

City Council Minutes  
November 6, 2023

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

**Approval of the Agenda**

A motion and second were made by Hicks and Fish to approve tonight's agenda with the addition of a discussion on the latest utility bill flyer and the expiring Pebble Lake Golf Course agreement and the motion carried.

**Open Forum**

Mark Leighton requested a culvert on Water Plant Road be repaired.

**Consent Agenda**

The following items were approved under **Resolution #190-2023** by Rufer: Motion approving the minutes from the October 16, 2023, City Council meeting and the November 1, 2023, Committee of the Whole meeting. Motion approving the following licenses for 2023: Mechanical Schmitty's Plumbing, Heating & Sheetmetal, Inc., JS Service Inc., John Suko Sheet Metal; Paving Contractor/Sidewalk Taves Construction/Driveway Service; Mobile Food Vendor Permit For Crepes Sake and the following 2024 licenses: Sign Hanger Indigo Signworks; Paving Contractor/Sidewalk Mark Lee Asphalt, Ferguson Asphalt Paving; Excavator Mark Lee Excavating; Mechanical Bjorn's Heating & A/C, A & E Plumbing and Heating, BDT Mechanical, Coolsys Light Commercial Solutions, Green's Plumbing Modern Heating, Ugstad's Plumbing, John's Heating & A/C; Metal Recycling Northern Metal Recycling; Demo/Hauler of Building Waste Rachel Contracting, Tom Kraemer Inc., Big Red Boxes, LLC, Dakota Rolloff Services, LLC; Full Liquor License American Legion Post 30, Midday Meal Prep (Toast & Union Ave Bar & Eatery), Bon Vivant (dba Steel Wheels); 3.2% Malt Liquor License Little Chief Outpost; Minnesota Lawful Gambling Permit Fergus Falls Sertoma for raffle on February 4 at the Eagles Club. **Resolution #191-2023** authorizing signatures on the updated Joint Cooperative Agreement (Fire Department) for the use of emergency operations personnel and equipment with the City of Detroit Lakes. **Resolution #192-2023** accepting a \$1,000 donation from the Fergus Falls VFW Post 612 for Fire Department equipment purchases. **Resolution #193-2023** adopting a records retention schedule. **Resolution #194-2023** approving budget adjustments. **Resolution #195-2023** authorizing the purchase of radios for the Police Department. **Resolution #196-2023** approving the Conflict of Interest, Copyright, Fines and Fees, Record Retention and Minnesota Reciprocal Borrowing Policies for the Fergus Falls Public Library. **Resolution #197-2023** authorizing the execution of the partial release of a Permanent Utility Easement at 1010 N Frontier Drive. The resolution was seconded by Thompson and was adopted.

**Ordinances and Resolutions**

On tonight's agenda was the first reading of six ordinances related to franchise fees and franchise agreements. Last week the city mailed a flyer with the utility bills inaccurately stating the council was proceeding with the implementation of a franchise fee. Since the error was discovered, the city made numerous attempts to clarify the statement and the Mayor took full responsibility for the error. The city has been considering these fees over the past few years, but no decisions have been made yet.

Since there is no predetermined outcome or timeframe, Mayor Schierer suggested delaying action on franchise fees tonight. A motion and second were made by Rachels and Job to postpone any action on franchise agreements and franchise fees tonight.

Hicks spoke about the insert flyer and offered a motion requesting the Personnel Committee to review how the error was made, to hold someone accountable, how to prevent future errors and to report back to the council. Kremeier felt it was a conscious effort to imply the council would be implementing franchise fees despite public opposition and seconded the motion. Rufer felt the error was unfortunate, but not intentional. Rachels agreed it was a human error and there was no conspiracy involved in sending out this message. Hicks offered a suggestion to step in the fees beginning at 3% and progressing to 4% then 5% and forming a committee of two council members, engineering staff and a third party to determine what roads would be addressed with the funds generated by the franchise fees. The council should review the plan in 5 years to measure its effectiveness. He spoke about available matching fund programs offered by the state and federal government and how the city can leverage more of their local appropriations. Kvamme felt the city could better position themselves for these funds if they have defined projects. He asked staff to provide the Capital Improvement Projects, which streets are planned for improvements, and in what order.

The City Attorney reviewed the differences between the franchise agreements and the franchise fees. A franchise agreement is an agreement with an entity that uses the city's right of way to run its private utility to customers. It outlines the rules and regulations the private utility entities must abide by and the agreement requires the public utility to indemnify and hold the city and its residents harmless from liability involving the private utility's use of the right of way. The city has such agreements with Otter Tail Power Company, Great Plains Natural Gas and Lake Region Electric Cooperative. The agreements would span a 20-year period and if they are not renewed immediately, the city's previous agreement with each of these private utilities would continue to operate in the same manner. A franchise fee would require these entities to pay for their use in the city's rights of way and they can pass those fees on to their customers. The city can have agreements without a fee but cannot have a fee without the agreements. Rachels and Job amended their motion to postpone action on franchise fees tonight and to proceed with the first readings of the three franchise agreements. Mayor Schierer invited members of the public to comment.

