

**CITY OF OKOBOJI
REGULAR COUNCIL MEETING
TUESDAY, DECEMBER 9, 2014, 6:00 P.M.**

PRESIDING: Mayor Mary VanderWoude

COUNCILMEMBERS PRESENT: Mendenhall, Robinson, Andres, Hentges, Delperdang

OTHERS PRESENT: Leo Parks, Jr., Mr. & Mrs. Phil Redinbaugh, Tom Tourville, Mr. & Mrs. Richard Mau, Jason Petersen, David Stein, Jr., Stephanie Parks, Jean Allen, Dennis Colton, Rich Nicklay, Bruce Smith, Lyda Neuhaus, Gretchen Graham, Jim Caffrey, Dustin Cross, Joe Andres, Marjorie Mueller, Phil Petersen, Bob Faulkner, Susan Mau, and other unidentified individuals.

After the Pledge of Allegiance, the Mayor called the meeting to order at 6:00 P.M. Hentges/Mendenhall moved to adopt the agenda. All ayes. Motion carried. Before asking for a vote on the consent agenda, Mayor VanderWoude stated it was her understanding a councilmember had concerns about the content of the November minutes. City Attorney David Stein suggested that adding a recitation concerning alcohol use at Okoboji Boats needs to be done by council motion. Mendenhall moved making the recommendation to amend the minutes per legal counsel recommendation. Councilmember Delperdang asked if the minutes were going to include a complete conversation or just portions of a conversation. The Mayor stated it was her opinion that if a complete conversation is to be included in the minutes why not preserve the complete recording of the meeting. Delperdang felt that picking and choosing a portion of a conversation would not be fair. Stein stated a recitation can be made to the effect that the recording will be preserved for review at the city hall. Mendenhall at this time amended his motion to maintain the recorded minutes of the November 12, 2014 meeting, seconded by Robinson. The vote was 4-0 with an abstention by Andres. Motion carried. It is noted here that the recorded minutes of November 12, 2014 will be available upon request at the Okoboji City Hall. Robinson/Mendenhall moved to approve the consent agenda, which included minutes from the previous meeting 11/12/14 with the change approved by the previous motion, claims for December 2014, and Clerk's Report ending November 2014. All ayes. Motion carried.

OLD BUSINESS

Council to consider Resolution No. 14-18, "RESOLUTION SETTING FORTH THE CITY OF OKOBOJI, IOWA'S RECOMMENDATION REGARDING DOCKS:"

The Mayor announced the Council has discussed and reviewed this extensively the past two Council meetings and asked the audience if anyone has anything new to add. Attorney for Leo Parks, Jr., Phil Redinbaugh, stated that Mr. Parks is not seeking anything new but is asking for the renewal of dock permits approved in the past. Commercial use on the docks in question is nothing new and since being approved in the past, Parks has gone to great expense in this area to accommodate commercial activities. History of the area was discussed, with Redinbaugh asking the Council to approve the permits without restriction. Redinbaugh went on to say Parks has never been charged with an illegal activity, no problems, no injuries or anything of the sort in the area. Redinbaugh stated in the past he has encouraged the neighbors against Parks to bring an action of their own against him and this way the City no longer spends money for litigation; and the Council at this meeting has an opportunity to discriminate against Mr. Parks or benefit the citizens of Okoboji by granting the permit without restrictions. Redinbaugh stated the intent of Parks is to do something good for the city. Okoboji resident Gretchen Graham reminded the Council that Parks knew the zoning of the boat works when he purchased it. The Mayor reminded Graham this item is not about the boat works but a dock permit for two different addresses. Lyda Neuhaus, manager of Arrowwood Resort, stated as a person who likes to create the experience in Okoboji, her first concern is the guests staying at her hotel and the community itself. After thinking about the issue from the last meeting she attended, she has her corporate groups trying to get to a dock at Okoboji Boats that sometimes takes several trips, and having to tell everyone alcohol cannot be consumed until the boat leaves the dock just feels like we are discouraging guests from enjoying the area. Dustin Cross, Attorney from New Ulm, Minnesota, cited the IDNR dock rules as well as the zoning laws of Okoboji stating the properties are zoned residential, and even though the IDNR makes the rules for dock permits, the Council at this meeting is only making a recommendation to the IDNR. Cross stated the group he represents is recommending the Council should deny commercial activity or at the very least with recommendations for use.

