

City Council Minutes  
May 20, 2024

The Fergus Falls City Council held a regular meeting on May 20, 2024, at 5:30 pm in the City Council Chambers. Pastor Jim Johnson gave the invocation, and the Pledge of Allegiance was recited. Mayor Schierer called the meeting to order at 5:32 pm and the following council members were in attendance: Hicks, Fish, Job, Kvamme, Rufer, and Kremeier. Rachels was absent.

No one appeared for the open forum.

### **Approval of Agenda**

A motion and second were made by Hicks and Kremeier to approve tonight's agenda with the removal of three items from the consent agenda and the motion carried.

### **PI 6080 Final Cost Hearing**

Public Improvement 6080 is the 2023 sidewalk/driveway improvements, and the projects were 100% petitioned by the property owners. The assessed share is \$24,989.50 and the individual assessments will vary in length based on the amount at an interest rate of 5.80%. The final cost hearing opened at 5:34 pm and as no one appeared, the hearing was closed. Fish offered [Resolution #98-2024](#) adopting the assessments for PI 6080, which was seconded by Job and was adopted.

### **Public Works Week**

Mayor Schierer read a proclamation declaring May 19-25 as Public Works Week.

### **Consent Agenda**

The following items were approved under [Resolution #99-2024](#) by Rufer: Motion approving the minutes from the May 6, 2024, City Council and the May 15, 2024, Committee of the Whole meeting. Motion approving the following licenses: [Fireworks Display](#) Premier Pyro for SummerFest on June 7; [Mechanical](#) Ever LLC (dba Climate Makers); [Sidewalk/Paving](#) Steadfast Concrete & Remodeling; [Cityside Improvements](#); [Demo Hauler](#) Paul Haarstad Excavators; [Minnesota Lawful Gambling Permit](#) Never Alone Incorporated for raffles Sept 11-14 at the I-94 Speedway, Ducks Unlimited Maidens of the Marshes for a raffle on November 23, at the Eagles Aerie; [Mobile Food Vendor Permit](#) Sorny B's Smokin Grill. [Resolution #100-2024](#) accepting the Preliminary Engineering Report for City Project 5961, the Junius Avenue reconstruction project; to set the preliminary improvement project hearing date for June 17, 2024, and initiate PI 7225, the Hampden Avenue sanitary sewer rehabilitation project; [Resolution #101-2024](#) accepting the Outdoor Lighting and Municipal Services Agreement between the City of Fergus Falls and Otter Tail Power Company for CP 5959. [Resolution #102-2024](#) initiating PI 6081, the 2024 sidewalk and driveway program and approving the 2024 sidewalk assessment rates. [Resolution #103-2024](#) accepting Interstate Engineering's professional services design proposal in the amount of \$23,780 for PI 5361, the Randolph Avenue stairway improvement project. The resolution was seconded by Fish and was adopted.

### **Sidewalk Sales Policy**

Hicks offered [Resolution #104-2024](#) approving the Sidewalk Sales Policy with an amendment that those offering food and beverage service on the public sidewalks must meet and abide with all food and beverage licensure requirements, which was seconded by Fish and was adopted.

### **Street Closures Policy**

A motion and second were made by Kvamme and Hicks to table the Street Closures Policy for more clarification on obtaining the written consent of the affected property owners and if residents in downtown apartments must also consent to the street closure and the motion carried.

### **Natural Resources Advisory Committee/Green Team**

The City of Fergus Falls has been working on the Green Step Cities project since 2015 and has obtained two of the five steps with the initiative in that time. The Natural Resources Advisory Commission has agreed to serve as the city's "Green Team" to advance the initiatives of the program. They will identify projects in the five focus areas, determine if they are feasible or cost effective and make recommendations to the city. A motion and second were made by Hicks and Kvamme to appoint the Natural Resources Advisory Committee to serve as the city's "Green Team" to advance the initiatives of the Minnesota Green Step Cities Program and the motion carried.

