

The minutes of the Fairmont City Council meeting held on Monday, October 14, 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: City Administrator Mike Humpal, Public Works Director/City Engineer Troy Nemmers, Finance Director Paul Hoye, City Clerk Patricia J. Monsen, Police Chief Mike Hunter and Interim City Attorney Robert Scott.

It was moved by Council Member Cyphers to approve the agenda as presented. Council Member Lubenow seconded the motion. Council Member Peters objected to the closed session, as he was not given anything to evaluate the City Administrator. Council Member Hasek stated that he had not received anything either. On roll call: Council Members Cyphers, Hawkins and Lubenow all voted aye. Council Members Hasek and Peters voted nay. Mayor Foster declared said motion passed.

It was moved by Council Member Peters, seconded by Council Member Hawkins and carried to approve the minutes of the City Council meeting held on September 23, 2019.

It was moved by Council Member Cyphers, seconded by Council Member Peters and carried to approve the minutes of the City Council meeting held on September 30, 2019.

During celebration time, Economic Development Coordinator Linsey Preuss shared that Bomgaars are beginning to fill the shelves at the old ShopKo building. The City is lucky to have Bomgaars coming into that building, as many communities are struggling with vacant buildings.

Preuss also shared that since 2016, the average year for commercial development building permits has been about \$5,250,000 per year. As of the end of September 2019, the building permits are already \$27,000,000 (\$14,000,000 is CHS). Preuss pointed out that this is just building value and does not include investments businesses are making on machinery, equipment and people.

During open discussion, Humpal read an email he had received from Verlus Burkhart, who was unable to be at the meeting. Burkhart shared his concern with vehicles at the intersection of East Tenth Street and State Street. He suggested that a temporary stop sign be placed on State Street, during the reconstruction of Winnebago Avenue.

Council Member Peters commented on his concerns with possible violations of the open meeting law.

Greg Zierke of Zierke Manufacturing, 1500 Winnebago Avenue spoke about his support for the City of Fairmont and City Administrator Humpal.

Mayor Foster proclaimed October 15, 2019 as Pregnancy and Infants Loss Remembrance Day in the City of Fairmont.

Peter Bode the new Planner/Code Enforcement Technician for the City was introduced.

Mayor Foster opened the public hearing on the 2019 Improvement Program Assessment Hearing. Nemmers gave a summary of each project.

Concerning the reconstruction of Winnebago Avenue, Greg Zierke and Kyle Zierke of Zierke Manufacturing, 1500 Winnebago Avenue spoke about their concerns with all the heavy truck traffic on Winnebago Avenue and felt the other industry people who utilize that road should pay for the repair too.

Steve Schmitz, Owner of the Ranch Restaurant, 1330 North State Street, expressed his concerns on how late in the year this project is being completed and wondering if the pavement will cure properly. He asked if the property owners paying the assessments would be protected if the project does not hold up. Nemmers stated that they will monitor the project to make sure it is completed under appropriate conditions. The contract's anticipated completion date is mid-November.

There was no comment received on the resurfacing projects.

Concerning the overlay projects, David Ehlers of 812 E. Fourth Street expressed his concerns with all the heavy trucks using Fourth Street.

There was no comment received on the seal coat projects.

Council Member Hawkins made a motion to close the public hearing. Council Member Peters seconded the motion and the motion carried.

Council Member Peters made a motion to adopt **Resolution 2019-39**, adopting special assessments for the 2019 improvement projects. Council Member Cyphers seconded the motion. On roll call: Council Members Lubenow, Peters, Cyphers, Hasek and Hawkins all voted aye. No one voted nay. Mayor Foster declared said motion passed.

Mayor Foster opened the public hearing on proposed **Ordinance 2019-16**, an ordinance replacing **Ordinance 2017-06**, the Local Option Sales Tax. John Omvig of 523 Budd Lake Drive had a question regarding the exemptions referenced about lump sum contracts which include sales tax on construction contracts signed prior to October 2019. He asked if this was in the original ordinance and if it would effectively exclude sales tax on lump sum construction contracts signed between date of the original ordinance and this ordinance. Attorney Scott stated that this date was in the Department of Revenue's model ordinance. This does not change the impact or application of the original ordinance. This new ordinance would apply from its publication going forward if it is adopted. Council Member Cyphers asked what the cost of collecting and administering the local option sales tax was? Attorney Scott stated that this new ordinance will not change that cost. Hoyer stated that each month he does a spread sheet provided to him by the Department of Revenue that shows these costs. He estimated that it was approximately \$1,600/month. Council Member Hawkins made a motion to close the public hearing. Council Member Cyphers seconded the motion and the motion carried. Council Member Peters made a motion to approve **Ordinance 2019-16**. Council Member Hawkins seconded the motion. On roll call: Council Members Cyphers, Hasek, Hawkins, Lubenow and Peters all voted aye. No one voted nay. Mayor Foster declared said motion passed.

Mayor Foster gave an update on the investigation. She stated that the final report should be completed within the next two weeks and she would report at that time.