- John Strauch, 519 W Vasa wanted someone to be held responsible for the utility flyer error, expressed his opposition to the council considering additional taxes, staff members that do not live in the city limits, special assessments and felt the city should cut the budget by \$1.3 million.
- Pat Lundberg, Outstate Brewing spoke about their struggles to operate a profitable business, past government mandates, rising energy costs, and he did not feel the money generated by the franchise fees would be sufficient to address the street improvement projects and asked the council to trim their budget and reduce taxes.
- Ken Heide felt the error on the utility flyer fees should have been caught, encouraged the council to lead and not follow other cities, felt the city should take more care of their residents by cutting unnecessary programs, expenses and taxes.
- Laurie Mullen, 2840 Lakewood Drive was concerned the businesses would pass the additional tax onto their customers and advocated cutting the budget beginning with the housing tax abatement program.

- Duane Cookman said there were errors in both the utility flyer and on the special assessment notice for Stanton Avenue, his feeling the city is not working for their residents, the proposed new school and commented on the town hall meetings.
- Mark Leighton does not believe the utility insert flyer was an error, but was conspired by the council, was concerned the fees would be passed on to consumers from businesses, listed projects he feels are unnecessary and budget cuts.
- Bob Noah felt the council should be attending town hall meetings and said the council is adversarial with the residents.

Kremeier thanked the speakers and encouraged the council to listen to their input. Rufer also thanked those who spoke and explained it is a daunting task to cut the budget and not impact services to the community. He hears concerns about the condition of the streets and people need to realize the projects require funding which is what franchise fees would accomplish in a fair and equitable manner. He felt the claims the city spends unwisely were untruthful and the city's financial statement is readily available to view and was highly resentful of Mr. Leighton's allegations the council was scheming to give residents misinformation. The vote on the motion postponing action on franchise fees tonight and proceeding with the first readings of the three franchise agreements carried with no opposition. The vote on the motion requesting the Personnel Committee review the utility flyer error, to hold someone accountable, prevent future errors and report their findings back to the council carried with no opposition.

**Ordinance 44, Eighth Series**

Ordinance 44, Eighth Series, Franchise Agreement with Otter Tail Power Company was introduced by Fish and was declared to have its first reading.

**Ordinance 45, Eighth Series**

Ordinance 45, Eighth Series, Franchise Agreement with Great Plains Natural Gas was introduced by Rachels and was declared to have its first reading.

**Ordinance 46, Eighth Series**

Ordinance 46, Eighth Series, Franchise Agreement with Lake Region Electric Cooperative was introduced by Hicks and was declared to have its first reading.

**Ordinance 51, Eighth Series**

Ordinance 51, Eighth Series, Extending THC Moratorium Extension was adopted by a roll call vote.

**Resolution of Accounts**

After clarifying a claim, Fish offered a resolution authorizing the payments and claims in the amount of \$2,573,763.23, which was seconded by Rufer and was adopted.

**New Business**

The city's lease with the Pebble Lake Golf Course will expire at the end of the year. Rachels felt the current management was doing a good job with their operations but suggested an RFP process to allow others to submit a proposal. The current lease with Palmer's restaurant will remain in place. A motion and second were made by Rachels and Hicks directing staff to send out an RFP for golf course operations and the motion carried.

### **Community Energy Transition Grant**

DEED recently announced a Community Energy Transition Grant to provide funding to communities affected by the closure of local electrical generating plants. The city would have the ability to apply for a maximum of \$1 million without providing matching funds. Grant applications are due by November 15, 2023, and the funds must be used to either assist workers at the plant find new employment, increase the community's property tax base or develop alternative economic development strategies to attract new employers to the community. Suggested projects include a comprehensive plan, extending the utilities to the Norgren property, workforce housing, an airport hangar, or Industrial Park improvements. Mayor Schierer spoke about the need for workforce housing and said these funds can be stacked with other funding sources. Kvamme was concerned with the tight time frame and suggested the utility extension to the Norgren property as the property has already been platted. Hicks suggested housing on Damika Drive. Rachels agreed more workforce housing is necessary to attract employees and said he was aware of a developer interested in taking on a large housing project. A motion and second were made by Fish and Rachels to adjourn the council to a closed meeting to discuss a possible real estate transaction as allowed by Minnesota Statute Section 13d.05. The open session adjourned at 7:03 pm. The council reconvened to an open session at 7:23 pm. Fish offered **Resolution #198-2023** authorizing the submission of a Community Transition Energy Grant for workforce housing and directing staff to negotiate on the property, which was seconded by Rachels and was adopted.

The meeting adjourned at 7:24 pm

*Lynne Olson*