### **Vacancy in Third Ward**

Third ward council member Brent Thompson submitted the resignation of his council seat effective May 11, 2024, as he has moved outside the city limits. His term on the council expires at the end of 2024. City Administrator Andrew Bremseth read 2.04 of the City Charter "The Council shall by resolution declare such vacancy to exist and shall forthwith appoint an eligible person to fill the same until the next regular municipal election." Fish offered **Resolution #105-2024** declaring a vacancy in Ward Three which was seconded by Job. At the time of the last vacancy, the Charter Commission requested the council adopt a vacancy policy, which was done in August of 2017. The policy outlines the process to advertise the declared vacancy, hold a public work session to interview interested parties and for the council to make their decision for the person to fill the vacancy during a council meeting. The appointed person would be sworn into office that night and immediately start their term on the council. Bremseth provided a recommendation to set a work session for June 17 with the council adopting a resolution appointing the new council member that evening.

Kremeier felt the people of the third ward should vote on who represents them and he presented a petition that was provided to him signed by 5 residents of the third ward to amend the Charter and hold a special election to fill the vacancy rather than using the council's appointment policy. Mayor Schierer reviewed the path the city followed in past vacancy situations noting the Charter language is specific the vacancy should be filled as quickly as possible. He reminded the council this appointment would be until Thompson's term was set to expire at the end of the year and the new appointee would have to file for the council seat when filing opens this summer.

City Attorney Rolf Nycklemoe stated the Charter cannot be amended without the Charter Commission's involvement and the initiative processes this petition is suggesting is not within the scope of state statute. He too felt the Charter Commission's intent was for the council to adopt a vacancy policy and to follow it in future vacancy situations as it is not productive to hold an empty council seat. Kremeier disagreed and felt a special election should be held. Elections Administrator Lynne Olson stated the state has uniform election dates in which a special election can be held, the second Tuesday in February, April, May, or August or the first Tuesday after the first Monday in November. If the city wanted to have a special election in August in conjunction with the Primary Election, there is not sufficient time to meet all the qualifications to hold such an election. Rufer agreed the Charter's position and council policy should be upheld and the vacant council position should be filled as soon as possible so the ward is represented. Hicks suggested holding off on

deciding tonight to allow the City Attorney to do more research on the initiative process and asked if the council could wait until the November election results are in and appoint the winner at that time. Nycklemoe said an initiative petition is a power of the people, but it must be followed with the intent of the City Charter, and a vote would be city-wide, not only in one ward. The council was reminded the Campaign Finance Reports would have to be filed correctly and within the prescribed statute language before an Oath of Office can be given.

Fish felt the vacancy should be filled as soon as possible and advocated the council policy should be followed. Mayor Schierer agreed the residents need to be represented, that the Charter language is clear, and the council should follow their policy. Bremseth said the council had the same conversation in 2017. The vacancy policy was written, and the Charter was amended in 2018 so there would be no misconception for future vacancy situations. Hicks asked if the council would vote on the appointee by a “secret” ballot or resolution and Nycklemoe confirmed “secret balloting” is not appropriate and the appointments should be made by resolution. Job asked if residents of the third ward would be allowed to ask questions of those interested in filling the vacancy. Nycklemoe cautioned against allowing such questioning as this would be a council decision. Kvamme stated if people had questions they would like to see asked of the prospective candidates, they can contact the council members to propose questions. As elected officials they are expected to carry out their responsibilities including following their own policies. If the council wants to rescind past practices, it should be done at another time as he felt this conversation is an attempt to slow down the vacancy appointment and he called for the vote. The vote declaring a vacancy in the third ward was adopted. The council was asked to clarify if staff should follow the recommended timeline presented tonight. A motion and second were made by Kvamme and Rufer to follow the recommended timeline. Fish, Kvamme and Rufer voted in favor while Kremeier, Job and Hicks voted in opposition, resulting in a tie. Mayor Schierer voted in favor of following staff’s recommended timeline to fill the vacancy and the motion carried.

### **Resolution of Accounts**

Fish offered a resolution authorizing the payments and claims in the amount of \$1,453,146.14, which was seconded by Rufer and was adopted.

The council adjourned to a closed meeting at 6:17 pm as allowed by Minnesota Statute 13d.05, Subd 3(c) to consider a real estate transaction. The council reconvened at 6:27 pm. Hicks offered **Resolution #106-2024** accepting a letter of intent from Key Property Investments to purchase the vacant city lot located at 1022 N Cleveland Avenue for \$12,000 with the provision the property would not be eligible to apply for the city’s property housing rebate, which was seconded by Kremeier and was adopted. The property sale was declared to be introduced with a final sale being proposed on June 3, 2024.

The meeting adjourned at 6:29 pm

*Lynne Olson*