

MINUTES OF THE OKOBOJI CITY COUNCIL MEETING HELD ON JUNE 11, 2019

Mayor VanderWoude called the meeting to order at 6:00 PM on June 11, 2019. Councilmembers Delperdang, Hentges, Andres, Robinson, and Mendenhall were present at roll call. Others present were City Administrator Michael Meyers, City Attorney David Stein, Chief of Police Jason Petersen, Jason Eygabroad, Jamie Hunder, Keith Steffens, Cindy Steffens, John Vernon, Babs Hein, Dan Sanders, Wayne Finnen, Allen Smith, Jim Kosse, Karen Kosse, Bruce Smith, Natalie Enger, Chris Enger, Jeff Thee, and Kae Hoppe.

Prior to the consent agenda being introduced Mayor VanderWoude recognized Mr. James Golden who recently passed away in a car accident. Mayor VanderWoude thanked Golden for his service to the City of Okoboji as both a City Council member from June 1989 through December 1993 and for his involvement with the Arnolds Park-Okoboji Volunteer Fire Department.

CONSENT AGENDA

Motion made by Councilmember Hentges and a second by Councilmember Andres to approve the Consent Agenda which included minutes from the May 14, 2019 City Council meeting, the claims and accounts payable report, the bank cash report for May 2019, renewal of cigarette permits for Casey's General, Kum and Go, and Okoboji Boat Works, a renewal of a beer permit for Okoboji Boat Works, and the renewal of a liquor license for Kum and Go. The following Councilmembers voted "YEA": Delperdang, Hentges, Andres, Robinson, Mendenhall. Motion passed 5-0.

CITIZEN APPEARANCES

Barbara Hein addressed the Council relating to her frustration with bicycles on the Okoboji Promenade and requested that the City install more preventive barriers. Hein also expressed dissatisfaction with the City's maintenance of the Dixon Beach raingarden and requested that the City clean out.

NEW BUSINESS

Mayor VanderWoude gave a brief overview of the previous conversation with representatives of Chalstrom Beach Condominium Association ("Association") relating to the drainage ponds on the Association's property. VanderWoude reminded those in attendance that the Association originally presented to the City during the May City Council meeting but Councilmembers Hentges and Andres were unable to be in attendance and the Council in May asked that the Association return to the June meeting in an effort to have a full Council and full input.

Councilmember Andres asked how would the Association help the City get around some of the concerns relating to the difference in opinion relating to the language used in the Proprietor's Certificate as it relates to the use of the term "the public" and the "City of Okoboji". Jamie Hunter, representing the Association, believed that the terms "the public" and the "City of Okoboji" are used interchangeably in the referenced document. Hunter also advised the Council that there have been discussions with the engineer who worked on this project and that the engineer represented that it was the intent to dedicate this to the City of Okoboji.

Councilmember Andres inquired on how an easement means that the City must then maintain and that she was concerned about the can of worms which may be opened. Hunter commented that she felt there was clear case law that by acceptance of an easement that you must maintain the easement. Hunter further advised that the Association is not seeking an improvement on the easement but instead general maintenance. Andres commented that the City has plenty of easements which are not being maintained by the City. Hunter again advised that if there is an easement, the easement holder is to maintain.

Chris Enger, Association Board Member, addressed several of the concerns that the Council discussed during the May meeting. Enger commented that the Association's request was particularly unique and would not create precedent. Enger also commented that the Association is a significant taxpayer in the City in response to questions of fairness to the Okoboji taxpayers. Enger further commented that the City has in the past maintained portions of the drainage system associated with these ponds.

Mayor VanderWoude asked directly what it was that the Association was asking of the City and what they would like the City to do. Enger commented that the ponds are filled up and that they need be cleaned out to function adequately.

Enger commented that another question of the City Council in May was whether or not this action was legal by the City of Okoboji. Enger commented that the City Attorney had advised at one point that there is nothing preventing the City from doing the requested work. Enger also commented that he believed that the City of Okoboji was a major land owner within this system having upwards of 5 acres of property.

Councilmember Andres asked what the cost of the repair would be. Enger commented that the Association is unsure and requested that the City Engineer study the ponds. Mayor VanderWoude commented that the Council does not feel as though this is City property and was concerned about the precedent on doing engineering work on private property. Enger commented that the drainage easement was dedicated to the City.

