

The minutes of the Fairmont City Council meeting held on Monday, November 25, 2019 at the City Hall Council Chambers.

Mayor Deborah J. Foster called the meeting to order at 5:30 p.m.

Council Members Ruth Cyphers, Wayne Hasek, Tom Hawkins, Randy Lubenow and Bruce Peters were present. Also, in attendance: Public Works Director/City Engineer Troy Nemmers, Finance Director Paul Hoye, City Clerk Patricia J. Monsen, Police Chief Mike Hunter and Interim City Attorney Erik Ordahl.

Council Member Peters made a motion to approve the agenda with the addition of item 14.2, an Event Permit for The World's Big Sleep Out. Council Member Hasek seconded the motion and the motion carried.

Council Member Cyphers made a motion to approve the minutes of the October 28, 2019 City Council meeting. Council Member Peters seconded the motion and the motion carried.

Council Member Peters made a motion to approve the minutes of the November 15, 2019 Special City Council meeting. Council Member Hasek seconded the motion and the motion carried.

During Celebration Time, Nemmers gave a summary two annual projects. The first was the successful City-Wide Cleanup held in June and September. There were 1,600 citizens who participated in the drop off sites and another 1,000 citizens who delivered items directly to Prairieland. Nemmers thanked Prairieland Solid Waste for their partnership on this project. The second project was the 2019 leaf pickup. Both of these projects are run by the Street and Park Department employees. Nemmers thanked Nick Lardy, Street and Park Superintendent and all of the employees of the Street and Park Department for all their hard work on both of these projects.

During Open Discussion, Vicky Schulte of 313 South Prairie Avenue thanked the three council members who have made changes happen around here. She stated that they have made a difference in her life.

Matt Nielsen of 315 Albion Avenue spoke on behalf of the Fairmont Soccer Association. Nielsen thanked the City for the soccer fields and the Police and Street and Park Departments.

Jay Maynard of 1831 Oakwood expressed his displeasure with how the majority of the Council has acted over the past several months.

Mayor Foster read a letter from Mike Katzenmeyer on behalf of the Fairmont Lakes Foundation regarding a comment printed in the Sentinel. Katzenmeyer stated that the comment in the Sentinel "Lakes Foundation very frustrated with no action over the years by the City" is not accurate. Katzenmeyer stated that this statement "should not be attributable to any official position expressed by our board and organization. We truly do recognize and appreciate all of the support we receive from the City Staff."

Mayor Foster proclaimed December 2019 as General Aviation Appreciation Month in the City of Fairmont. Airport Manager Lee Steinkamp gave an update on the Fairmont Airport.

Mayor Foster opened the public hearing on the 2019 Assessment of Unpaid and Delinquent City Service Charges. No one was present to make comment. Council Member Peters made a motion to close the public hearing. Council Member Hasek seconded the motion and the motion carried. Council Member Hawkins made a motion to adopt **Resolution 2019-53**, adopting assessment for unpaid charges. Council Member Peters seconded the motion. On roll call: Council Members Hawkins, Lubenow, Peters, Cyphers and Hasek all voted aye. No one voted nay. Mayor Foster declared said motion passed.

Council Member Hasek made a motion to approve the Temporary On-Sale Liquor License for Fairmont Opera House for an event to be held on December 31, 2019. Council Member Peters seconded the motion and the motion carried.

Council Member Hasek made a motion to approve the Event Permit for The World's Big Sleep Out to be held on December 7, 2019 in Citizen's Park. Council Member Cyphers seconded the motion and the motion passed. Jason Subbert was present to speak about the fund raiser event.

Mayor Foster gave a summary of conclusions of the evaluation of the performance of the City Administrator Pursuant to MN Stat. 13D.05, Subd. 3(a). Mayor Foster reported that Mr. Humpal did not request that such meeting be open to the public. As a result, the evaluation of Mr. Humpal's performance took place in a closed meeting as provided under the Minnesota Open Meeting Law. The only conclusion made by the City Council of the evaluation of the performance of Mr. Humpal was that Mr. Humpal should separate from employment with the City under a separation and release agreement.

After the October 30, 2019 conference call with the State Auditor's Office, the State Auditor's Office determined that, at the request of the City Council, they would be able to review the transfer of liquor store proceeds from January 2002 to January 2019. After much discussion, Council Member Cyphers made a motion to direct staff to assemble all documentation to proceed with an audit of the liquor store proceeds from January 2002 to January 2019. The motion failed for lack of a second.

Council Member Lubenow made a motion to approve the City Council waiving the attorney/client privilege in its entirety on the letter dated October 24, 2019 addressed to Honorable Deborah J. Foster from Martin County Attorney Terry W. Viesselman and Chief of Police Michael Hunter regarding the cases which passed the statute of limitations. Council Member Peters seconded the motion and the motion carried. Mayor Foster then read the letter.

