

FAIRMONT CITY COUNCIL AGENDA

Monday, April 11, 2022, 5:30 p.m.

1. **Roll Call/Determination of Quorum**
2. **Pledge of Allegiance**
3. **Approval of Agenda**
4. **Recognition/Presentations**
 - 4.1 Quarterly Employee Years of Service (03)
 - 4.2 Proclamation – Child Abuse and Neglect Prevention Month (04)
 - 4.3 4th Quarter Community Development Report (06)
 - 4.4 Community Center Survey Results (08)
 - 4.5 Fairmont Area Community Center, Inc. Presentation (09)
5. **Public Discussion/Comment** (Individual comments are limited to 3 minutes) (10)
6. **Consent Agenda** (Items removed from consent will be placed at the end of the items under new business)
 - A. **Minutes**
 - 6.A.1 Regular Meeting, March 28, 2022 (11)
 - B. **Check Registers**
 - C. **Other**
 - 6.C.1 PERA Officer Declaration (15)
 - 6.C.2 Event Permit, Fairmont Opera House, Midsummer’s Night Dream, May 17-22, 2022 (17)
 - 6.C.3 Fairmont Brewing Company, Inc. – On Sale Brewer’s Taproom License and Brewers Off Sale Intoxicating Liquor License (20)
 - 6.C.4 Request for Demolition Assistance – Gerald W. Peas (21)
7. **Public Hearings**

8.	Old Business	
8.1	Appeal of Denied Variance at 2319 Albion Avenue	(35)
9.	New Business	
9.1	Community Center Letter of Intent	(57)
9.2	Community Center Funding	(60)
9.3	Approval of 2022 housing Demolition Projects	(64)
9.4	Award 2022-A CIPP Project	(68)
9.5	MNDOT Airport Grant Agreement	(70)
9.6	Revocation of State Aid Route 123-104-010	(78)
10.	Council Discussion	
11.	Staff/Liaison Reports	
A.	Public Works	
B.	Finance	
C.	City Administrator	
D.	Mayor/Council	
	Kawecki – Planning Commission	
	Lubenow – HRA	
12.	Adjournment	



Fairmont City Council
April 11, 2021

Agenda Item: 4.1

From: Cathy Reynolds, City Administrator
To: Mayor and City Council

Subject: Quarterly Employee Years of Service Recognition

Policy/Action Requested: Recognition of employees for years of service

Vote Required: ___ Simple Majority ___ Roll Call

Recommendation:

Overview: The City would like to recognize the following employees for their years of service:

- Jimmy Aust, Fire Department – 40 years
- Travis Goerndt, Street Department – 25 years
- Joseph Nygaard, Water Department – 10 years

Budget Impact: N/A

Attachments:

Council Action: _____ Date: _____



Fairmont City Council
April 11, 2022

Agenda Item: 4.2

From: Mayor Deborah J. Foster
To: City Council

Subject: Proclamation – Child Abuse and Neglect Prevention Month

Policy/Action Requested: Proclamation
Vote Required: _____ Simple Majority _____ Roll Call

Recommendation:

Overview: Mayor Deborah J. Foster will proclaim the Month of April 2022 as Child Abuse and Neglect Prevention Month in the City of Fairmont.

Budget Impact: N/A

Attachments: Proclamation

Council Action: _____ Date: _____



CITY OF FAIRMONT – 100 Downtown Plaza – Fairmont, MN 56031
www.fairmont.org

Phone (507) 238-9461

Fax (507) 238-9469

PROCLAMATION

WHEREAS, child abuse and neglect are community conditions and problems, and finding solutions depends on involvement among people in the community; and,

WHEREAS, approximately 3 million children are reported abused and neglected in this country each year; and,

WHEREAS, the effects of child abuse and neglect are felt by whole communities, and need to be addressed by the entire community; and,

WHEREAS, these events will provide information and materials that support families to prevent child maltreatment and celebrate people who work with and support children and families; and,

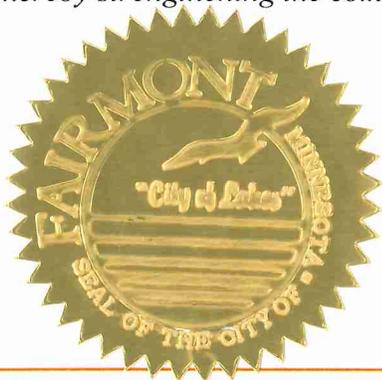
WHEREAS, effective child abuse prevention programs succeed because of partnerships created among social service agencies, schools, religious and civic organizations, law enforcement agencies, and the business community; and,

WHEREAS, all citizens should become more aware of the negative effects of child abuse and its prevention within the community and become involved in supporting parents to raise their children in a safe, nurturing environment.

NOW THEREFORE, I, Deborah J. Foster, Mayor of the City of Fairmont, do hereby proclaim the month of April 2022 as:

CHILD ABUSE AND NEGLECT PREVENTION MONTH

in the City of Fairmont, Minnesota, and that all citizens, community agencies, religious organizations, medical facilities, and businesses increase their participation in efforts to prevent child abuse, thereby strengthening the communities in which we live.




Deborah J. Foster, Mayor



Fairmont City Council
April 11, 2022

Agenda Item: 4.3

From: Cathy Reynolds
To: City Council

Subject: 4th Quarter Community Development Report

Policy/Action Requested: None

Vote Required: _____ Simple Majority _____ Roll Call

Recommendation:

Overview:

A 4th quarter community development report will be provided.

Budget Impact: None

Attachments:

- 1. 4th Quarter Community Development Report

Council Action: _____ Date: _____

COMMUNITY DEVELOPMENT 2021 Q4 REPORT



BUILDING PERMITS

Residential Yearly Comparison:

	2020	2021
Additions and Alterations	95	74
Maintenance	317	385
New Residential	4	2
Total Residential Permits	416	461

Commercial Yearly Comparison:

	2020	2021
New Buildings	15	7
Additions and Alterations	51	62
Total Commercial Permits	66	69
Total Value Commercial	\$14,915,108	\$23,470,540



PLANNING & ZONING PERMITS

Yearly Comparison:

	2020	2021
Zoning Permit	98	107
Variance	9	8
Conditional Use Permit	2	3
Home Occupation Permit	2	2
Total Permits	111	120



LAND DISTURBANCE PERMITS

Yearly Comparison:

2020	2021
19	32



FEDA FUNDING

Loan Funding Available:

Reportable	\$311,906
Nonreportable	\$712,743
Micro Loans	\$16,955
CARES Loans	\$93,618
Childcare Loan	\$8,000

"We Support the Successful Growth and Pride of the Fairmont area Businesses and Citizens."



Fairmont City Council
April 11, 2022

Agenda Item: 4.4

From: Cathy Reynolds
To: City Council

Subject: Community Center Survey Results

Policy/Action Requested: None

Vote Required: _____ Simple Majority _____ Roll Call

Recommendation:

Overview:

The city conducted a survey to gather information to assist the design team in looking at options for the community center. The survey closed on March 28, 2022 and we will review the results of the survey during the meeting.

Budget Impact: None

Attachments:

Council Action: _____

Date: _____



Fairmont City Council
April 11, 2022

Agenda Item: 4.5

From: Cathy Reynolds
To: City Council

Subject: Fairmont Area Community Center, Inc Presentation

Policy/Action Requested: None

Vote Required: _____ Simple Majority _____ Roll Call

Recommendation:

Overview:

The Fairmont Area Community Center, Inc (FACC) will be present to provide an overview of the work they are doing with the YMCA looking at the operating costs for a community center and developing a pro forma.

Budget Impact: None

Attachments:

Council Action: _____

Date: _____



Fairmont City Council
April 11, 2022

Agenda Item: 5

From: Cathy Reynolds, City Administrator
To: Mayor and City Council

Subject: Open Discussion/Comment

Policy/Action Requested:

Vote Required: ____ Simple Majority ____ Roll Call

Recommendation: N/A

Overview: Prior to regular business, is there any public discussion/comment?

Budget Impact: N/A

Attachments: N/A

Council Action: _____ Date: _____



Fairmont City Council
April 11, 2022

Agenda Item: 6.A.1

From: Patricia J. Monsen, City Clerk
To: Mayor and City Council

Subject: Council Minutes from Regular Meeting on March 28, 2022

Policy/Action Requested: To Approve City Council Minutes from March 28, 2022

Vote Required: Simple Majority Roll Call

Recommendation: Approval

Overview:

Budget Impact: N/A

Attachments: City Council Minutes Regular Meeting, March 28, 2022

Council Action: _____ Date: _____

The minutes of the Fairmont City Council meeting held on Monday, March 28, 2022, at the City Hall Council Chambers.

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

Council Members Wayne Hasek, Britney Kawecki, Randy Lubenow, Michele Miller and Bruce Peters were present. Also in attendance: City Administrator Cathy Reynolds, Public Works Director/City Engineer Troy Nemmers, Finance Director Paul Hoye, Police Chief Mike Hunter, City Clerk Patricia J. Monsen and City Attorney Mark Rahrack via telephone.

Council Member Peters made a motion to approve the agenda as presented. Council Member Miller seconded the motion and the motion carried.

Mayor Foster presented the City of Fairmont with a Certificate of Commendation, a Wastewater Treatment Facility Operational Award in recognition of exceptional compliance with its Minnesota Pollution Control Agency NPDES/SDS wastewater permit during the 2021 review period.

During Open Discussion, Dale Martens of 1610 Lucia spoke about the Charter Commission's proposed Ordinances. Roger Hendrickson of 3706 W. Amber Lake Drive voiced his concerns regarding the Community Center.

Council Member Peters made a motion to approve the items on the Consent Agenda. Council Member Hasek seconded the motion and the motion carried. Items on the Consent Agenda were: minutes from the March 14, 2022 city council meeting, approval of the March 2022 accounts payable; Temporary On-Sale Liquor License for Martin County Preservation Association to hold an event at the Red Rock Center for the Arts on April 22 and 23, 2022; Event Permit for Youth for Christ to hold a concert at Sylvania Park band shell on June 3, 2022; Event Permit for the Fairmont Lakes Foundation/Fox Lake Conservation League, "Chain of Lakes Open" Fishing Contest at Gomsrud Park on June 4, 2022; Event Permit for the Martin County Library to hold Summer Reading Program-Raptor Center of MN at the Sylvania Park band shell on June 29, 2022; Event Permit for the Martin County Library to hold Summer Reading Program-Brodini Magician at the Sylvania Park band shell on July 13, 2022; and **Resolution 2022-12** declaring Jonathan Auringer and Seth Reinke meet all of the Police and Fire Plan membership requirements.

Council Member Kawecki made a motion to approve proposed **Ordinance 2022-01** Amending the City Charter Ward System. Council Member Peters seconded the motion. On roll call: Council Member Kawecki voted aye. Council Members Hasek, Lubenow, Miller and Peters voted nay. Mayor Foster declared said motion failed.

