

City Council Minutes
March 6, 2023

The Fergus Falls City Council held a regular meeting on Monday March 6, 2023 at 5:30 pm in the City Council Chambers. Pastor Eric Uggerud gave the invocation and the Pledge of Allegiance was recited. Mayor Schierer called the meeting to order at 5:32 pm. Council members in attendance were Job, Kvamme, Rufer, Kremeier, Thompson, and Rachels. Fish and Hicks were absent.

Approval of Agenda

A motion and second were made by Thompson and Rachels approving tonight's agenda with the addition of a resolution of support for historic tax credits, setting a public hearing for the proposed TH 210 improvement project, and accepting a grant for Ferber Park and the motion carried.

City Project 5960

Tonight is the preliminary project hearing for City Project 5960 is 2023 street and utility project No. 1. The project includes the reconstruction of sanitary sewer, water main, storm sewer, sewer and water services and bituminous streets on Summit Avenue: Broadway to Oak Street; Linden Street: Broadway to Oak Street; Laurel Street: First Avenue to Broadway. The estimated project cost is \$2,289,000 and special assessment notices were sent to 75 affected property owners showing an interest rate does not exceed 7% and the assessments can be spread over 15 years. City Engineer Brian Yavarow reviewed the estimated costs and financing plan. Permanent Improvement Bonds (PIR) would be issued for the active special assessments and for the city's share of the street. Funds from the city's sanitary sewer, water fund and storm water enterprise funds would cover the other costs. The city received letters of opposition to the project from Tim McCabe, 536 W Linden and Empire Capital, 402 N Broadway. The public hearing was opened at 5:37 pm. Thompson said he received a call from Maura Moberg, the property owner at 532 W Linden who was not able to be here tonight but wanted to share her support of the project. Brandon Friedrich, 528 W Linden asked if access would be maintained throughout the project and asked about the special assessment payments. Yavarow stated the city would do their best to maintain ADA access for those requiring it and the communication residents can expect during the project. Finance Director Bill Sonmor explained the cost estimates will be updated after the project bids come in. The city will hold a final cost hearing (expected in May) and bills will be sent to affected property owners. Home owners can either pay the entire assessment amount with no interest within 30 days or finance the project cost and interest over the next 15 years with annual payments. The city will levy a tax for their portion of the project and issue bonds to cover the cost of the project and the special assessment payments will pay the bonds. Yavarow spoke about the role of the resident engineer on site and the types of communications affected homeowners would expect throughout the project. The hearing closed at 5:43 and action will be tabled until the April 3, 2023 City Council meeting.

Consent Agenda

The following items were approved under **Resolution #41-2023** by Rufer: Motion approving the minutes from the February 21, 2023, City Council meeting. Motion approving the following licenses: Excavator Barry Construction of Fergus Falls; Mechanical E & H Enterprises of Alexandria/Ellingson's; Food Truck Permit Lowrider Tacos & Pizza MFU. **Resolution #42-2023** authorizing the City of Fergus Falls to serve as the fiscal host for a Digital Equity Assessment Grant from the Minnesota Department of Economic Development/Office of Broadband Development. **Resolution #43-2023** accepting the Preliminary Engineering Report for City Project 5959, the 2023

Street and Utility Improvement Project No. 2 (Stanton Avenue reconstruction project) and setting a preliminary hearing date for April 17, 2023 at 5:30 pm. **Resolution #44-2023** approving the layout approval and setting a public hearing for State Project 5601-35, the TH Hwy 210 reconstruction and bridge replacement from 0.4 miles W of Jct. I-94 to Jct. WB I-94 for April 17, 2023, at 5:30 pm. The resolution was seconded by Kvamme and was adopted.

Annexation with Fergus Falls Township

The City of Fergus Falls and Fergus Falls Township have been working towards a mutually acceptable joint resolution for the annexation of approximately 160 acres contiguous to the city as requested by the owner PPTF, LLC. An agreement has been reached to immediately annex the PPTF property upon the order from the Office of Administrative Hearings. PPTF LLC will pay Fergus Falls Township \$15,000 within 30 days of the order. If an ag processing plant is built on this property within 5 years from the date of the order, PPTF will pay an additional \$15,000 to the township. The northernmost 50' of the property will be excluded from the annexation. This 50' buffer ensures the ethanol plant property does not touch the city limits restricting the city from automatically annexing this property unless the plant presents a 100% petition for annexation. The agreement states the city agrees to not initiate annexation of the ethanol plant by ordinance or petition for 20 years. The township will not object to annexation if the plant is 100% property owner petitioned in the next 20 years and the city would reimburse the township for 5 years of existing real estate taxes on this parcel annually or through a lump sum. Unless extended the orderly annexation agreement would terminate on December 31, 2042. The township is also meeting on the agreement tonight and if they approve it, the city will submit the documents and \$400 fee to the state. Staff and Council Member Hicks were thanked for their work on this project. Rachels offered **Resolution #45-2023** approving a joint resolution for annexation with Fergus Falls Township which was seconded by Thompson and was adopted.

Lake Region Healthcare Bond Modification

The city can issue conduit debt to qualified organizations, so they benefit from the tax-exempt rate with no liability or consequence to the city. The city issued healthcare facility bonds to Lake Region Healthcare in 2014. The LIBOR benchmark of this debt issuance interest rate is being phased out and this change must have the city's consent to change the note to an allonge. Rufer offered **Resolution #46-2023** approving a modification to the Lake Region Healthcare bonds, which was seconded by Job and was adopted.