Councilmember Mendenhall advised that the area has always been a wet spot. Mendenhall asked who built the ponds. Enger commented that the developer of the condominiums did. Enger commented that he researched historic aerial photos and advised that that where the ponds are located is consistent with where pre-existing wetlands were. Enger commented that wetlands have become ponds. Enger commented that he also felt as though a previously existing concrete pipe under Chalstrom Circle was at some point obstructed. Enger commented that he believes the City of Okoboji is certainly a partner in this effort to resolve the situation.

Councilmember Hentges commented that the "City of Okoboji" and the "the Public" are not the same in his eyes and commented that this is private property. Hentges acknowledged that the City does not maintain and take care of every single easement on private property.

Jamie Hunter further explained the Association's position on their belief that the easement was dedicated to the City of Okoboji based upon the language within the Proprietor's Certificate. Hunter requested that the first step is that there should be an engineer's estimate on exactly what

needs to be done to resolve the situation. Hunter believed that the Association should not be responsible for the full cost of the study on the drainage ponds.

Chris Enger commented that the Association has been at this for a year and that they needed help. Enger believed that the simplest thing to do moving forward would be to consider a drainage district and Enger requested that the City participate. Enger commented that if a \$5,000 bond were put up, the County would then begin study of the area for a drainage district. Enger believed that the City and Chalstrom Beach were minor contributors in this watershed in comparison to properties to the north.

Jim Kosse, President of the Association, asked if the City would be willing to share the cost of the engineering study so that both parties have a better idea of what is being discussed in terms of scope and cost.

Councilmember Andres again expressed concern over the amount of easements the City has and how being requested to maintain the ponds affects other easements. Jamie Hunter cited Iowa Supreme Court language on the burden being created by this specific easement.

City Attorney Dave Stein commented that the City has good arguments that the City has not accepted any responsibility of these ponds. Stein commented that merely approving a plat does not exactly mean that you are accepting all responsibility.

Wayne Finnen, Treasurer of the Association, commented that he has been told that occasionally City of Okoboji employees have done work on the 18" outlet to the lake. Mayor VanderWoude commented that it would not be unusual for a Public Works employee to see a problem and quickly fix it such as moving sticks out of the way of an obstructed pipe. VanderWoude commented that is likely what the homeowner saw and that Public Works staff has not otherwise been instructed to maintain the ponds.

Councilmember Robinson commented that he did not believe this could be resolved without the input from a third party to help determine the difference between "the public" and the "City of Okoboji". Robinson expressed concern about sharing in the cost of an engineering study and then accepting responsibility by participating. Jamie Hunter commented that she believed documentation could be put together to acknowledge that the City is doing so on a good neighbor basis and not accepting future responsibility.

Chris Enger asked if the City would be willing to go along with the Association to help start the study of drainage district and asked if the City would petition Dickinson County to consider. Mayor VanderWoude commented that she was unsure on that. Enger commented that the City was a property owner within the area and could be involved in this.

Mayor VanderWoude asked the Council for what they believe was the best path forward. Councilmember Delperdang outlined what he felt the options were. The first being to tell the Association they are on their own and the second having the City participate in an engineering study. Delperdang was in favor of participating in the study but not committing the City to any future maintenance or improvements with the drainage ponds.

City Administrator Meyers asked Chris Enger if the City was a legal participant in a drainage district considering the fact that the City only has streets in this area and no actual parcels of land. Enger confirmed with Meyers that the City was indeed an eligible participant.

Councilmember Hentges acknowledged the sheer amount of property owners and land involved in a drainage district. Councilmember Hentges commented on the potential for precedent being set but was in favor of participating with the Association in a study of the area and what it would take to rejuvenate the ponds. Councilmembers Andres, Robinson, and Mendenhall offered agreement.

Mayor VanderWoude directed City Staff to work with the Association on accomplishing this. No further action was taken.

Mayor VanderWoude presented to the Council for consideration a ‘CONTRACT TO FOR COLLECTION, TRANSPORTATION, AND PROCESSING OF RESIDENTIAL SOLID WASTE AND SINGLE SORT RECYCLING FOR THE CITY OF OKOBOJI, IOWA’ between the City of Okoboji and Waste Management of Minnesota, Inc.

John Vernon requested that the City make a provision in the contract that would allow residents to put their accounts on a hold when they are not utilizing the property. Mayor VanderWoude commented that this is not allowable under Waste Management’s rules and that this is applicable to many other cities.