Council Member Kawecki made a motion to approve proposed **Ordinance 2022-02** Amending the City Charter Section 2.01 Form of Government. Council Member Peters seconded the motion. On roll call: Council Members Kawecki and Lubenow voted aye. Council Members Miller, Peters and Hasek voted nay. Mayor Foster declared said motion failed.

Council Member Kawecki made a motion to approve proposed **Ordinance 2022-03** Amending the City Charter Section 2.06 The Mayor. Council Member Hasek seconded the motion. On roll

call: Council Members Lubenow and Kawecki voted aye. Council Members Miller, Peters and Hasek voted nay. Mayor Foster declared said motion failed.

Council Member Kawecki made a motion to approve proposed **Ordinance 2022-04** Amending the City Charter Section 2.08 Investigation of City Affairs. Council Member Hasek seconded the motion. On roll call: Council Members Kawecki and Lubenow voted aye. Council Members Miller, Peters and Hasek voted nay. Mayor Foster declared said motion failed.

Council Member Peters made a motion to approve proposed **Ordinance 2022-05** Amending the City Charter Section 2.10 City Administrator – Appointment and Qualifications. Council Member Kawecki seconded the motion. On roll call: Council Members Kawecki and Lubenow voted aye. Council Members Peters, Hasek and Miller voted nay. Mayor Foster declared said motion failed.

Council Member Peters made a motion to approve proposed **Ordinance 2022-06** Amending the City Charter Section 2.15 City Clerk. Council Member Hasek seconded the motion. On roll call: No one voted aye. Council Members Hasek, Kawecki, Lubenow, Miller and Peters voted nay. Mayor Foster declared said motion failed.

Amanda Strommer, Drinking Water Protection Planner with Minnesota Department of Health presented the 2022 Surface Water Intake Protection Plan for the City of Fairmont. Council Member Peters made a motion to approve the plan and authorize the submittal of the 2022 SWIPP to the Minnesota Department of Health for final review. Council Member Hasek seconded the motion. On roll call: Council Members Kawecki, Lubenow, Miller, Peters and Hasek all voted aye. No one voted nay. Mayor Foster declared said motion passed.

Council Member Miller made a motion to approve **Resolution 2022-11** authorizing a funding application submittal to the Minnesota Public Facilities Authority for Wastewater plant upgrades. Council Member Hasek seconded the motion and the motion carried.

Council Member Peters made a motion to approve an agreement with Erickson Engineering for professional services on the Memorial Park Drive bridge replacement. Council Member Miller seconded the motion and the motion carried.

Discussion was held on the Yard Waste Recycling Site. Council Member Lubenow made a motion to approve spending council's budgeted contingency up to \$20,000 on the yard waste recycling site. Council Member Kawecki seconded the motion and the motion carried.

Discussion was held regarding a Community Development Director. Council Member Kawecki made a motion to direct hiring of a Community Development Director in place of an Economic Development Coordinator. Council Member Lubenow seconded the motion. On roll call: Council Members Lubenow and Kawecki voted aye. Council Members Miller, Peters and Hasek voted nay. Mayor Foster declared said motion failed.

Council Member Hasek made a motion to approve the City of Fairmont City Council Rules of Procedure. Council Member Peters seconded the motion. On roll call: Council Members Miller, Peters and Hasek voted aye. Council Members Kawecki and Lubenow voted nay. Mayor Foster declared said motion passed.

Council Member Hasek made a motion to approve City of Fairmont Council Code of Conduct. Council Member Miller seconded the motion. On roll call: Council Members Peters, Hasek and Miller voted aye. Council Members Kawecki and Lubenow voted nay. Mayor Foster declared said motion passed.

Nemmers recognized and thanked city staff at the Wastewater Treatment Facility for all their hard work and dedication in receiving the Certificate of Commendation from the Minnesota Pollution Control Agency for 2021.

The Street Department has had two street sweepers out trying to get all the streets cleaned before any spring rain. They have also done one round of cold patching on potholes and will continue to cold patch for a couple of months until the hot mix plants are up and running.

Nemmers clarified misinformation which was disseminated through the city regarding the Fairmont Soccer Fields. He encourages all citizens with questions to contact the City before validating any social media posts that are generated to cause fear and negativity in our community.

Reynolds reminded the council of the Board of Appeals and Equalization Hearing scheduled for April 27, 2022 at 9:00 a.m. in the City Hall Council Chambers.

Council Member Lubenow reported that the Park Department is busy getting the parks ready to open. They also had a brief discussion regarding food trucks. This discussion will be continued when more board members are present.

A motion was made by Council Member Peters, seconded by Council Member Hasek and carried to adjourn the meeting at 7:27 p.m.

Deborah J. Foster, Mayor

ATTEST:

Patricia J. Monsen, City Clerk



Fairmont City Council
April 11, 2022

Agenda Item: 6.C.1

From: Paul Hoyer, Finance Director
To: Mayor and City Council

Subject: PERA Officer Declaration

Policy/Action Requested: To approve Resolution 2022-13 declaring Carolyn Jacobson meets all of the Police and Fire Plan membership requirements.

Vote Required: Simple Majority Roll Call

Recommendation: Approval

Overview: Minnesota law requires employers to certify the eligibility of employees who are enrolled in the Police and Fire Plan based on positions that are not full-time career police officers or firefighters.

Budget Impact: N/A

Attachments: Resolution 2022-13

Council Action: _____ Date: _____

RESOLUTION NO. 2022-13

STATE OF MINNESOTA)
MARTIN COUNTY) SS
CITY OF FAIRMONT)

WHEREAS, the policy of the State of Minnesota as declared in Minnesota Statute 353.63 is to give special consideration to employees who perform hazardous work and devote their time and skills to protecting the property and personal safety of others; and,

WHEREAS, Minnesota Statutes Section 353.64 permits governmental subdivisions to request coverage in the Public Employees Police and Fire plan for eligible employees of police or sheriff departments whose position duties meet the requirements stated therein and listed below.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Fairmont hereby declares that the position of part-time police officer, currently held by Carolyn Jacobson, meet all the following Police and Fire Plan membership requirements:

1. Said position requires a license by the Minnesota peace officer standards and training board under sections 626.84 to 626.863 and these employees are so licensed;
2. Said position’s primary (over 50%) duty is to enforce the general criminal laws of the state;
3. Said position charges this employee with the prevention and detection of crime;
4. Said position give this employee the full power of arrest; and,
5. Said position is assigned to a designated police or sheriff’s department.

BE IT FURTHER RESOLVED that this governing body hereby requests that the named employee be accepted as a member of the Public Employees Police and Fire Plan effective the date of this employees’ initial Police and Fire Plan salary deduction by the governmental subdivision.

PASSED, APPROVED AND ADOPTED, this 11th day of April 2022

Deborah J. Foster, Mayor

ATTEST:

Patricia J. Monsen, City Clerk



Fairmont City Council
April 11, 2022

Agenda Item: 6.C.2

From: Patricia J. Monsen, City Clerk
To: Mayor and City Council

Subject: Event Permit – Fairmont Opera House, Midsummer’s Night Dream, May 17-22, 2022

Policy/Action Requested: Motion to approve the Event Permit for the Fairmont Opera House to hold the play Midsummer’s Night Dream at the Sylvania Park band shell on May 17-22, 2022.

Vote Required: Simple Majority Roll Call

Recommendation: Approval

Overview: The Fairmont Opera House has made application for an Event Permit to perform the play Midsummer’s Night Dream at the Sylvania Park band shell on May 19-21, 2022 at 7:00 p.m. and on Sunday, May 22, 2022 at 2:00 p.m.. As part of this event permit, they would also like to reserve the band shell on May 17 and 18, 2022 for practice. An admission fee will be charged for these performances.

Budget Impact: N/A

Attachments: Event Permit Application

Council Action: _____ Date: _____



EVENT APPLICATION/PERMIT

This form must be filed with the City at least thirty (30) days in advance of the event. The City will review the application in accordance with the permitting process outlined in the City Code, Chapter 18. Attach additional sheets, maps, etc. if necessary. For events which include overnight camping a separate addendum must be included with the event application.

Date: 3/31/22

Permit Fee: \$15.00

Event: MIDSUMMER'S NIGHT DREAM

Sponsoring entity: Fairmont Opera House

Address: 45 DOWNTOWN PLAZA, FAIRMONT

Maximum estimated number of persons expected to attend at any one time: 150

Event coordinator(s): Alex Young-Williams

Contact Info: 703 307 7856 Phone #

alex.youngwilliams@gmail.com E-mail

Primary contacts (during event):

Name: BLAKE POTHOFF

Name: EVELYN KUE

Cell#: 848-1013

Cell#: 218-888-6103

E-mail: director@fairmontoperahouse.org

E-mail: evelyn@fairmontoperahouse.org

Event Start: Day/Date 5/19/22 Time: 7 PM

Event End: Day/Date 5/22/22 Time: 4 PM

Setup: Day/Date 5/17, DAILY Start time: 2 PM End Time: 5 PM

Teardown: Day/Date DAILY Start time: 9 PM End Time: 10 PM

1. Type and description of the event and a list of all activities to take place at the event.

PLAY TAKING PLACE WITHIN THE PARK

2. Proposed location of event, including a site plan or diagram of the proposed area to be used showing the location of any barricades, perimeter/security fencing, fire extinguishers, safety or first aid stations, entertainment, stages, restrooms or portable toilets, parking areas, ingress and egress routes, signs, special lighting, trash containers and any other items related to the event.

SYLVANIA PARK BANDSHELL + SURROUNDING AREA

3. Will outside drinking water or waste collection systems be supplied? Yes; No
If yes, supply public health plans, including the number of toilet facilities that will be available.
4. Will the event be providing: fire prevention, emergency medical service, security and severe weather shelter. Yes; No
If yes, provide the written plans.
5. Will organizers allow outside food wagon/vendors at the event? Yes; No
If yes, all food wagons/vendors must complete a Food Wagon/Vendor Permit and submit payment.
6. Will camping or temporary overnight lodging be included for the event? (allowed only at Cedar Creek Park and Winnebago Sports Complex): Yes; No
If yes, event coordinator must complete temporary overnight camping permit and submit payment.
7. Will the event be using any sound amplification, public address system or will there be any live performances of any music or musical instruments? Yes; No
If yes, please describe: FAIRMONT OPERA HOUSE SOUND + MICS
8. Will the event restrict or alter normal parking, vehicular traffic or pedestrian traffic patterns? Yes; No
If yes, provide a detailed description of all public rights of way and private streets for which the applicant requests the city to restrict or alter traffic flow. (Please attach a detailed map).
9. Will you be providing shuttle service? Yes; No
If yes, provide offsite parking locations, shuttle routes, types of vehicles that will be used for shuttling passengers, hours of operation and frequency of shuttle service.

I affirm that I am authorized to execute this application on behalf of the applicant and that the statements contained therein are true and correct to the best of my knowledge. If the special event requires special services provided by the City of Fairmont, the applicant agrees to indemnify, defend and hold the City of Fairmont, its officials, employees, and agents harmless from any claim that arises in whole or in part out of the special event, except any claims arising solely out of the negligent acts or omissions of the City of Fairmont, its officials, employees and agents. The applicant agrees to pay all fees and meet all City Code requirements.