Mayor Foster read information prepared by City Attorney Brandon Fitzsimmons regarding the Role of City Prosecutor. On September 30, 2019, the City Council approved a motion authorizing Council Member Tom Hawkins and Mayor Foster, along with legal counsel, to retain Michelle M. Soldo of Soldo Consulting, P.C. on behalf of the City of Fairmont and to consult with the investigator to facilitate the completion of an investigation into criminal matters presented by law enforcement to the City Attorney for prosecution in which the statute of limitations passed and those individuals officially involved in the matters or aware of the matters and the extent of involvement and awareness during the dates of January 2012 through May 2019. Investigator Soldo completed her investigation in November 2019 and determined in writing, in sum, that it was not established that City officials and/or City staff outside of the City prosecutor knew or should have known that the City did not prosecute or dismiss criminal cases prior to the applicable statute of limitations.

Mayor Foster thanked Martin County Attorney Viesselman and Chief of Police Hunter for all the time they spent on reviewing all the cases involved with this investigation. She thanked them for the steps they have taken to assure the citizens of Fairmont that something like this will never happen again. Mayor Foster gave her sincere apology to all those affected by these cases and those who did not receive due process. Mayor Foster stated that CADA (Committee Against Domestic Abuse) has opened an office in Fairmont at 403 South State Street and that Laura Moreno is the Martin County Advocate.

Economic Development Coordinator Linsey Preuss talked about the multifamily housing tax abatement proposal. Council Member Hawkins made a motion to support the FEDA Board's recommendation of developing a multifamily housing tax abatement program by authorizing staff to work with bond counsel to develop this program. Council Member Peters seconded the motion and the motion carried.

On October 14, 2019, the Council approved entering into a contract with Gemini Studios for the oversight of audio and video services. After that date, Bruce Abitz brought concerns regarding special meetings and closed sessions and presented a slightly modified contract which included payment for special meetings and closed sessions. Council Member Peters made a motion to authorize the Mayor and City Clerk to enter into a contract with Gemini Studios for the oversight of audio and video services. Council Member Hasek seconded the motion and the motion carried.

Council Member Hawkins made a motion to confirm that the City of Fairmont does not waive the monetary limits on municipal tort liability established by Minnesota Statutes 466.04. Council Member Hasek seconded the motion and the motion carried.

Council Member Peters made a motion to adopt **Resolution 2019-52**, establishing the City of Fairmont's 2020 polling place. Council Member Hawkins seconded the motion. On roll call: Council Members Hasek, Hawkins, Lubenow, Peters and Cyphers all voted aye. No one voted nay. Mayor Foster declared said motion passed.

Council Member Lubenow made a motion to authorize the Mayor and City Clerk to sign the Prosecution Contract between the City of Fairmont and the Martin County Attorney for criminal prosecution of the city attorney's jurisdictional cases. Council Member Hawkins seconded the motion and the motion carried.

During a work session on November 18, 2019 to review proposals for the City's civil legal counsel, it was determined that the majority of the council was unsatisfied with the three bids the City received. Council Member Hawkins made a motion to direct staff to send letters to the three bidders rejecting bids. Council Member Lubenow seconded the motion and the motion carried.

Council Member Peters made a motion to authorize the Mayor to sign the Airport Grant Pre-application checklist for the new hangar apron and taxi lane construction at the airport. Council Member Cyphers seconded the motion and the motion carried.

Council Member Peters made a motion to authorize the Mayor and Councilor Hawkins to negotiate an agreement with an interim City Administrator. Council Member Lubenow

seconded the motion. On roll call: Council Members Lubenow, Hawkins, Peters and Cyphers all voted aye. Council Member Hasek voted nay. Mayor Foster declared said motion passed.

Discussion was held regarding alternate funding for the City's street improvement program. Council Member Peters made a motion to authorize staff to begin the process of working on a local option sales tax of one-half percent to be designated for street repair and construction. Council Member Lubenow seconded the motion. On roll call: Council Members Cyphers, Hawkins, Peters and Lubenow voted aye. Council Member Hasek voted nay. Mayor Foster declared said motion passed.

Council Member Lubenow made a motion to approve the payment of the November 2019 bills in the amount of \$1,060,744.71. Council Member Hawkins seconded the motion. Mayor Foster advised the council and citizens that attorney costs for data requests for 2019, which was not budgeted for, has been \$14,873.00 through October. The motion carried.

Nemmers reminded citizens about the snow emergency declarations and that no vehicles can be parked on the snow emergency routes until the snow has been removed from curb to curb. The snow emergency maps are posted on the City's website.

Mayor Foster told the Council that if they wished to change board appointments, they should let her know. She also advised that she was looking to fill one position on each of the following boards and commissions: Safety Council, Airport Board and Building Code/Fire Appeals Board.

A motion was made by Council Member Peters, seconded by Council Member Hasek and carried to adjourn the meeting at 7:21 p.m.

---

Deborah J. Foster, Mayor

ATTEST:

---

Patricia J. Monsen, City Clerk