Dan Sanders asked how the new contract would impact the City. City Administrator Meyers advised that the service was largely the same as it is now and that residents likely would see no difference. Meyers commented that this discussion has been had by the Council in previous meetings and the Council largely favored essentially the same service the City has now. Originally Waste Management favored every other week cart recycling and the Council decided to keep recycling weekly and in a bin. The rates for garbage will remain the same for 12-months and then increase based on CPI. Garbage will still be picked up twice per week between Memorial Day and Labor Day and then once per week over the winter.

Motion made by Councilmember Robinson and a second by Councilmember Mendenhall to approve the contract between the City of Okoboji and Waste Management, Inc. The following Councilmembers voted “YEA”: Delperdang, Hentges, Andres, Robinson, Mendenhall. Motion passed 5-0.

Mayor VanderWoude moved agenda item J to the next item of business. Jason Egyabroad, with Beck Engineering, discussed with the Council potential options to help with the storm water runoff that comes from Fairfield Avenue, Eden Street, and Lakeshore Drive. The storm water funnels down the Eden Street extension and has been creating issues. Egyabroad commented that the City had designed plans late last year for an open throat intake to catch the water and pipe it to the lake.

Councilmember Mendenhall acknowledged that the problem is exaggerated by the construction happening in the area. Mendenhall commented that he did not feel a pipe directly to the lake was necessarily the best idea. Egyabroad commented that if the City only wished to address this problem at this time that it was a solution but not necessarily the only solution. Egyabroad

explained that the problem starts further up the way on Fairfield and Lakeshore Drive and ultimately the permanent fix would be a much larger project.

Councilmember Robinson asked if the price estimated in the fall of 2018 was still valid today. Eygabroad commented that he believed it will still be in the ballpark. Robinson asked City Administrator Meyers if the City could pay for the project and Meyers commented that the City has sufficient reserve funds to pay for it, but that it would require a future budget amendment in FY20.

Councilmember Mendenhall reiterated the concern about the City's inability to access the promenade with any of the City vehicles for access to utilities and other maintenance. Mendenhall argued in favor of green infrastructure that would look good but also support the City's needs for access.

Councilmember Delperdang asked how this piece of infrastructure would fit in with future projects. Eygabroad commented that it could fit into future projects just may be overkill by the time that it is all pieced together in the long run.

Councilmember Mendenhall commented that water is still essentially just running to the lake. Mendenhall requested more information on just having a paver system and directing water through the paver system. Eygabroad commented that was essentially what was previously existing. Councilmember Andres commented that this would be significantly cheaper than the presented alternative. Mendenhall asked for additional ideas that would solve several different concerns of the City and look appealing.

City Administrator asked if the direction was to provide two alternative designs one that was close to the way the extension was originally designed and a second being a green and LID orientated designed that was functional and appealing. Mayor VanderWoude directed City Staff to provide those options to the Council. No further action was taken.

Mayor VanderWoude presented Resolution 19-07, "Resolution to Approve Contract for Two Years Between Teamsters Local #554 and the City of Okoboji, Iowa".

Motion made by Councilmember Hentges and a second by Councilmember Andres to approve Resolution 19-07. The following Councilmembers voted "YEA": Delperdang, Hentges, Andres, Robinson, Mendenhall. Motion passed 5-0.

Mayor VanderWoude presented Resolution 19-13, "Resolution to Authorize Salary Adjustments for Non-Union Benefited Employees for Fiscal Year 2019/2020".

Motion made by Councilmember Mendenhall and a second by Councilmember Andres to approve Resolution 19-13. The following Councilmembers voted "YEA": Delperdang, Hentges, Andres, Robinson, Mendenhall. Motion passed 5-0.

Mayor VanderWoude opened discussion on a potential City ordinance disallowing tobacco and nicotine from City owned grounds and properties. City Administrator Meyers commented that this was originally presented by Healthy Hometowns two months previous. Meyers displayed signage provided by the group. Meyers advised that some Councilmembers were interested in continued

conversation and was seeking direction from the Council as to if they wanted this to be a proposed ordinance or not.

Mayor VanderWoude commented on the difficulty to enforce. Councilmember Hentges said individuals were not likely to adhere to it. Councilmember Robinson likened this to the signage on the Okoboji Promenade asking bicycles to use an alternative route and how that is difficult to enforce.