Signature [Signature] Title EXECUTIVE DIRECTOR Date 4/1/2022

If you would like your event published on the City's website/Community Calendar, please indicate: Yes; No

Office Use Only			
\$15.00 Fee Paid	Date: <u>4/1/2022</u>	Received by: <u>[Signature]</u>	
Requires Council Approval	<input checked="" type="checkbox"/> Yes; <input type="checkbox"/> No	Council Meeting Date:	Action:
City Administrator Approval	Yes	No	Date

- Permit distribution:
- City
 - Applicant
 - Police
 - Parks/Streets
 - Other



Fairmont City Council
April 11, 2022

Agenda Item: 6.C.3

From: Patricia J. Monsen, City Clerk
To: Mayor and City Council

Subject: Fairmont Brewing Company, LLC - On Sale Brewer’s Taproom License and Brewer Off Sale Intoxicating Liquor License

Policy/Action Requested: To Approve the On Sale Brewer’s Taproom License and Brewer Off Sale Intoxicating Liquor License for Fairmont Brewing Company, LLC, pending a successful background check.

Vote Required: Simple Majority Roll Call

Recommendation: Approval

Overview: Fairmont Brewing Company, LLC has been granted a Brewers License from the State of Minnesota. They are now making application to the City for an On Sale Brewer’s Taproom License and a Brewer Off Sale Intoxicating Liquor License. They have completed all the appropriate applications, paid the fees, provided the required liquor liability insurance and a background check is being conducted. Staff recommends approving these licenses and welcoming a new business to Fairmont.

Budget Impact: N/A

Attachments:

Council Action: _____ Date: _____



Fairmont City Council
April 11, 2022

Agenda Item: 6.C.4

From: Cathy Reynolds, City Administrator
To: Mayor and City Council

Subject: Request for Demolition Assistance – Gerald W. Pleas

Policy/Action Requested: To approve or deny demolition assistance at 50% of the actual cost up to \$5,000.
Vote Required: Simple Majority Roll Call

Recommendation: Approval

Overview: Gerald W. Pleas has applied for demolition assistance for the house located at 64 N. Hampton Street. Mr. Pleas is requesting that the city assist in the demolition costs of 50%. Mr. Pleas is proposing to build a new home at this location.

Budget Impact: Budgeted

Attachments:

1. Application
2. Property information
3. Photos
4. Estimate for demolition

Council Action: _____ Date: _____



City of Fairmont
Financial Assistance for the Demolition of Blighted Properties
Program Application

Applicant Name: Gerald W Pleas

Address of Applicant: 510 N orient st Fairmont MN 56031

Telephone Number: 507-848-7662 Email: GeraldPles@yahoo.com

Address of property to be demolished: 614 N Hampton St Fairmont MN 56031

1. Description of property and reason for request:

House is not livable, rebuild new Home.

2. What do you plan to do with the property after demolition?

Build new Home

3. Date demolition will be complete by: 4-5-2023

The applicant agrees to demolish the substandard structure within one year following application date. In addition, the applicant agrees to obtain all necessary demolition and building permits and to observe all applicable Building Code provisions during the demolition and/or construction process. It is further agreed that the applicant will hold the City, its officers, agents, and employees harmless from all claims, acts, or event resulting directly or indirectly on account of this application.

Gerald Pleas (handwritten signature)

Applicant Signature

4-5-2022 (handwritten date)

Date

FOR CITY USE
Date of Council Action
Date Demo Permit Issued
Approved
Date Grant Proceeds Issued
Disapproved

Beacon™ Martin County, MN

Summary

Parcel ID 231190160
 Property Address 614 HAMPTON ST N
 FAIRMONT
 Sec/Twp/Rng N/A
 Brief GAMBLES EXT. W185' OF E760' OF OL 1 & N18' OF LOT 4 & LOT 5 BLK 8
 Tax Description WITH EX
 (Note: Not to be used on legal documents)
 Deeded Acres 0.00
 Class 201 - (NON-HSTD) RESIDENTIAL
 District (2301) FAIRMONT CTY-454
 School District 2752
 Neighborhood 2305.4 - E8/DEWEY/SO.RR/N.NO
 Contact Appraiser: [Matthew Malone](#)
 Creation Date 07/07/1989



Owner

Primary Taxpayer
[Gerald Pleas & Geraldine Kinney](#)
 614 N Hampton St
 Fairmont, MN 56031

Land

Seq	Code	CER	Dim 1	Dim 2	Dim 3	Units	UT
1	RES LOT 10	0	0	0	0	26,300.000	SF
Total						26,300.000	

Sub Area Square Footage

SubArea	Act Area	%	Adj Area	Heated	Prime	RCNLD
OQB 1900 1.25 STY/B	408	165	673	510	408	8,706
ONE 1950 1 STORY	80	115	92	80	80	1,190
OHB 1900 1.5STY/BMT	408	190	775	612	408	10,026
Total for Bldg 1	896		1,540	1,202	896	19,922

[Click here to view a list of sub area descriptions.](#)

Extra Features

Seq	Code	Actual Year Built	Description	Dim 1	Dim 2	Units	UT	Unit Price	Adj 1	Adj 2	Adj 3	Adj 4	% Good	RCNLD	Div %	Value
1	005031	1900	SAL HOUSE	34	24	1.000	UT	0.000	1.00	1.00	1.00	1.00	100.00	0	1.000	0

Sales

Multi Parcel	IN	Q	Sale Date	Buyer	Seller	Sale Price	Adj Price	eCRV
N	WD	Q	02/28/2017	BEHREND, CONNIE	GONZALEZ, JUAN & GRACIELA	\$18,000	\$18,000	623535
N	WD	Q	10/03/1994	GONZALEZ, JAUN & GRACIELA	FISHER, LUELLA M & THEODORE	\$15,500	\$15,500	

Please contact Assessor's Office for CRV's prior to October 2014

Valuation

	2022 Assessment	2021 Assessment	2020 Assessment	2019 Assessment
+ Estimated Land Value	\$18,800	\$16,400	\$15,600	\$13,800
+ Estimated Building Value	\$0	\$0	\$19,000	\$16,800
+ Estimated Machinery Value	\$0	\$0	\$0	\$0
= Total Estimated Market Value	\$18,800	\$16,400	\$34,600	\$30,600

Taxation

	2022 Payable	2021 Payable	2020 Payable	2019 Payable

Classification	201 - (NON-HSTD) RESIDENTIAL	201 - (NON-HSTD) RESIDENTIAL	201 - (NON-HSTD) RESIDENTIAL	201 - (NON-HSTD) RESIDENTIAL
Estimated Market Value	\$16,400	\$34,600	\$30,600	\$29,700
- Exempt Value	\$0	\$0	\$0	\$0
- Excluded Value	\$0	\$0	\$0	\$0
- Homestead Exclusion	\$0	\$0	\$0	\$0
= Taxable Market Value	\$16,400	\$34,600	\$30,600	\$29,700
Net Taxes Due	\$239.00	\$483.00	\$445.00	\$421.00
+ Special Assessments	\$69.00	\$69.00	\$69.00	\$69.00
= Total Taxes Due	\$308.00	\$552.00	\$514.00	\$490.00
% Change	-44.20%	7.39%	4.90%	-2.39%

IF YOU OWE BACK TAXES PLEASE CALL THE AUDITOR/TREASURER OFFICE

Unpaid Taxes

	2022 Payable
Unpaid Tax	\$239.00
+ Unpaid Spec Asmt	\$69.00
+ Unpaid Fees	\$0.00
+ Unpaid Penalty	\$0.00
+ Unpaid Interest	\$0.00
= Unpaid Total	\$308.00

Taxes Paid

Receipt #	Receipt Print Date	Bill Pay Year	Amt Adj	Amt Write Off	Amt Charge	Amt Payment
481150	10/15/2021	2021	\$0.00	\$0.00	\$0.00	(\$276.00)
473097	5/17/2021	2021	\$0.00	\$0.00	\$0.00	(\$276.00)
439907	4/7/2020	2020	\$0.00	\$0.00	\$0.00	(\$514.00)
412965	3/22/2019	2019	\$0.00	\$0.00	\$0.00	(\$490.00)
389403	4/12/2018	2018	\$0.00	\$0.00	\$0.00	(\$502.00)
361287	3/24/2017	2017	\$0.00	\$0.00	\$0.00	(\$438.00)
360617	12/15/2016	2016	\$0.00	\$0.00	\$22.68	(\$211.68)
337243	5/3/2016	2016	\$0.00	\$0.00	\$0.00	(\$189.00)
323155	10/1/2015	2015	\$0.00	\$0.00	\$0.00	(\$197.00)
309956	5/1/2015	2015	\$0.00	\$0.00	\$0.00	(\$197.00)

Tax Statements



[2022 Tax Statement \(PDF\)](#)

[2021 Tax Statement \(PDF\)](#)

[2020 Tax Statement \(PDF\)](#)

[2019 Tax Statement \(PDF\)](#)

[2018 Tax Statement \(PDF\)](#)

Proposed Taxes



[2022 Proposed Taxes \(PDF\)](#)

Valuation Notice



[2023 Valuation Notice \(PDF\)](#)

[2022 Valuation Notice \(PDF\)](#)

[2021 Valuation Notice \(PDF\)](#)

Photos



Recent Sales In Area

Sale date range:

From:

01/01/2022

To:

04/06/2022

Sales by Neighborhood

1500

Feet



Sales by Distance

No data available for the following modules: Buildings.

TERMS AND CONDITIONS: Every attempt has been made to ensure that the information contained on this website is valid at the time of publication. Martin County reserves the right to make additions, changes, or corrections at any time and without notice. Martin County disclaims any and all liability for damages incurred directly or indirectly as a result of errors, omissions or discrepancies and is not responsible for misuse or misinterpretation.

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JESSICA KORTE
MARTIN COUNTY AUDITOR/TREASURER
 201 LAKE AVE. SUITE 201
 FAIRMONT, MN 56031-1852
 507-238-3211
 www.co.martin.mn.us

Property ID #: R23.119.0160
 Taxpayer ID #: 30943 Tax Bill #: 7847
 Taxpayer(s):

3037*13**G50**1.038**1/4*****AUTO5-DIGIT 56013
 GERALD PLEAS &
 GERALDINE KINNEY
 614 N HAMPTON ST
 FAIRMONT MN 56031



Tax Statement		
2021 Values for Taxes Payable in 2022		
Values and Classification		
Step 1	Taxes Payable Year:	2021 2022
	Estimated Market Value:	\$34,600 \$16,400
	Improvements Excluded:	\$0 \$0
	Homestead Exclusion:	\$0 \$0
	Taxable Market Value:	\$34,600 \$16,400
	New Improvements:	\$0 \$0
	Expired Exclusions:	\$0 \$0
Property Classification:	RES NON-H RES NON-H	
Sent in March 2021		
Step 2	Proposed Tax	
	2022 Proposed Property Tax:	\$240.00
Sent in November 2021		
Step 3	Property Tax Statement	
	1st Half Taxes	\$154.00
	2nd Half Taxes	\$154.00
Total Taxes Due in 2022:		\$308.00

Property Address: 614 HAMPTON ST N, FAIRMONT MN 56031
 Property Description: GAMBLES EXT. W185' OF E760' OF OL 1 & N18' OF LOT 4 & LOT 5 BLK 8 WITH EX

\$\$\$ REFUNDS? You may be eligible for one or even two refunds to reduce your property tax. Read the back of this statement to find out how to apply.