Historic Tax Credits

Council Member Kvamme referenced an article in the March 1 edition of the Daily Journal sharing the historic tax credit is in limbo within the state legislature. He advocated the council adopt a resolution of support for the historic tax credits and the resolution be shared with the state's legislative leaders. He referenced the mill renovation and RTC as buildings that have utilized the tax credits and the 20% offered by the federal government is matched by the state. Kvamme offered **Resolution #47-2023**, a resolution of support for historic tax credits that was seconded by Rachels and was adopted.

Ferber Park Grant

In 2021 the city accepted a grant from the Minnesota Department of Natural Resources to construct 1.7 miles of new trails in Ferber Park as well as the expansion of a skills area. The total project cost is \$100,000 and the city received a grant in the amount of \$78,000. Pedal Fergus Falls will provide the required \$22,000 matching funds. Rufer offered **Resolution #48-2023** accepting the MN DNR

recreational trail grant and authorizing the Public Works Director, City Administrator and Mayor sign the grant acceptance letter, which was seconded by Kvamme and was adopted.

Resolution of Accounts

A resolution was offered and seconded by Rachels and Rufer authorizing the payments and claims in the amount of \$2,637,942.48. Rachels asked for a discussion on the \$7,032.50 bill from the Pemberton Law Firm. City Administrator Andrew Bremseth explained a council member came forward in January with two concerns related to the actions and behavior of another council member in election related matters. The city's Code of Ethics falls under the City Administrator's purview when such a complaint is made, and the city's ordinance language requires the City Administrator to investigate the matter immediately. Because election related matters require the City Administrator to remain neutral, the severity of the allegations and sensitive nature of investigating council members, Bremseth concluded it was best to engage a neutral third party to investigate those concerns. The \$7,032.50 bill is the cost of the independent investigation that was conducted. The matter has been concluded and it is time to pay that bill. Rachels asked if there were any findings of wrong doing. Bremseth said there were two matters brought forth. One of the election allegations was already under investigation by the Minnesota Office of Administrative Hearings in front of a three-judge panel. The investigator let that allegation follow the state process. The other allegation was not substantiated as there were no witnesses that spoke to the investigator. Rachels felt this was a civil matter since the allegations were unfounded and he asked why the taxpayers should pay this bill. Bremseth said the code language reads this is the city's responsibility to investigate and such an investigation would incur legal fees. He felt it was in the city's best interest to ask for an independent investigation and if the council feels otherwise, they should have further discussion. Rachels agreed and asked how the bill would be paid as this is not a budgeted expense. He wanted to ensure this would not happen again and asked why the city should pay the bill since this matter involved Council Member Al Kremeier and Mike Mortenson.

Kremeier said he represents Ward Three and Mike Mortenson is a resident of Ward Three. This is a concern that came out during a campaign run, and he brought the issue to the attention of the City Administrator in his role as a Ward Three Council Member. He did not feel he could have brought it up when the allegation occurred two years prior before he was not a council member at that time. He agreed with Rachels that this bill should not be paid as there is a scheduled meeting this week with the City Attorney. A meeting had been scheduled for last week and that did not occur. City Attorney Rolf Nycklemoe clarified he was available last week; it was the week prior that he was not able to attend such a meeting. Kremeier clarified Mr. Mortenson was unavailable last week and the week prior the City Attorney was unavailable. He did not feel the bill should be paid until that meeting occurred. He said if it were his bill, he would gladly pay it, and he is following the procedure set forth in the city code. He brought this issue forward on behalf of Mike Mortenson as it was his duty as a council member. Mayor Schierer asked if Mr. Mortenson had the opportunity to participate in the investigation. He said it was his understanding the attorney tried to contact him and without his participation, she delivered her report as did the three-judge panel at the state level with both completely dismissing the allegations. He believes it is time to pay the bill and move on. Kremeier said Mike Mortenson wanted to give his testimony under oath because he wanted it to be a legal document in his words and the person who did the investigation did not want to take it under oath. The investigation was closed shortly after that which Kremeier commented he found unusual to not take testimony under oath. Rachels said he believes there were opportunities for Mr. Mortenson to give his testimony. Without his accounting, there was nothing to include in the report, so it was

closed. Rachels said the bill should be paid since the City Administrator approved the investigation and he asked how to prevent this from happening again. Mayor Schierer agreed and hoped the council could move forward and get their work done and not engage in personal attacks against one another calling it “ridiculous”. The state has weighed in and they have completely dismissed the allegation they investigated and the attorney who dealt with the other issue dismissed the other matter. He believes it is time for the council to move on with their important work. Kremeier said there are two separate issues; the campaign letters and another issue he cannot speak about as it is Mike Mortenson’s issue. Mortenson wanted to give his testimony under oath, and he did not understand why it was not taken under oath. Kremeier told Rachels to not make assumptions about Mortenson and his desire to testify under oath. Rachels felt Mortenson was given the opportunity to provide information and did not. He stated his belief there was nothing to the allegation and his opposition to the citizens having to spend more time and money on frivolous matters. He said the city hired someone to investigate, and all parties need to live with the agreement. Rachels, Kremeier and Schierer all agreed they were done commenting on this issue at this meeting. The resolution to pay the bills was called to a vote and was adopted.

Other Business

Public Works Director Len Taylor was asked to comment on the pothole issues within the city streets. This is a tough time of the year for the streets when we have a freeze and thaw cycle. Crews will soon begin patching up potholes and he encouraged residents to contact the city at 218-332-5435 to report problematic street conditions. Upcoming meetings including a town hall meeting hosted by Council Member Kremeier were announced and the meeting adjourned at 6:11 pm.

Lynne Olson