Mayor VanderWoude advised City Staff that no further work was needed on this. No further action was taken.

Mayor VanderWoude presented a quote for \$20,230.30 for a 2020 Chevrolet Equinox to be paid in Fiscal Year 2020. City Administrator Meyers commented that this was a budgeted item for FY20 and that he was requesting the vehicle for official City use. Meyers commented that City Hall staff are currently utilizing their own vehicles and not receiving any reimbursement. Meyers commented that he felt it more comfortable to have a recognizable and marked vehicle for staff and citizens. Meyers commented that alternatives could be paying City staff a reimbursement, purchasing a used vehicle, or leasing a vehicle. Meyers commented that the quote provided is around \$7,000 -\$8,000 less than what would be expected for a brand new vehicle due to the fact that the City would purchase off of the State of Iowa's contract. Meyers was not in favor of a leased vehicle as the long term cost would be more than this upfront cost. Councilmember Robinson advised that he shopped around locally and two dealerships told him that the State contract was a far superior deal than what they could offer. Councilmember Hentges advised that if spread out of seven to ten years the cost of this vehicle will be less than \$200 a month and that the City would outright own it. Meyers agreed that there was no need to have this vehicle on regular replacement and that it should be expected that the City retain this vehicle for a long while.

Motion made by Councilmember Robinson and a second by Councilmember Hentges to approve the quote for \$20,230.30 for a 2020 Chevrolet Equinox. The following Councilmembers voted "YEA": Delperdang, Hentges, Andres, Robinson, Mendenhall. Motion passed 5-0.

Mayor VanderWoude presented an application for a new 12-month Class E Liquor License (LE) with a class B wine permit, Class C beer permit, and Sunday Sales for Casey's General Store #2681.

Motion made by Councilmember Robinson and a second by Councilmember Hentges to approve the liquor license. The following Councilmembers voted "YEA": Delperdang, Hentges, Andres, Robinson, Mendenhall. Motion passed 5-0.

Mayor VanderWoude presented a Board of Adjustment granted variance for Mr. Allen Smith. The variance was recommended by the Board of Adjustment on a 4-1 vote to allow Mr. Smith to exceed the height requirements in a residentially zoned district for an accessory structure.

Motion made by Councilmember Andres and a second by Councilmember Hentges to accept the variance from the Board of Adjustment. The following Councilmembers voted "YEA": Delperdang, Hentges, Andres, Robinson, Mendenhall. Motion passed 5-0.

Mayor VanderWoude presented a Purchase of Services Contract between the City of Okoboji and Regional Transit Authority Inc (RIDES).

Motion made by Councilmember Robinson and a second by Councilmember Mendenhall to approve the contract between the City of Okoboji and RIDES. The following Councilmembers voted “YEA”: Delperdang, Hentges, Andres, Robinson, Mendenhall. Motion passed 5-0.

REPORT OF OFFICERS

Police Chief Jason Petersen has no report.

Mayor VanderWoude commented that she has been in contact with County Supervisor Kim Wermersen relating to the intersection at Hwy 71 and County Home Road in an effort to see if there are ways to make the intersection safer. VanderWoude acknowledged that this was not the City of Okoboji’s Jurisdiction.

Councilmember Mendenhall commented on the increased development on these corners and hoped the City could put together a letter of support for increased safety at this intersection from the City directly.

City Administrator Meyers commented on four upcoming events that City Councilmembers may be interested which were the Dickinson County Tax Payer Association Annual meeting, the Brooks Golf Course public input meeting, a Northwest Iowa League of Cities meeting, and the Iowa Great Lakes flood and water level presentation. Meyers commented on the Planning and Zoning Commission’s recommendation of future ordinance changes for a Conservation Zoning District and revisions to the Lakeshore Landscaping which will be discussed by Council in July. Meyers commented on the City’s raingardens and that he is working to find a consultant to further help City Staff maintain these raingardens. Meyers updated the Council on engineering going on in the City relating to Speier Park drainage and basketball courts. Meyers presented new ‘Share the Road’ signage which will go up on Lakeshore Drive soon. Meyers advised there are many building permits at this time. Meyers advised that the City is at the end of the fiscal year.

The meeting was adjourned at 7:58 PM.

ADJOURNMENT

Mayor Mary VanderWoude

Michael Meyers, City Administrator / Clerk