3-7-22_v2

Tax Detail for Your Property:		
Taxes Payable Year:	2021	2022
1. Use this amount on Form M1PR to see if you are eligible for a property tax refund. File by August 15. If this box is checked, you owe delinquent taxes and are not eligible. <input type="checkbox"/>		\$0.00
2. Use these amounts on Form M1PR to see if you are eligible for a special refund.	\$0.00	
Property Tax and Credits		
3. Property taxes before credits	\$483.00	\$239.00
4. Credits that reduce your property taxes:		
A. Agricultural and rural land credits	0.00	0.00
B. Other Credits	0.00	0.00
5. Property taxes after credits	\$483.00	\$239.00
Property Tax by Jurisdiction		
6. County: Martin	\$138.04	\$67.13
7. City or town: CITY OF FAIRMONT	211.22	102.77
8. State General Tax	0.00	0.00
9. School District: 2752	41.69	23.66
A. Voter approved levies	90.75	44.83
B. Other local levies	0.57	0.30
10. Special Taxing Districts	0.73	0.31
A. COUNTY WIDE		
B. MULTI CO HRA		
11. Non-school voter approved referenda levies	0.00	0.00
12. Total property tax before special assessments	\$483.00	\$239.00
Special Assessments on Your Property		
13. Special assessments		
SOLID WASTE 28.00	PRINCIPAL: 69.00	INT: 69.00
RECYCLING 41.00		
14. YOUR TOTAL PROPERTY TAX AND SPECIAL ASSESSMENTS	\$552.00	\$308.00

PAYABLE 2022 2ND HALF PAYMENT STUB
 TO AVOID PENALTY PAY ON OR BEFORE: OCTOBER 17

Please fold on perforation BEFORE tearing
 PLEASE READ THE BACK OF THIS STATEMENT FOR IMPORTANT INFORMATION
 If your address has changed please check this box and show the change on the back of this stub.



SECOND 1/2 TAX AMOUNT DUE:	\$154.00
PENALTY:	TOTAL:

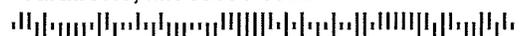
MAKE CHECKS PAYABLE AND MAIL TO:

Property ID #: R23.119.0160
 Tax Bill #: 7847

Taxpayer ID #: 30943

GERALD PLEAS &
 GERALDINE KINNEY
 614 N HAMPTON ST
 FAIRMONT MN 56031

MARTIN COUNTY AUDITOR-TREASURER
 201 LAKE AVE. SUITE 201
 FAIRMONT, MN 56031-1852



DETACH HERE AND RETURN THIS STUB WITH YOUR SECOND HALF PAYMENT. DO NOT STAPLE.

IMPORTANT: Please make sure the address on this coupon shows through the window in the provided return envelope or the Post Office will NOT deliver your payment.

No Receipt sent. Your cancelled check is proof of payment. Do not send postdated checks.

PAYABLE 2022 1ST HALF PAYMENT STUB
 TO AVOID PENALTY PAY ON OR BEFORE: MAY 16

Please fold on perforation BEFORE tearing
 PLEASE READ THE BACK OF THIS STATEMENT FOR IMPORTANT INFORMATION
 If your address has changed please check this box

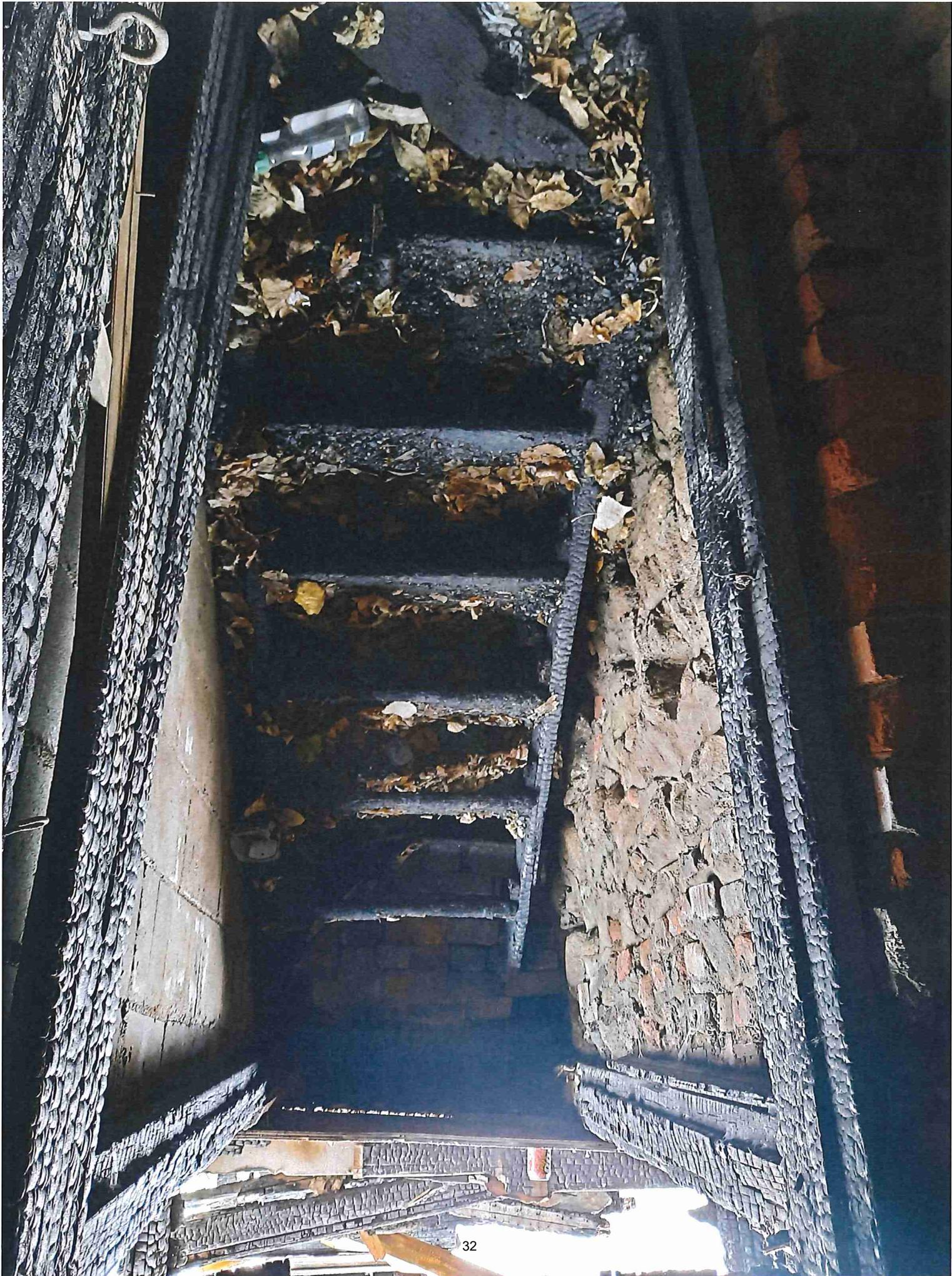
















1988 135th St
Fairmont, MN 56031

Phone # 507-235-6779
Fax # 507-235-6722

www.beemercompanies.com

Estimate

Date	Estimate #
2/2/2022	4359

Name / Address
Gerald Pleas 510 North Oreint Fairmont, mn 56031

Ship To

P.O. No.	Project

Item	Description	Qty	U/M	Cost	Total
Excavator	Demo house 614 North Hampton St. Fairmont, MN Demo house, remove concrete basement, fill basement, and cut sewer and water same trench	1		7,950.00	7,950.00
MISC	Asbestos survey	1		580.00	580.00
MISC	City demo permit	1		35.00	35.00
	items not included: asbestos abatement, hazardous materials, garbage, testing, seeding, erosion control, land disturbance permit, winter conditions, concrete repair or replacement				
	Owner to trim trees in drive way to get equipment in site				
	Gerald cell #507-848-7662				

1.5% Finance Charge Monthly, \$.50 min. BALANCE DUE UPON RECEIPT	Subtotal	\$8,565.00
Any dispute regarding goods or services supplied by Beemer Companies shall be litigated in a court and a county in which Beemer Companies has a business office.	Sales Tax (6.875%)	\$0.00
Please sign for approval: _____ Date: _____	Total	\$8,565.00



Fairmont City Council
April 11, 2022

Agenda Item: 8.1

From: Peter Bode, Planner & Zoning Official
To: Mayor and City Council

Subject: Appeal of Denied Variance at 2319 Albion Ave

Policy/Action Requested: Motion to adopt Resolution 2022- __ granting/denying the appeal of the Board of Zoning Appeals decision to deny the variance request at 2319 Albion Avenue.

Vote Required: Simple Majority Roll Call

Recommendation: The Board of Zoning Appeals denied the variance request. Staff and DNR recommend against granting an appeal of the Board's decision.

Overview: In November 2021, the Board of Zoning Appeals received a request from Troy and Jadee Menke to place a shipping container on an area of land which is part of their residential parcel at 2319 Albion Avenue. The shipping container would be set against the bluff of Hall Lake - 2 feet from the ordinary high water level (OHWL) of the lake where 50 feet is normally required, and 0 feet from the Albion Avenue right-of-way where 30 feet is normally required.

The Board, and the City Council on appeal, must follow state statutes which provide specific standards by which variance requests can be granted. No variance shall be granted to allow a use not permissible under the terms of city code. Variances shall only be permitted when they are in harmony with the general purposes and intent of city code and when the terms of the variance are consistent with the comprehensive plan. In granting a variance the Board may prescribe appropriate conditions in conformity with city code. A variance shall not be granted by the Board of Zoning Appeals, or by the City Council on appeal, unless it conforms to the following standards:

- 1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved that cause practical difficulties in complying with the requirements of city code and do not result from the actions of the petitioner. Economic considerations alone shall not constitute practical difficulties.
- 2) Literal interpretation of the provisions of city code would deprive the petitioner of rights commonly enjoyed by other properties in the same district under the terms of city code and the granting of the variance will not alter the essential character of the locality.
- 3) Granting the variance will not confer on the petitioner any special privilege that is denied by city code to other lands, structures, or buildings in the same area and the petitioner proposes to use the property in a reasonable manner.
- 4) The proposed variance will not impair an adequate supply of air and light to adjacent property, or unreasonably diminish or impair property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the city.

