

**CITY OF GRAFTON
CITY COUNCIL MINUTES
MEETING OF APRIL 13, 2015**

The regular meeting of the City Council of the City of Grafton, North Dakota was held in the Council Chambers, City Hall, Grafton, North Dakota at 6:00 p.m. on Monday, April 13, 2015.

Mayor Chris West presided. Members present: Dave Fellman, Don Hutson, Chris Lipsh, Shane Mohn, Brian Sieben, Mary Stark, Len Wysocki, and Greg Young. Others present: Nick Ziegelmann, Nick Hall, Alex Droske, Ken Miskavige, Rock Desautel, Todd Morgan, Scott Boura, Jon Markusen, and Todd Kjelland.

CONSENT AGENDA

Mayor West asked if any Council member wanted to remove any item from the Consent Agenda. It was moved by Mr. Fellman and seconded by Mr. Wysocki to approve the Consent Agenda as follows:

IV. CONSENT AGENDA

4.1 Approval of Minutes:

- a) City Council regular meeting of March 9, 2015.
- b) Ways and Means Committee regular meeting of April 4, 2015.
- c) Public Utilities Committee regular meeting of April 4, 2015.

4.2 Reports of Officers:

- a) City Auditor-Treasurer
- b) Municipal Judge
- c) Chief of Police
- d) Building Official
- e) Parks and Recreation
- f) Others, if any

4.3 Game of Chance Applications:

- a) #886 – Our Savior’s Lutheran Church WELCA
- b) #887 – Fair Oaks Golf Course
- c) #888 – Kelsey’s Courage Scholarship
- d) #889 – Grafton Baseball

All members were present and voted in favor thereof; Mayor West declared the motion carried.

BILLS, CLAIMS AND ACCOUNTS

It was moved by Mr. Young and seconded by Mr. Fellman that the General, Special, Capital Projects, Debt Service, and Enterprise Funds bills be approved for payment in accordance with the listing submitted; said listing to be a part of these minutes as if herein set out verbatim. On

roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Lipsh, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: (None). Mayor West declared the motion carried.

REPORTS OF STANDING COMMITTEES

On recommendation of the Public Utilities Committee, it was moved by Mr. Lipsh and seconded by Mr. Mohn to purchase the 3-year enhanced maintenance agreement, additional user Client License, and up to 24 hours of setup from Cooper Power Systems for the SCADA system at a cost of \$7,628.21. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Lipsh, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: (None). Mayor West declared the motion carried.

On recommendation of the Public Utilities Committee, it was moved by Mr. Lipsh and seconded by Mr. Wysocki to authorize Power Department Superintendent Russ Geddes and Gene Loftsgard, Maintenance Technician to look for and purchase a used digger derrick truck with the \$80,000 budgeted or request an increased budget appropriation to purchase a truck in 2016. Mr. Hutson asked how often this type of vehicle is used wondering if it could be rented rather than purchased; Mr. Geddes explained it is used to load reels of wire on trailers, to set light poles and street poles. He said Kieley Electric does not have a digger derrick and he was unsure whether Rock's Electric has one either. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Lipsh, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: None. Mayor West declared the motion carried.

On recommendation of the Public Utilities Committee, it was moved by Mr. Mohn and seconded by Mr. Lipsh to approve the purchase of a second new aeration system, including the lower unit, motor and pontoons for \$11,850 for the lagoon from Aeration Industries International. Mr. Desautel said they would like 6 motors operating in the summer and 4 in the winter, but right now they have 3 motors operating. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Lipsh, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: None. Mayor West declared the motion carried.

On recommendation of the Public Utilities Committee, it was moved by Mr. Wysocki and seconded by Mr. Lipsh to approve the contract with Kadrmas, Lee & Jackson, Inc. for design engineering services for the 2015 Seal Coat - Various Streets - Project in the amount of \$14,950, payable from the Street Resurfacing appropriation. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Lipsh, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: None. Mayor West declared the motion carried.

On recommendation of the Public Utilities Committee, it was moved by Mr. Lipsh and seconded by Mr. Wysocki to approve placing "No Parking" signs on both sides of Lavergne Avenue south of the school entrance. Safety is a concern as there are youth darting in between cars and when cars are parked along both sides of Lavergne Avenue it nearly closes off the street for passage. The Council discussed placing a sign for Sports Complex Parking at the school access. Officer Droske said enforcement should not be a problem; violators will be given a warning first. Mr. Wysocki said he believes a sign that says "no parking" is sufficient warning and all violators should be ticketed. Mr. Fellman suggested a notice be placed in the paper and on the radio to communicate with citizens. On roll call vote the following voted in favor thereof: Mr. Fellman,

Mr. Hutson, Mr. Lipsh, Mr. Mohn, Mr. Sieben, Ms. Stark, and Mr. Young. Those opposed: Mr. Wysocki. Mayor West declared the motion carried.

On recommendation of the Public Utilities Committee, it was moved by Mr. Lipsh and seconded by Mr. Wysocki to approve the closure of Hill Avenue/Highway 81 North for ribfest, street dances and parade for Summerfest as requested by the Chamber of Commerce, contingent upon approval of the North Dakota Department of Transportation. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Lipsh, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: (None). Mayor West declared the motion carried.