City Attorney David Stein, Jr. asked Parks if he was using the former Geiger property to access the Fish House or any other commercial boats at that address. Parks stated possibly yes. Stein asked Parks if alcohol is being served in the Fish House on a dock attached to the former Geiger property. Parks answered yes. Stein asked Parks if he has commercial operations from other docks. Parks answered yes. Stein asked Parks if he was aware the Geiger property was zoned residential. Parks answered yes but he has a commercial dock permit for that address. Stein asked if other commercial boat rentals in this area sold alcohol on those boats. Parks answered he did not know. Stein asked that since zoning was put into place in 1972 or after, has there been any commercial uses in this area. Parks stated yes continuously since the 1900's. Stein reminded the Council they are simply making a recommendation to the IDNR to be consistent with what the city zoning regulations are. The Council is allowed by IDNR administrative code to make recommendations, and any threat of lawsuit for discrimination is without merit. Stein made the recommendation to the Council that they make the best decision possible, and anything they do will not constitute any discrimination.

After further discussion, Mendenhall/Robinson moved to adopt and approve Resolution No. 14-18 stipulating the third choice denoted within the resolution, and that all other commercial dock permit holders be advised of this decision. That stipulation states: "That a dock permit be issued with the following restrictions to prevent use of the dock that would be incompatible with City Residential Zoning of the shoreline property from which the dock extends: That the Applicant be allowed to obtain a dock permit that in all respects is governed as a Class I Standard Private Dock, except that hoists/boat slips may be rented but the Applicant not be allowed any other commercial use." Upon the call

of the roll, the vote was as follows: AYES-Delperdang, Mendenhall; NAYS-Hentges, Robinson; Abstention-Andres. The Mayor announced the issued failed due to a lack of a majority vote.

NEW BUSINESS

Council to consider employee health and dental insurance renewal: Jean Allen of Central Bank Insurance presented the Council with the health and dental insurance renewal as well as the Life, ADD, and STD insurance renewal. Allen reported that the Delta Dental insurance and the Dearborn National life insurance rates had not increased for 2015. Wellmark Blue Cross Blue Shield health insurance rates increased by approximately 5% for 2015. Allen reviewed the deductible limits for all plans and the expected out-of-pocket expense for a plan holder. Wellmark increased from \$11,195.87 to \$11,726.03 per month. Delta Dental remained the same at \$854.52 per month. The Dearborn National rate stayed the same at \$0.83 per \$1000 of salary for Life, \$0.04 per \$1000 of salary for ADD and \$0.76 per \$1000 of salary for STD. Delperdang/Robinson moved to accept the insurance renewals as presented. All ayes. Motion carried.

Tom Maser & Justine Kelley, Humane Society of NW Iowa, to update the Council on the Trap/Neuter/Release program for feral cats and other Humane Society issues: The Mayor announced the officials from the Humane Society were not able to be present at this time, and this will be a future agenda item.

Dickinson County Airport Authority to request assistance in the amount \$6,250.00 for parking lot blacktop overlay: Dickinson Airport Authority member Bruce Smith stated the parking lot at the airport has had the blacktop parking lot overlaid as well as other improvements such as crack filling and sealing of the runway and taxiway. The cost for the parking lot overlay was \$24,000.00. Smith stated since the recycling roll offs are allowed to be at the airport and heavy trucks come and go at different times, the Authority is asking the city to participate at a cost of \$6,250.00. After discussion, Delperdang/Hentges moved to approve the request for \$6,250.00 payable next fiscal year. All ayes. Motion carried.

Council to consider Resolution No. 14-19, "Dispensing with the special election requirement on the matter of granting a gas franchise to Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy:" Delperdang/ Robinson moved to approve and adopt Resolution No. 14-19. Upon the call of the roll, the vote was as follows: AYES- Delperdang, Hentges, Andres, Robinson, Mendenhall; NAYS-None. With the vote being in the majority, the Mayor declared the motion duly carried.