- 5) Reasonableness: Does the landowner intend to use the property in a reasonable manner?
- 6) Uniqueness: Are there unique physical characteristics of the land, not personal preferences of the land owner, that create the circumstance?
- 7) Essential Character: Will the resulting structure be out of scale, out of place, or otherwise inconsistent with the surrounding area?

Staff’s analysis of the above standards can be found in the attached staff report for the Board of Zoning Appeals. Staff and DNR recommended against granting the variance because the applicant’s circumstances do not meet these standards.

The Board of Zoning Appeals held a public hearing on December 7, 2021 regarding the request. At that time, the Board tabled discussion in order to provide time for the applicant to apply for a separate DNR permit for the proposal’s deck to overhang the public water, which is subject to DNR jurisdiction.

On February 1, 2022, the Board met to continue discussion of the request. After reviewing the above standards, the Board unanimously denied the request because the request was inconsistent with the purpose of the City’s shoreland management ordinance. Additionally, the circumstance was neither unique nor reasonable because similar areas of land are unbuildable throughout the city.

City Code provides that the applicant may appeal the Board’s decision to the City Council. The Menkes have requested an appeal.

Council discussed the item at its March 14 meeting and tabled action until the April 11 meeting so that it could evaluate its options. Staff have prepared two resolutions: one granting the appeal, based on Council discussions, and one denying the appeal. Staff continue to recommend denying the appeal as the Board of Zoning Appeals findings are complete and factual. Council’s options are:

- 1) Adopt a resolution granting an appeal of the Board of Zoning Appeals decision; or
- 2) Adopt a resolution denying the appeal.

Budget Impact: *None*

- Attachments:**
- (1) Resolution granting appeal
 - (2) Resolution denying appeal
 - (3) Satellite photo of area
 - (4) Staff report to BZA
 - (5) DNR recommendation
 - (6) Original application for variance
 - (7) BZA minutes from Dec. 7 and Feb. 1
 - (8) Statement of appeal

 Council Action: _____ Date: _____

RESOLUTION NO. 2022-14

A RESOLUTION ADOPTING FINDINGS OF FACT AND GRANTING THE APPEAL OF THE BOARD OF ZONING APPEALS DENIAL OF THE VARIANCE APPLICATION OF TROY MENKE AT 2319 ALBION AVENUE

WHEREAS, Troy and Jadee Menke are the owners of a parcel of land located at 2319 Albion Avenue (PIN 23.039.1560), Fairmont, Minnesota; and,

WHEREAS, Troy Menke has applied to the City for a variance to build a patio overlooking the lake as described on Exhibit A; and,

WHEREAS, The proposal would vary from City Code Section 26-516(3)(a) in that it would be placed 2 feet in lieu of the 50 feet normally required from the ordinary high water level of Hall Lake; and from City Code Section 26-152(e)(4)(a) in that it would be placed 0 feet in lieu of the 30 feet normally required from the front right-of-way; and,

WHEREAS, Following a public hearing on the application, the Fairmont Board of Zoning Appeals denied the variance on February 1, 2022; and

WHEREAS, Troy Menke has appealed the Board of Zoning Appeals' decision to the City Council of the City of Fairmont on February 23, 2022; and,

WHEREAS, The City Council of the City of Fairmont reviewed the appeal of the Board's denial variance at its meeting on March 14 and April 11, 2022; and

WHEREAS, the following statutory and ordinance provisions apply to the review of the variance request;

1. Minnesota Statute Section 462.357, subd. 6 provides:
 - a. Variances shall only be permitted (a) when they are in harmony with the general purposes and intent of the ordinance and (b) when the variances are consistent with the comprehensive plan.
 - b. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that (a) the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; (b) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and (c) the variance, if granted, will not alter the essential character of the locality.
2. City Ordinance Section 26-101 provides that no variance shall be granted to allow a use not permissible under the terms of this chapter. Variances shall only be permitted when they are in harmony with the general purposes and intent of this chapter and when the terms of the variance are consistent with the comprehensive plan. In granting a variance the board may prescribe appropriate conditions in conformity with this chapter. When such conditions are made part of the terms under which the variance is

granted, violation of the conditions is a violation of this chapter. A variance shall not be granted by the board of appeals and adjustments, or by the city council on appeal, unless it conforms to the following standards:

- a. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved that cause practical difficulties in complying with the requirements of this chapter and do not result from the actions of the petitioner. Economic considerations alone shall not constitute practical difficulties.
 - b. Literal interpretation of the provisions of this chapter would deprive the petitioner of rights commonly enjoyed by other properties in the same district under the terms of this chapter and the granting of the variance will not alter the essential character of the locality.
 - c. Granting the variance will not confer on the petitioner any special privilege that is denied by this chapter to other lands, structures, or buildings in the same area and the petitioner proposes to use the property in a reasonable manner.
 - d. The proposed variance will not impair an adequate supply of air and light to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the city.
3. City Code Section 26-513(3)(a) requires a structural setback of 50 feet from the ordinary high-water level of Hall Lake.
 4. City Code Section 26-152(e)(4)(a) requires a structural setback of 30 feet from the front right-of-way of Albion Avenue.

NOW THEREFORE BE IT RESOLVED by the City of Fairmont that the following conclusions of law are found to support council's decision.

1. Special circumstances exist based on the size of the parcel and the perception of zoning setbacks making this parcel unbuildable based on setbacks for a structure.
2. A variance is necessary as the parcel does not allow a structure to be built and comply with the 50 foot set back from the ordinary high water line, and a 30 foot setback from the right of way.
3. The Albion Avenue right of way extends 31.75 ft from the edge of the street, which provides an abnormally large setback buffer on the east side of the parcel.
4. No special privilege would be granted as the proposed structure is still subject to applicable zoning and building code requirements plus permits as appropriate.
5. The proposed structure would not be a nuisance to the surrounding area as adjacent properties are empty and the anticipated use would comply with City requirements for hours, operation, noise, and other ordinances.

6. The landowner does intend to use the property in a reasonable manner in line with the city's comprehensive plan to increase lake tourism and retail.
7. The land's location is unique as a place to support a local business while enjoying lake amenities.
8. The structure would not be out of scale along Hall Lake shoreline as there are other structures on the lake along Albion Ave.

BE IT FURTHER RESOLVED by the City of Fairmont that the application to issue a variance to allow Troy Menke to deviate from City Code Section 26-516(3)(a) and City Code Section 26-152(e)(4)(a) and build a structure to be placed 2 feet in lieu of the 50 feet normally required from the ordinary high water level of Hall Lake; and 0 feet in lieu of the 30 feet normally required from the right-of-way, is hereby approved.

Passed by the City Council of Fairmont, Minnesota this 11th day of April 2022.

Deborah J. Foster, Mayor

ATTEST:

Patricia J. Monsen, City Clerk

RESOLUTION NO. 2022-15

A RESOLUTION ADOPTING FINDINGS OF FACT AND DENYING THE APPEAL OF THE BOARD OF ZONING APPEALS DENIAL OF THE VARIANCE APPLICATION OF TROY MENKE AT 2319 ALBION AVENUE

WHEREAS, Troy and Jadee Menke are the owners of a parcel of land located at 2319 Albion Avenue (PIN 23.039.1560), Fairmont, Minnesota; and,

WHEREAS, Troy Menke has applied to the City for a variance to build a patio overlooking the lake as described on Exhibit A; and,

WHEREAS, the proposal would vary from City Code Section 26-516(3)(a) in that it would be placed 2 feet in lieu of the 50 feet normally required from the ordinary high water level of Hall Lake; and from City Code Section 26-152(e)(4)(a) in that it would be placed 0 feet in lieu of the 30 feet normally required from the front right-of-way; and,

WHEREAS, following a public hearing on the application, the Fairmont Board of Zoning Appeals denied the variance on February 1, 2022; and

WHEREAS, Troy Menke has appealed the Board of Zoning Appeals' decision to the City Council of the City of Fairmont on February 23, 2022; and,

WHEREAS, the City Council of the City of Fairmont reviewed the appeal of the Board's denial variance at its meeting on March 14 and April 11, 2022; and,

WHEREAS, the following statutory and ordinance provisions apply to the review of the variance request;

1. Minnesota Statute Section 462.357, subd. 6 provides:
 - a. Variances shall only be permitted (a) when they are in harmony with the general purposes and intent of the ordinance and (b) when the variances are consistent with the comprehensive plan.
 - b. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that (a) the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; (b) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and (c) the variance, if granted, will not alter the essential character of the locality.
2. City Ordinance Section 26-101 provides that no variance shall be granted to allow a use not permissible under the terms of this chapter. Variances shall only be permitted when they are in harmony with the general purposes and intent of this chapter and when the terms of the variance are consistent with the comprehensive plan. In granting a variance the board may prescribe appropriate conditions in conformity with this chapter. When such conditions are made part of the terms under which the variance is

granted, violation of the conditions is a violation of this chapter. A variance shall not be granted by the board of appeals and adjustments, or by the city council on appeal, unless it conforms to the following standards:

- a. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved that cause practical difficulties in complying with the requirements of this chapter and do not result from the actions of the petitioner. Economic considerations alone shall not constitute practical difficulties.
 - b. Literal interpretation of the provisions of this chapter would deprive the petitioner of rights commonly enjoyed by other properties in the same district under the terms of this chapter and the granting of the variance will not alter the essential character of the locality.
 - c. Granting the variance will not confer on the petitioner any special privilege that is denied by this chapter to other lands, structures, or buildings in the same area and the petitioner proposes to use the property in a reasonable manner.
 - d. The proposed variance will not impair an adequate supply of air and light to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the city.
3. City Code Section 26-513(3)(a) requires a structural setback of 50 feet from the ordinary high-water level of Hall Lake.
 4. City Code Section 26-152(e)(4)(a) requires a structural setback of 30 feet from the front right-of-way of Albion Avenue.

NOW THEREFORE BE IT RESOLVED by the City of Fairmont that the following conclusions of law are found to support council's decision.

1. The requested variance is not in harmony with the purposes and intent of the ordinance because shoreland management regulations are expressly enacted to limit structural development in close proximity to public waters which may contribute to a decrease in water quality and possible bluff failure.
2. The requested variance is not consistent with the comprehensive plan because the plan prioritizes preserving Fairmont's natural resources in order to ensure the long-term preservation and success of Fairmont's character, social connectedness, and local economy.
3. The property owner does not propose to use the property in a reasonable manner because the structure's placement would directly conflict with the purposes of the shoreland management code
4. There are not unique circumstances to the property not created by the landowner because, while the area of land is naturally shaped by the lake, this circumstance is not unique

because many properties in Fairmont contain some land that is not buildable due to its proximity to the water.