Linsey Preuss, Economic Development Coordinator has been working with the Fairmont Area Schools Superintendent and Martin County Coordinator in an effort to spur new multifamily housing. As a result, the FEDA Board is recommending approval of a 10-year tax abatement program for multifamily housing. Council Member Hawkins made a motion to postpone action on this matter until the next meeting to allow time to meet with members of the Planning Commission and FEDA Board. Council Member Hawkins was concerned about the motion and the abatement program as written. He suggested that this should be addressed by the Comprehensive Plan Use Update Committee and that the City might want to target certain areas for this program. Council Member Cyphers seconded the motion. There was a lot of discussion. On roll call: Council Members Cyphers and Hawkins voted aye. Council Members Hasek, Lubenow and Peters voted nay. Mayor Foster declared said motion failed. Council Member Peters made a motion to approve a ten-year tax abatement program for new multifamily housing units through the year 2024. Council Member Hasek seconded the motion. On roll call: Council Members Hasek and Peters voted aye. Council Members Cyphers and Hawkins voted nay. Council Member Lubenow abstained. Mayor Foster declared said motion failed.

Council Member Hawkins 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 Lubenow seconded the motion and the motion carried.

Council Member Peters made a motion to approve **Resolution 2019-46**, appointing Profinium Insurance as its insurance agent for property/liability insurance. Council Member Hasek seconded the motion. On roll call: Council Members Cyphers, Hasek, Hawkins, Lubenow and Peters all voted aye. No one voted nay. Mayor Foster declared said motion passed.

Council Member Hawkins made a motion to authorize the write-off of listed deferred assessments totaling \$48,342.25, as identified on an attachment. Council Member Lubenow seconded the motion and the motion carried.

Council Member Hawkins made a motion to approve the appointment of Paula Eppens to the Police Commission. Council Member Peters seconded the motion and the motion carried.

Council Member Hawkins made a motion to approve the appointment of Paul Determan to the Housing & Redevelopment Authority. Council Member Peters seconded the motion and the motion carried.

Council Member Peters made a motion to adopt **Resolution 2019-48**, declaring unpaid and delinquent charges for city services to be assessed and ordering preparation of proposed assessment roll. Council Member Hawkins 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 Peters made a motion to adopt **Resolution 2019-49**, calling for a public hearing to be held on November 25, 2019 declaring delinquent unpaid and delinquent charges for city services to be assessed. Council Member Hasek seconded the motion. On roll call: Council

Members Lubenow, Peters, Cyphers, Hasek and Hawkins all voted aye. No one voted nay. Mayor Foster declared said motion passed.

Council Member Hasek made a motion to approve a grant application from Michael and Mary Jo Kerekes for 50% of the demolition cost, or \$5,000.00, whichever is less, for the property at 721-723 Albion Avenue. Council Member Hawkins seconded the motion and the motion carried.

Council Member Hasek made a motion to approve **Resolution 2019-50**, requesting a sale or conveyance of properties for sale as tax forfeited property of the City. Council Member Lubenow seconded the motion. On roll call: Council Members Peters, Cyphers, Hasek, Hawkins and Lubenow all voted aye. No one voted nay. Mayor Foster declared said motion passed.

Council Member Peters made a motion to authorize Mayor Foster and Council Member Cyphers, along with Finance Director Paul Hoyer and City Clerk Patricia Monsen to work with the Minnesota Office of the State Auditor to specify the scope and to determine the estimated costs of the Forensic Audit requested by City Council **Resolution 2019-43**. The same are authorized to have ongoing communications with the Office of the State Auditor as needed to facilitate the audit process and to report back to Council on progress. Council Member Hasek seconded the motion and the motion carried.

Council Member Hawkins made a motion to approve hiring Bolton & Menk for phase 2 of the professional engineering services on the Lake Avenue reconstruction project. Council Member Cyphers seconded the motion and the motion carried.

At approximately 7:27 p.m., Council Member Peters made a motion to go into closed session based on Minnesota Statute 13D.05, Subd. 3(a), to discuss the City Administrator's performance evaluation. Council Member Hawkins seconded the motion.

At approximately 9:28 p.m. the city council meeting reopened.

Council Member Peters made a motion to continue this meeting until October 28, 2019 at 5:30 p.m. in the council chambers of Fairmont City Hall. Council Member Hasek seconded the motion and the motion carried.


Council Member Cyphers made a motion that City Administrator Humpal be placed on administrative leave with pay, effective October 15, 2019 indefinitely. Council Member Lubenow seconded the motion. On roll call: Council Member Cyphers, Hawkins and Lubenow all voted aye. Council Members Hasek and Peters voted nay. Mayor Foster declared said motion passed.

Council Member Hawkins made a motion that Council Members Peters and Cyphers consult with legal counsel to draft and provide City Administrator Humpal with any appropriate notices and directives related to this decision. Council Member Lubenow seconded the motion and the motion passed.

Council Member Lubenow made a motion to assign the duties and responsibilities of the City Administrator to Public Works Director/City Engineer Troy Nemmers on an interim basis

effective October 15, 2019. Council Member Cyphers seconded the motion and the motion carried.

A motion was made by Council Member Peters, seconded by Council Member Hasek and carried to adjourn the meeting at 9:35 p.m.


Deborah J. Foster, Mayor

ATTEST:


Patricia J. Monsen, City Clerk