Council to conduct a public hearing to consider Ordinance No. 223, "An ordinance granting Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, a Delaware corporation, its lessees, successors and assigns, a natural gas franchise and the authority to construct, operate, maintain, and extend a natural gas distribution plant and system, and granting the right to use the streets, alleys, and other public places within the present or future corporate limits of the City of Okoboji, Iowa:" The Mayor declared the public hearing open for comment concerning adoption of Ordinance No. 223. With no comment, the Mayor declared the public hearing closed. Daly stated the ordinance allows Black Hills Energy the right to continue operation within the city limits of Okoboji, and the ordinance is on file at the City Hall for inspection. Delperdang/Hentges moved to introduce the first reading of Ordinance No. 223. All ayes. Motion carried. Robinson/Delperdang moved to waive the second and third readings. Upon the call of the roll, the vote was as follows: AYES-Delperdang, Hentges, Andres, Robinson, Mendenhall; NAYS- None. With the vote being in the majority, the Mayor declared the motion duly carried. Robinson/Andres moved to have Ordinance No. 223 placed on its final passage and adoption. Upon the call of the roll, the vote was as follows: AYES-Delperdang, Hentges, Andres, Robinson, Mendenhall; NAYS-None. With the vote being the in the majority, the Mayor declared the motion duly carried.

Council to conduct a public hearing to consider the sale of city property commonly known as "BYE STREET" to adjacent property owner Dennis Colton of 1624 Nichols Avenue: The Mayor declared the public hearing open for comment concerning the sale of city property to adjacent property owner Dennis Colton of 1624 Nichols Avenue. With no comments, the Mayor declared the public hearing closed. Delperdang/Robinson moved to approve the sale of city property commonly known as "BYE STREET" to Dennis Colton in the amount of \$550.00. All ayes. Motion carried.

Council to consider Resolution No. 14-20, "A resolution of the City Council of Okoboji, Iowa rescinding Resolution No. 14-16 and in lieu thereof adopting Resolution No. 14-20, a resolution establishing fees for zoning and related zoning activities:" Robinson/Hentges moved to approve and adopt Resolution No. 14-20. Upon the call of the roll, the vote was as follows: AYES-Delperdang, Hentges, Andres, Robinson, Mendenhall; NAYS-None. With the vote being in the majority, the Mayor declared the motion duly carried.

Council to consider a granted variance to Okoboji Winter Project for the addition of an open canopy on a non-conforming structure: Delperdang/Hentges moved to approve the granted variance. The vote was 4-0 with an abstention by Andres. Motion carried.

Council to consider the re-appointment of Owen Primavera to the Board of Adjustment with term to expire 01/08/2020: Robinson/Mendenhall moved to approve the re-appointment of Owen Primavera to the Board of Adjustment. All ayes. Motion carried.

Council to consider employee end-of-the-year awards: Robinson/Hentges moved to approve an end-of-the-year award to each full-time city employee in the amount of \$250.00. All ayes. Motion carried.

REPORT OF OFFICERS

Councilmember Robinson publicly commended the Arnolds Park/Okoboji Fire Department for their excellent work at the recent Spirit Lake fire. Robinson also announced the fire department has completed its first official financial audit, and is pleased to announce the auditor gave the department a clean bill of health.

Councilmember Mendenhall addressed the decision regarding the docks and stated he wished to have a letter sent to the IDNR concerning the issue and the use of future docks. City Attorney David Stein stated it is his opinion that lawfully the City cannot send a letter to the IDNR, but a private citizen may do so if they so wish.

City Administrator Dennis Daly reported he will be out of the office from December 17th to the first of year due to having hip replacement surgery. Daly stated Steve Hallgren of the Northwest Iowa Planning and Development Commission has been put on call to handle any zoning issues that may come up in that time period.

Expenditures for the month of November 2014 are as follows: Public Safety - \$23,592.93; Public Works - \$20,361.11; Culture & Recreation - \$75.30; Community & Economic Development - \$1,737.50; General Government - \$30,905.32; Water - \$75,917.31; Road Use Tax - \$1,002.65; Debt Service/Property Tax - \$52,195.86; Trust & Agency - \$92.00. Receipts for the same period were \$195,451.67, creating a balance in all funds in the amount of \$1,806,679.73. \$104,523.61 of the reported balance is invested in Certificates of Deposit with the United Community Bank.

Andres/Robinson moved to adjourn. All ayes. Motion carried. Meeting adjourned at 7:43 P.M.

Mary VanderWoude, Mayor

ATTEST:

Dennis J. Daly, CMC
City Clerk/Administrator