On recommendation of the Public Utilities Committee, it was moved by Mr. Lipsh and seconded by Mr. Wysocki to continue the painting credit incentive program with the same guidelines as previous years, but to increase the utility credit from \$50 to \$100 per house if the following requirements are met:

- 1) Owner of a single-family residence
- 2) Paint all surfaces that can be painted or reside with vinyl or steel siding the entire residence
- 3) Partial painting on existing permanent siding or brick homes does not qualify
- 4) Subject to the inspection and approval of the Building Official

On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Lipsh, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: (None). Mayor West declared the motion carried.

REPORTS OF SPECIAL COMMITTEES

The City Administrator reported the Economic Development Committee approved the request from Red River Regional Planning to contribute an additional \$4,100 from the Sales Tax (General Projects) Fund to finish the last two houses to be rehabbed through the Housing Rehab Project.

Mayor West reported that the Economic Development Committee discussed Senate Bill 2041 which included language to close the Life Skills and Transition Center and said he learned today that SB2041 was killed. There is another bill SB2012 which is the budget bill for Human Services Department that has language calling for a study of the LSTC; it is unknown if there will be an appropriation to conduct the study. Mayor West said closing the LSTC will continue to be promoted by certain legislators and the community needs to be proactive and work with the State and the LSTC employees to educate legislators and others on the necessity of the facility and staff.

On recommendation of the Planning and Zoning Commission, it was moved by Mr. Wysocki and seconded by Mr. Sieben to approve the first reading of an ordinance entitled, "AN ORDINANCE AMENDING THE ZONING MAP ACCOMPANYING APPENDIX A (ZONING ORDINANCE) OF THE CITY OF GRAFTON CODE OF ORDINANCES TO REZONE PROPERTY IN PRICES ADDITION." The proposed ordinance would rezone the north 8' of Lot 18 and All of Lots 19 to 22, Prices Addition currently owned by Violet Nelson from R-2 One and Two Family Residential District to B-2 General Business District. Jerry Unruh, who owns

and operates Valley Brake from the property adjacent to the south, has a purchase agreement for this property contingent upon the rezoning; he plans to expand his business and construct an addition that would allow him to service trucks inside the building. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Lipsh, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: None. Mayor West declared the motion carried.

It was moved by Mr. Lipsh and seconded by Mr. Fellman to schedule a public hearing for Monday, May 11, 2015 at 5:30 p.m. to consider the request from Violet Nelson to rezone the North 8' of Lot 18 and all Lots 19-22, Prices Addition from R-2 one and two family to B-2 General Business. Mr. Lipsh and Mr. Hutson requested that all neighbors within 1 block of the property receive written notice of the public hearing. All members were present and voted in favor thereof; Mayor West declared the motion carried.

On recommendation of the Planning and Zoning Commission, it was moved by Mr. Wysocki and seconded by Mr. Young to approve vacating the 20' easement between Lots 10 and 11, Block 5, 4th Replat of Vocational Addition at the request of Riley and Stephanie Lillimoen, 458 Northstar Drive. There are no utilities in the easement. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Lipsh, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: None. Mayor West declared the motion carried.

Mr. Lipsh reported the Grafton Regional Library does not have funding to pursue installation of an elevator at the library so that idea will be shelved for the time being.

UNFINISHED BUSINESS

Jon Markusen of Kadrmas, Lee & Jackson reported they have been monitoring water funding bills as they proceed through Legislature.

Jon Markusen of Kadrmas, Lee & Jackson, Inc., engineers for the Flood Risk Reduction Project, reported environmental work is ongoing with a significant amount of field work already collected, coordination with the Corps of Engineers is ongoing as information has to be provided to them and they coordinate with other agencies, and the hydraulic model is complete and is in the quality assurance process now. The hydraulic model is used to determine the 100 year flood profile as well as the freeboard needed to tie in the project components. The engineers are looking at some different iterations as there are different formations with the clay layers, some described as peanut butter because it is not good to build on, requiring flatter side slopes so there is no sloughing. They are trying to optimize where the channel bottom can be brought up to get out of that layer. Coordination is still ongoing with the McCleod Drain project as well. One of the biggest items yet to deal with using the hydrology model are impacts to rural areas if a 100 year flood occurs, where the water goes and what are the impacts to the rural properties. They have been meeting with the individual landowners that are adjacent to or directly affected by the bypass channel or the levees; they have completed about half of those meetings at this time. A design team meeting was held last week and they will need to start looking into the right-of-way acquisition process.

It was moved by Mr. Fellman and seconded by Mr. Young to approve the Agreement for Cost-Share Reimbursement City of Grafton's Flood Risk Reduction Project – Preliminary and Design Engineering. The agreement provides \$1.75 million from the State Water Commission to

reimburse 35% of eligible preliminary and design engineering services for the City's Flood Risk Reduction Project. The Agreement was reviewed and approved by the City Attorney. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Lipsh, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: None. Mayor West declared the motion carried.