5. The variance will not maintain the essential character of the locality because the structure's placement would be inconsistent with the usual features of nearby shoreland.
6. Special conditions and circumstances do not exist which are peculiar to the land, structure, or building involved that cause practical difficulties because the area of land is part of a larger parcel of land across Albion Avenue which is buildable. Parcels which contain some land inside the shore impact zone are common in Fairmont. Shore impact zones are generally unbuildable.
7. Literal interpretation of the provisions of this chapter would not deprive the property owner of rights commonly enjoyed by other properties in the same district under the terms of the chapter because this area of land already supports a dock and steps to the lake. Some residential structures to the south of the site are within the ordinary high water level requirement. These structures existed before the City adopted its modern shoreland management ordinance.
8. Granting the variance will confer on the petitioner a special privilege that is denied by this chapter to other lands, structures, or buildings because the ability to place a structure 2 feet from the ordinary high-water level is denied to other structures, apart from boathouses, throughout the city.
9. The proposed variance will impair the public health, safety, or welfare of the residents of the city because the proposal directly conflicts with the shoreland management ordinance's purpose to protect the community's five lakes from extensive development within the shore impact zone. Structural development involving vegetation clearing and earth moving may result in bluff failures and a decline in water quality.

BE IT FURTHER RESOLVED by the City of Fairmont that the application to issue a variance to allow Troy Menke to build a patio overlooking the lake so as to deviate from City Code Section 26-516(3)(a) and City Code Section 26-152(e)(4)(a) is hereby denied.

Passed by the City Council of Fairmont, Minnesota this 11th day of April 2022.

Deborah J. Foster, Mayor

ATTEST:

Patricia J. Monsen, City Clerk



230391560



MENKETROY & JADEE
2319 ALBION AVE
2.53 Acres Value \$413700 Note:

View: [Parcel Report](#) | [Soil Report](#) | [Pictometry Imagery](#)

GENERAL INFORMATION

Applicant: ISG – Bryan Petzel

Property Owner: Troy & Jadee Menke

Purpose:

(1) To allow a 2-foot in lieu of 50-foot OHWL setback from Hall Lake

(2) To allow a 0-foot in lieu of 30-foot front yard setback from Albion Ave

Address: 2319 Albion Ave

Parcel Number(s): 23.039.1560

Zoning: Single Family Residential (R-1), Shoreland Overlay District Tier A (SOD-A)

Surrounding Land Use: Single Family Residential (R-1), General & Neighborhood Business (B-3, B-1)

Application Date: November 15, 2021

Review Date: December 7, 2021

BACKGROUND

This riparian non-conforming single-family residential (R-1) area of land of approximately 3,800 square feet is situated adjacent to Hall Lake. The land is part of a larger neighborhood business (B-1) parcel located across Albion Avenue, which contains a single-family home. The land falls within Hall Lake’s shore impact zone, is well-vegetated, and supports a residential dock and steps.

The applicant proposes to place a shipping container 0 feet from the Albion Avenue right-of-way where 30 feet is required, and 2 feet from the Ordinary High Water Level (OHWL) of Hall Lake where 50 feet is required. A wood deck is proposed to be placed beyond the container, overhanging Hall Lake. Because it would overhang the public water, this deck requires Minnesota Department of Natural Resources (DNR) permitting and so is not covered by this variance request.

POLICY CONSIDERATIONS

The Fairmont Comprehensive Plan weighs the community’s goals of economic development, tourism, and the need to protect and preserve its natural resources, including its five lakes. The plan states in its chapter on natural resources: “Preserving Fairmont’s natural resources for future generations is critical to the long-term preservation and success of Fairmont’s character, social connectedness, and local economy.”

To carry out this vision, the City’s Shoreland Management ordinance provides some protections for the community’s lakes. One of these protections is a buffer prohibiting structures other than boathouses within 50 feet from the OHWL of the lake, and 30 feet from the top of a bluff. The applicant proposes a structure be placed 2 feet from the OHWL, against the steep and vegetated slope of Hall Lake’s eastern shore.

Given the 100-foot width of Albion Avenue’s right-of-way, staff are less concerned about the proposed 0-foot setback, as the structure would be placed approximately 32 feet from the street surface.

REVIEW OF VARIANCE STANDARDS

City Code Section 26-101 guides the Board of Zoning Appeals in how to review variance requests:

No variance shall be granted to allow a use not permissible under the terms of this chapter. Variances shall only be permitted when they are in harmony with the general purposes and intent of this chapter and when the terms of the variance are consistent with the comprehensive plan. In granting a variance the board may prescribe appropriate conditions in conformity with this chapter. When such conditions are made part of the terms under which the variance is granted, violation of the conditions is a violation of this chapter. A variance shall not be granted by the board of appeals and adjustments, or by the city council on appeal, unless it conforms to the following standards.

- (1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved that cause practical difficulties in complying with the requirements of this chapter and do not result from the actions of the petitioner. Economic considerations alone shall not constitute practical difficulties.**

Staff acknowledge that a circumstance exists in which the area of land is naturally shaped by a body of water. However, staff find that the circumstance is not unique. The area of land is part of a larger parcel of land across Albion Avenue which is buildable. Parcels which contain some land inside the shore impact zone are common in Fairmont. Shore impact zones are generally unbuildable.

- (2) Literal interpretation of the provisions of this chapter would deprive the petitioner of rights commonly enjoyed by other properties in the same district under the terms of this chapter and the granting of the variance will not alter the essential character of the locality.**

Staff find that literal interpretation of the 50-foot shoreland setback requirement would not deprive the petitioner of rights commonly enjoyed by properties with access to the shore. This area of land already supports a dock and steps to the lake. Some residential structures to the south of the site are within the OHWL requirement. These structures existed before the City adopted its modern Shoreland Management ordinance.

- (3) Granting the variance will not confer on the petitioner any special privilege that is denied by this chapter to other lands, structures, or buildings in the same area and the petitioner proposes to use the property in a reasonable manner.**

Staff find that granting the variance would confer upon the petitioner a special privilege. The ability to place a structure 2 feet from OHWL where 50 feet is required is denied to other structures, apart from boathouses, throughout the city.

- (4) The proposed variance will not impair an adequate supply of air and light to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the city.**

Staff find that the proposal would impair the public welfare. The proposal directly conflicts with the Shoreland Management ordinance's purpose to protect the community's five lakes from extensive development within the shore impact zone. Structural development involving vegetation clearing and earth moving may result in bluff failures and a decline in water quality.

RECOMMENDATION

Staff recommend that the Board of Zoning Appeals consider the legal standards set forth by **Minnesota Statute 462.357(6)** when considering variance applications. This includes a three-factor practical difficulties test:

- 1) Reasonableness- does the landowner intend to use the property in a reasonable manner?**
- 2) Uniqueness- are there unique physical characteristics of the land, not personal preferences of the landowner, that creates the circumstance?**
- 3) Essential Character- will the resulting structure be out of scale, out of place or otherwise inconsistent with the surrounding area?**

Staff find that the land is not proposed to be used in a reasonable manner, as the structure's placement would directly conflict with the purpose of the City's Shoreland Management code. While the area of land is naturally shaped by the lake, staff find that this circumstance is not unique. Many properties in Fairmont contain some land that is not buildable due to its proximity to the water. Staff believe the structure's placement within the shore impact zone would be inconsistent with the usual features of nearby shoreland.

The City administers its shoreland management regulations in partnership and consultation with the Minnesota DNR. DNR recommends denial of this request. Its reasoning is attached to this report.

Considering applicable statute and code, staff's findings support denial of the request for a variance to allow a 2-foot in lieu of 50-foot OHWL setback, and a 0-foot in lieu of 30-foot front yard setback.

Respectfully submitted,

Peter Bode

Planner/Code Enforcement Technician

**Minnesota Department of Natural Resources
Southern Region
21371 State Hwy 15
New Ulm, MN 56073**

November 18, 2021

Peter Bode, Planner-Code Enforcement
City of Fairmont
100 Downtown Plaza
Fairmont, MN 56031

Re: Variance application comments for Troy Menke - PID 230391560 on Hall Lake - Martin County

Dear Mr. Bode:

Thank you for sending the Menke variance application for review. The application requests approval for reduced OHWL setback in order to install steel container, measuring 8' x 40', with a 20' x 40' deck on a bluff located in the shore impact zone of Hall Lake. The structure is proposed to be placed on a small triangular piece of land that is linked to parcel #230391560 which is zoned residential.

We discussed this variance application requesting deviation from the standard OHWL structure setback from 50 feet to 2 feet and spoke to the landowner to confirm these measurements. Hall Lake is classified as a General Development basin so the OHWL setback is 50 feet and includes 25 feet of Shore Impact Zone adjacent to the water. The following comments are submitted for your consideration:

- ✓ The application is in direct conflict with the City of Fairmont's Shoreland Ordinance as it proposes to install a new structure on a wooded, bluff slope. The structure should be setback 30 feet from the top of the bluff.
- ✓ This proposal fails to meet the OHWL setback of 50 feet and would require significant clearing of trees and earth moving in a highly sensitive area. Disturbance in the bluff zone is not recommended and may result in a future bluff failure.
- ✓ The application also includes a deck that would extend approximately 18 feet out over the lake. The deck may require a public waters work permit from DNR. The DNR recommends a natural shoreline and such structures will detract from this goal.

For the reasons identified above, the Department recommends denial of this variance application. If you have questions please call me at 507-822-1559.

Sincerely,

A handwritten signature in black ink that reads "Daniel Girolamo". The signature is written in a cursive style with a large initial 'D' and 'G'.

Daniel Girolamo
Area Hydrologist

CC: Todd Kolander, EWR DNR

**CITY OF FAIRMONT
Planning & Zoning
Application Form**

NOTE TO APPLICANT: This is a comprehensive application form. Only those items related to your specific type of development are to be completed. All items applicable must be included prior to acceptance of the application.

115 E Hickory St Ste 300

Name of Applicant: ISG - Bryan Petzel Address: Mankato, MN 56001 Phone#: 507-387-6651

Street Address of Proposal: 2321 Albion Ave, Fairmont, MN

Legal Description of Property: Parcel 230391560

Existing Use of Property: Vacant parcel area of Ambiance on Albion Taphouse Bar & Grill

Proposed Use of Property: Patio overlooking Hall Lake

Type of Application	Fee	Submission Requirements (Attached)
<input type="checkbox"/> Appeal/Code Amendment	\$150.00	7
<input type="checkbox"/> Administrative Appeal	50.00	8
<input type="checkbox"/> Conditional Use Permit	150.00	4, 6(d-g)
<input type="checkbox"/> Home Occupation Permit	30.00	9
<input type="checkbox"/> Minor Plat	90.00	2(a), 5 (a-b)
<input type="checkbox"/> Planned Unit Development	150.00	1, 4, 6(d-g)
<input type="checkbox"/> Preliminary Plat	150.00	5 (b), 6
<input type="checkbox"/> Rezoning	150.00	1
<input checked="" type="checkbox"/> Variance	90.00	2,3

I HEREBY CERTIFY THAT THE INFORMATION AND EXHIBITS HERewith SUBMITTED ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Troy Menke
Owner's Name(Printed)

Troy Menke
Owner's Signature

Bryan Petzel
Applicant's Name (Printed)

Bryan Petzel
Applicant's Signature

City Staff Use Only

DATE FILED: _____
 DATE FEE PAID: _____
 MEETING DATE: _____
 NOTICES SENT (DATE): _____
 NOTIFICATION OF EXTENSION (LETTER SENT): _____



AMBANCE ON ALBION TAPHOUSE AND GRILL

HALL LAKE

ALBION AVENUE (FORMER M.T.H. No. 15)
(100 Foot Right of Way)





Peter Bode
Planner/Code Enforcement Technician
City of Fairmont
100 Downtown Plaza
Fairmont, MN 56031
pbode@fairmont.org

**RE: VARIANCE APPLICATION NARRATIVE
AMBIANCE ON ALBION – 2321 ALBION AVE**

Peter,

Enclosed is Variance Application and associated supporting documents for an outdoor patio request at the Ambiance on Albion Taphouse and Grill at 2321 Albion Avenue. Below is a narrative describing the subject site, project details, and variance request.

