the public expects of the council. He reiterated the "new council" would have the authority to revoke, overturn or change previous council action if they so choose.