It was moved by Mr. Young and seconded by Ms. Stark that Ordinance No. 295 entitled, "AN ORDINANCE OF THE CITY OF GRAFTON, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF GRAFTON, NORTH DAKOTA, BE AMENDED BY REVISING CHAPTER 3, ALCOHOLIC BEVERAGES TO ADD SECTION 3-31.5 OF SAID CODE; PROVIDING FOR ALCOHOL SERVER TRAINING AND RETAIL LICENSE FEE REDUCTION" be placed on second reading and adopted. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Lipsh, Mr. Mohn, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: Mr. Sieben. Mayor West declared the motion carried.

NEW BUSINESS

It was moved by Mr. Young and seconded by Mr. Fellman that it be resolved by the City Council of the City of Grafton, North Dakota pursuant to Section 3 of the Power Sales Agreement between Northern Municipal Power Agency and the City of Grafton, North Dakota that Nick Ziegelmann be appointed as the City's representative on the N.M.P.A. Advisory Council and Chris West be appointed as the City's member on the N.M.P.A. Board of Directors for the term expiring April 30, 2016. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Lipsh, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: None. Mayor West declared the motion carried.

It was moved by Mr. Young and seconded by Mr. Fellman to approve the Mayor's appointment of Shane Mohn to fill the unexpired term of Nels Midgarden, who passed away, to the Planning and Zoning Commission. All members were present and voted in favor thereof; Mayor West declared the motion carried.

In accordance with duly published advertisement for bids for Grafton Water Treatment Plant Filtration, Residuals Management, and Chemical Feed Improvements Project, City Administrator Ziegelmann presented the bids received at the bid opening Wednesday, April 8, 2015, 2:00 p.m. as follows: General Construction – Swanberg Construction, Inc. \$2,933,000 and JTJ Construction, Inc. \$3,348,000; Mechanical Construction – no bids; Electrical Construction – Sun Electric, Inc. \$1,455,000, E & I Global \$1,164,500, and Fusion Automation \$1,619,700; Combined General, Mechanical, and Electrical Construction – Swanberg Construction, Inc. \$4,913,000 and JTJ Construction, Inc. \$5,290,000. AE2S engineer's estimate was General \$3,500,000, Mechanical \$265,000, Electrical \$1,450,000, and Combined \$5,215,000. After review and consideration, it was moved by Mr. Lipsh and seconded by Mr. Young to accept the bid for Combined, General, Mechanical, and Electrical Construction to Swanberg Construction, Inc. in the amount of \$4,913,000 contingent upon North Dakota Department of Health approval. It was noted the original total project cost estimate was \$7,260,401 and with this bid the revised total project estimate is \$6,925,500, a difference of \$334,901. Mr. Ziegelmann said with the projected surplus there may be an opportunity to upgrade the CO2 system. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Lipsh, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: None. Mayor West declared the motion carried.

City Attorney Nick Hall reviewed a pending legal matter; he reminded the City Council that Lorie Hjelmstad had appeared before the City Council several months ago about another matter. Ms. Hjelmstad was subsequently charged with keeping a pit bull in the city limits and then with keeping a dangerous animal. The case was tried in Grafton Municipal Court and Judge Einarson ruled the pit bull was registered and did meet the criteria of a therapy dog under the ADA but that it was also a vicious animal under Grafton's City Ordinance; the result was all fines and jail sentence were suspended based on the conditions, primarily being that the pit bull remain in the home or any time that it is outside the home, it is on a leash and properly supervised. Mr. Hall informed the City Council that Ms. Hjelmstad has appealed the Municipal Court's decision to District Court. Robert Fleming served as her defense attorney in this case but he is now serving as Grafton City Prosecutor, therefore he has a conflict and is not able to prosecute the case in District Court. Mr. Fleming has recommended the City contact Dan Gaustad as Mr. Gaustad has already reviewed a discrimination complaint Ms. Hjelmstad filed about therapy dogs. Mr. Gaustad has been contacted and is willing to work the case with the assistance of one of his associates, Joseph Quinn. This will be a bench trial in District Court. Mr. Hall recommended Dan Gaustad with Christianson, Pearson Law Firm be appointed as special City Prosecutor to prosecute this case. It was moved by Mr. Lipsh and seconded by Mr. Mohn to appoint Dan Gaustad and Joseph Quinn as Special City Prosecutors representing the City of Grafton in the Hjelmstad vs. City of Grafton District Court case. On roll call vote the following voted in favor thereof; Mr. Fellman, Mr. Hutson, Mr. Lipsh, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: None. Mayor West declared the motion carried.

Due to a conflict of schedules for several Council members and staff, it was moved by Mr. Sieben and seconded by Mr. Wysocki to change the meeting time for the May City Council meeting to 5:30 p.m. All members were present and voted in favor thereof; Mayor West declared the motion carried.

CORRESPONDENCE AND ANNOUNCEMENTS

The Board of Equalization meeting is scheduled for Tuesday, April 14, 2015 at 5:30 p.m. at the Council Chambers.

ADJOURNMENT

It was moved by Mr. Lipsh, seconded by Mr. Young and carried to adjourn the meeting.

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Chris West, Mayor

Connie A. Johnson, City Auditor-Treasurer