SITE + PROJECT DESCRIPTION

The Ambiance on Albion Taphouse and Grill is located at 2321 Albion Avenue and owned by Troy and Jadee Menke. They also own the parcel across Albion Avenue from the restaurant that is vacant and overlooks Hall Lake where the setback variance is requested for a new structure. The restaurant would like to build a 320 square foot container structure and an 800 square foot deck on the vacant parcel overlooking the lake as an amenity to the existing restaurant use. The parcel is a smaller, unusual shape and when applying the required building setbacks, there is no space for even a small structure. The owners are requesting the City consider a variance to the setbacks to allow a container structure to be approximately 1.78-ft setback from OHWL line from the lake, and 0-ft setback from the eastern property line fronting Albion Avenue, and for a patio to extend into the OHWL to overlook the lake.

VARIANCE CRITERIA REVIEW

A variance request must demonstrate that it meets the requirements of “Practical Difficulties” in the Minnesota State Statutes, 462.357, and the Variance Criteria of Section 26-101 of the Fairmont City Code. Below are the listed criteria of the City Code and responses to each item regarding this variance request, which also address the State Statutes.

1. *Special conditions and circumstances exist which are peculiar to the land, structure, or building involved that cause practical difficulties in complying with the requirements of this chapter and do not result from the actions of the petitioner. Economic considerations alone shall not constitute practical difficulties.*

Response: The unusual narrow shape of the parcel presents a special condition and unique circumstance where strict interpretation of the zoning setbacks would render this parcel essentially unbuildable with no viable area outside a setback for a structure.

2. *Literal interpretation of the provisions of this chapter would deprive the petitioner of rights commonly enjoyed by other properties in the same district under the terms of this chapter and the granting of the variance will not alter the essential character of the locality.*

Response: The structure setback requirement on the west from the Ordinary High Water Line (OHWL) is 50 feet. Applying the 30-ft setback from the east property line would apply leaving no buildable area on the lot. Therefore, a variance would be necessary for any structure on this parcel. It is important to consider that the Albion Avenue right of way extends approximately 31.75-ft from the edge of the street. This means that even

if the building was built 0-ft setback from the east property line as proposed, it would still be setback 31.75-ft from the edge of the street. This is an unusually large right of way beyond the edge of the road. The result of this larger ROW is that it serves as a setback buffer area that would usually be setback space on private property situated closer to the street edge.

3. *Granting the variance will not confer on the petitioner any special privilege that is denied by this chapter to other lands, structures, or buildings in the same area and the petitioner proposes to use the property in a reasonable manner.*

Response: Granting a variance would allow for the site to support a small structure to support an existing business. No special privilege would be given as the proposed structure would still be subject to the City review process for other applicable zoning and building code requirements and would need to obtain any applicable permits as any other structure would need for approval.

4. *The proposed variance will not impair an adequate supply of air and light to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the city.*

Response: The proposed variance would not cause any nuisance to the surrounding area or impede the public health, safety or welfare. The proposed use would comply with the City requirements for hours of operation, lighting, noise and other standards. The parcels directly adjacent to the north, northeast and south are vacant. To the west is the lake and to the east is the restaurant. Directly adjacent to the southeast is a greenhouse/nursery. Further to the south along the lakeshore are residential structures between the lake and Albion Avenue, like the proposed structure.

In addition to evaluating a Variance request to the City Code, the Variance request must demonstrate conformance to the City's Fairmont Forward 2040 Comprehensive Plan. Below is an analysis of how the requested variance and development proposal relate to the City's Comprehensive Plan Goals.

On page 121 of the Comprehensive Plan, the top priorities for the community that were identified through the engagement process are listed in order as:

1. Stuff to do – places and activities
2. Maintain roads
3. Retail and revitalization
4. Lake tourism
5. Good jobs
6. Bike trails

The proposed patio space for Ambiance on Albion would support the desires of the community, providing a new place/activity that help support local business while enjoying the lake amenity. In addition, the proposal would support the following goals identified in the Comprehensive Plan:

- Land Use Goal 2: Utilize lakeshore land as a community asset in a sustainable and accessible manner
 - LU 2-3. Prioritize development that preserves natural features and integrates greens spaces and gathering spaces into site design



Economic Development Goal 3: Foster the Local Economy

- ED 3-3. Partner to attract local and independent restaurants, retail, and entertainment/gathering space

Economic Development Goal 8: Market the City's unique assets for economic growth

- ED 8-3. Improve Fairmont's brand within the region as a fun, livable, active, and business-friendly community

Parks and Recreations Goal 2. Leverage the City's Natural Resources to Drive Economic Development

- PR 2-5. Provide opportunities for people to gather, celebrate, and enjoy culture, music, and food

We hope this analysis demonstrates evidence and the unique circumstances to support the setback variance requested. It would be a benefit to the community and the existing local business to grant this variance request without causing any negative impacts to the surrounding area.

Thank you for taking the time to review the enclosed application and supporting documents. We look forward to working with the City on this project. Please contact me at 952.426.0699 or Andrea.Rand@ISGInc.com with any questions or if there is any additional information we can provide in support of this project.

Sincerely,

Andrea Rand, AICP
Project Coordinator

MINUTES OF THE FAIRMONT BOARD OF ZONING APPEALS

Regular Meeting

December 7, 2021 at 4:30 p.m.

City Council Chambers, City Hall, 100 Downtown Plaza

Members present: Mike Jacobson, Mike Klujeske, Jay Maynard, Council Liaison Bruce Peters

Members absent: Susan Krueger, Council Liaison Randy Lubenow

Staff present: City Administrator Cathy Reynolds, Planner & Zoning Official Peter Bode

Chair Maynard called the meeting to order at 4:30 p.m.

Approval of Agenda: Motion by Klujeske and second by Jacobson to approve the agenda as presented. Motion carried.

Approval of Minutes: Motion by Jacobson and second by Klujeske to approve the July 6, 2021 meeting minutes as presented. Motion carried.

Public Hearing - Variance Request for 2319 Albion Ave: Chair Maynard opened the public hearing. Bode introduced a request by Troy and Jadee Menke at 2319 Albion Ave for variances to allow a 2-foot in lieu of 50-foot OHWL setback from Hall Lake and a 0-foot in lieu of 30-foot front yard setback requirement from Albion Avenue. Bode stated that staff's findings supported denial of the request.

Troy and Jadee Menke discussed the proposal with the Board and spoke in favor of their request. Bode stated that no further public comments have been received.

There were no additional public comments. Motion by Jacobson and second by Klujeske to close the public hearing. Motion carried.

The Board discussed the proposal. Members indicated a preference to give time to the applicants to apply for a required public waters work permit from the Minnesota Department of Natural Resources. Bode stated that the Board has 60 days from the public hearing to decide on the variance request.

The Board tabled the request.

Old Business: *None*

Adjournment: Motion by Jacobson and second by Klujeske to adjourn. Motion carried and the meeting adjourned at 4:58 p.m.

*Respectfully submitted,
Peter Bode*

MINUTES OF THE FAIRMONT BOARD OF ZONING APPEALS

Regular Meeting

February 1, 2022 at 4:30 p.m.

City Council Chambers, City Hall, 100 Downtown Plaza

Members present: Mike Jacobson, Susan Krueger, Jay Maynard, Adam Smith, Council Liaison Wayne Hasek, Council Liaison Bruce Peters

Members absent: Mike Klujeske

Staff present: City Administrator Cathy Reynolds, Planner & Zoning Official Peter Bode

Chair Krueger called the meeting to order at 4:30 p.m.

Approval of Agenda: Motion by Maynard and second by Jacobson to approve the agenda as presented. Motion carried.

Approval of Minutes: Motion by Maynard and second by Smith to approve the January 4, 2022 meeting minutes as presented. Motion carried.

New Business: *None*

Continue – Variance Request for 2319 Albion Ave: The Board continued its discussion of a request by Troy and Jadee Menke at 2319 Albion Ave for variances to allow a 2-foot in lieu of 50-foot OHWL setback from Hall Lake and a 0-foot in lieu of 30-foot front yard setback from Albion Avenue. Bode stated that the DNR indicated to staff that a public waters work permit had not been applied for relating to the overhanging deck.

The Board discussed the proposal.

Motion by Maynard and second by Jacobson to deny the variance for a 2-foot in lieu of 50-foot OHWL setback and a 0-foot in lieu of 30-foot front yard setback. Motion carried.

The Board's reason for denial was that the request was inconsistent with the purpose of the City's shoreland management ordinance. Additionally, the circumstance was neither unique nor reasonable because similar areas of land are unbuildable throughout the city.

Adjournment: Motion by Maynard and second by Smith to adjourn. Motion carried and the meeting adjourned at 4:43 p.m.

*Respectfully submitted,
Peter Bode*

March 8, 2022

Dear Board of Zoning Appeals,

I am appealing your decision for the variance for Ambiance on Albion because I don't think it's a fair vote when you bring in 3 new bodies for the hearing and they are not up to speed with the project. At the first meeting there were questions from the committee. This time there was a vote like it had been pre-determined because there were no questions.

I'm trying to add value to this town and would like your help to figure out a solution.

Look forward to discussing this issue more.

Thank you,

Troy and Jadee Menke



Fairmont City Council
April 11, 2022

Agenda Item: 9.1

From: Cathy Reynolds
To: City Council

Subject: Community Center Letter of Intent

Policy/Action Requested: Motion to approve the letter of intent with the Fairmont Area Community Center, Inc and the YMCA.

Vote Required: Simple Majority Roll Call

Recommendation:

Overview:

The Fairmont Area Community Center, Inc (FACC) has drafted the attached Letter of Intent to define the relationships and work that is being completed by the FACC, YMCA and the city for the construction and operation of a community center. The Letter of Intent is a non-binding agreement but sets out the framework for future conversations and negotiations regarding the community center.

The letter of intent has been reviewed by the city attorney and the city’s bond council.

The FACC is asking that the council approve entering into the agreement.

Budget Impact: None

Attachments:

- 1. Letter of Intent with FACC and the YMCA

Council Action: _____ Date: _____

Fairmont Area Community Center, Inc.

A Minnesota, non-profit corporation

Forest City YMCA (the “YMCA”)
Bruce A. Mielke, CEO
916 West I Street
Forest City, IA 50436

**RE: Letter of Intent for Potential Fairmont Area Community Facilities /
Financial Operating Evaluation & Future Operations**
Dated: April 6, 2021

Dear Mr. Mielke:

Please accept this document as an initial letter of intent relating to the potential construction and operation of a new community center facility to be located in Fairmont, Martin County, Minnesota.

Background

The City of Fairmont, Minnesota, a Minnesota municipality (the “City”) is currently evaluating the costs of constructing and the ultimate operation of a community center to be located within the city limits of Fairmont, Minnesota (the “Community Center”).

The City is evaluating community needs within the Community Center as well as the cost of constructing and operating.

The City currently does not desire to operate the Community Center and prefers that an independent non-profit corporation assume operation of the Community Center once constructed by means of a lease or other contract for possession and usage.

The Fairmont Area Community Center, Inc. (“FACC”) has been established: (a) to solicit and hold private donations made by members of the community for the construction of the Community Center, (b) to potentially operate the Community Center once constructed, preferably through direct operations contracting with the Albert Lea YMCA, (c) to assist with determining the viability of operating the Community Center, including assembling viable operating costs pro forma and income source scenarios of the Community Center, and (d) to act as a voice of community members who are in favor of the development of a Community Center that will benefit the citizens of Martin County and beyond. FACC has a donor commitment for the preferred location of the Community Center.

The YMCA has experience in operating community centers and has a national team that can bring expertise and experience to the development of the Community Center. In addition, FACC and the YMCA believe there may be substantial and material operating efficiencies in working together on the operation, maintenance, and programs that the Community Center might offer.

The YMCA, the City and FACC, collectively recognized as the “parties”, have had preliminary discussions relating to the development of a pro forma for the operation of the Community Center in various iterations and potential operation of the Community Center once constructed.

1) The “parties” will work collaboratively to review the design and specifications of the potential Community Center. During this process, the YMCA will work with the FACC and the City to develop operating pro forma

models to forecast the potential costs of operating the Community Center, including expense analysis and revenue sources from programs and memberships based on the experience and expertise of the YMCA, the Upper Midwest Alliance of YMCAs and YMCA of the USA (with the YMCA leading a committee of the same). The pro formas developed will also be used by FACC in establishing its good faith financial pro formas for its IRS 501(c)(3) initial filing. The initial pro formas will propose reasonable operating budgets for a Community Center based on a more traditional YMCA (including an indoor track, athletic areas, a pool, and other community spaces), as well as an operating budget for an additional ice arena operated year-round.

2) Once the “parties” have determined the exact contents and design of the Community Center, the “parties” shall negotiate in good faith to develop an operating agreement whereby FACC will donate or contribute the real estate for the Community Center, the City will contract with FACC for the possession and operation of the Community Center at a minimal or no rental rate, and FACC will in turn contract with the YMCA for the operation and administration of the Community Center. The goal of the “parties” is to have a Community Center that is operationally efficient and minimally reliant on any addition City contributions. Each of the contracts would be long-term contracts and have provisions that act to preserve the long-term existence and effective operation of the Community Center.

This Letter shall represent a Letter of Intent on behalf of the undersigned when signed by all parties. This Letter is not a legally binding agreement between the parties, but represents their mutual intent to proceed in good faith toward completion of an agreement containing the terms set forth herein and such other terms and conditions that are required by the parties to accomplish their purposes, all of which shall be contained in a definitive and comprehensive Agreement to be drafted by the parties and their respective counsel to the satisfaction of the parties.

This Letter is a statement of the present intent of the parties to negotiate a definitive Agreement in substantial conformance to the terms and conditions stated herein. This Letter does not constitute any offer, acceptance or legally binding agreement and does not create any rights or obligations for or on behalf of the parties.

We, the below signed, agree that the above listed points are intended to be utilized in the formulation of a future legal agreement.

City of Fairmont, Minnesota

Fairmont Area Community Center, Inc.

Deborah J. Foster, Mayor

Fred W. Krahmer

Chairman

ATTEST:

April __, 2022

Patricia J. Monsen, City Clerk

April ____, 2022

Date

Albert Lea YMCA

Charles Newell

CVO

April __, 2022



Fairmont City Council
April 11, 2022

Agenda Item: 9.2

From: Cathy Reynolds
To: City Council

Subject: Community Center Funding

Policy/Action Requested: Motion as appropriate to summarize the guidance the council wishes to proceed with for initial financing work.

Vote Required: Simple Majority Roll Call

Recommendation:

Overview:

Resolution 2019-58 was passed by the Council in December 2019. In this resolution the council agreed to commit \$14,000,000 from the local option sales tax to the construction of a community center contingent upon the community center committee raising an additional \$6,000,000 pledged to the construction of the community center. The Fairmont Area Community Center, Inc (FACC) is working on raising the funds that the community center committee was tasked to raise in resolution 2019-58.

This conversation is an initial conversation on the financing of the project to help guide fundraising efforts and staff actions.

The city is currently collecting the ½ cent local option sales tax. The authorization for this tax allows the city to collect the tax to cover a \$15M bond plus the cost of issuance and interest, or for 25 years, whichever comes first. The city will use these funds to support the issuance of a sales tax revenue bond that will cover the \$14M that the city has agreed to commit to the construction. It is anticipated that the ½ cent sales tax will fully cover the bond for the city's portion of the construction costs and provide the full \$14M for the construction costs.

For the \$6M fundraising effort there are a few options that can be explored for this financing.

1. The FACC can bring \$6M in cash to the project which will provide the full \$6M in funding towards construction costs.
2. The FACC can seek out a bridge loan from a bank based on the pledges they receive. The FACC will be responsible for the bank loan and any risk associated with pledges not coming in as pledged.
3. The city can issue a bond for the \$6M. If the city issues the bond, we will have bond issuance costs and interest payments on the bond that will need to be paid. If the \$6M in pledges is to cover these costs, that will reduce funds available for the construction. If the city issues the bonds, the city is at risk for the bond payments if the pledges do not come in as pledged and the city would be required to levy a tax to pay the bond.

If the FACC does not bring in \$6M in cash for the construction, additional funds will need to be raised to cover the bond costs. The city has looked at a couple of examples to help understand what these costs may be:

- a. The first example assumes we issue a bond for \$6M to provide us with the full \$6M for construction costs. As you can see in this example, we estimate that the city would need \$7,346,925 to cover the total costs of the bond.

Bond	Issuance Cost	Par Amount	Term	Interest Rate	Total Interest Payments	Total Funds Needed for Bond
\$6M	\$150,000	\$6,150,000	10	3%	\$1,196,925	\$7,346,925

- b. The second example assumes that we receive \$3M in cash and bond for the additional \$3M needed to get the full \$6M towards construction costs. In this example we estimate that the city would need \$3,673,088 to cover the costs of the bond.

Bond	Issuance Cost	Par Amount	Term	Interest Rate	Total Interest Payments	Total Funds Needed for Bond
\$3M	\$75,000	\$3,075,000	10	3%	\$598,088	\$3,673,088

This initial discussion on the financing options is to help guide future fundraising and financing discussions.

- Is the city willing to assume the risk associated with bonding for the pledges? If council does not want to assume the risk the FACC will need to start talking with banks to see what a bridge loan may look like for them.
- Is the intent to have \$6M for construction costs? If so, then we need to decide if the city is willing to pay the issuance and interest costs on a bond, or does the FACC need to adjust the fundraising goal to cover these costs?

Budget Impact: None

Attachments:

1. Debt Planning Models

Council Action: _____

Date: _____

1	Purpose:	Community Center Bridge Bond
2	Dated:	6/1/2023
3	First Interest:	3/1/2024
4	First Principal:	3/1/2025
5	Par:	6,150,000
6	Term (years):	10
7	Average Coupon:	3.00%
8	Debt Limit:	0%
9	Debt Ratio:	100%

Debt Service Payments

Term	Fiscal Year	Principal Paid	Principal	Interest	Total
		6/1/23			
		3/1/24		138,375	
	2024	9/1/24		92,250	230,625
1		3/1/25	535,000	92,250	
	2025	9/1/25		84,225	711,475
2		3/1/26	555,000	84,225	
	2026	9/1/26		75,900	715,125
3		3/1/27	570,000	75,900	
	2027	9/1/27		67,350	713,250
4		3/1/28	585,000	67,350	
	2028	9/1/28		58,575	710,925
5		3/1/29	605,000	58,575	
	2029	9/1/29		49,500	713,075
6		3/1/30	625,000	49,500	
	2030	9/1/30		40,125	714,625
7		3/1/31	645,000	40,125	
	2031	9/1/31		30,450	715,575
8		3/1/32	660,000	30,450	
	2032	9/1/32		20,550	711,000
9		3/1/33	680,000	20,550	
	2033	9/1/33		10,350	710,900
10		3/1/34	690,000	10,350	
	2034	9/1/34			700,350
	Total		6,150,000	1,196,925	7,346,925



1	Purpose:	Community Center Bridge Bond
2	Dated:	6/1/2023
3	First Interest:	3/1/2024
4	First Principal:	3/1/2025
5	Par:	3,075,000
6	Term (years):	10
7	Average Coupon:	3.00%
8	Debt Limit:	0%
9	Debt Ratio:	100%

Debt Service Payments

Term	Fiscal Year	Principal Paid	Principal	Interest	Total
		6/1/23			
		3/1/24		69,188	
	2024	9/1/24		46,125	115,313
1		3/1/25	270,000	46,125	
	2025	9/1/25		42,075	358,200
2		3/1/26	275,000	42,075	
	2026	9/1/26		37,950	355,025
3		3/1/27	285,000	37,950	
	2027	9/1/27		33,675	356,625
4		3/1/28	295,000	33,675	
	2028	9/1/28		29,250	357,925
5		3/1/29	305,000	29,250	
	2029	9/1/29		24,675	358,925
6		3/1/30	310,000	24,675	
	2030	9/1/30		20,025	354,700
7		3/1/31	320,000	20,025	
	2031	9/1/31		15,225	355,250
8		3/1/32	330,000	15,225	
	2032	9/1/32		10,275	355,500
9		3/1/33	340,000	10,275	
	2033	9/1/33		5,175	355,450
10		3/1/34	345,000	5,175	
	2034	9/1/34			350,175
	Total		3,075,000	598,088	3,673,088



Fairmont City Council
April 11, 2022

Agenda Item: 9.3

From: Troy Nemmers, PE – Director of Public Works/City Engineer
To: Mayor and City Council

Subject: Approval of 2022 Housing Demolition Projects

Policy/Action Requested: Award 2022 housing demolition project to Beemer Companies

Vote Required: X Simple Majority Roll Call

Recommendation: Approval

Overview: City staff requested quotes for demolition of 3 dilapidated properties. These properties are located at 713 E 4th Street, 724 E 1st Street, and 403 E 5th Street. Two bids were received for this work and are listed below:

1. Beemer Companies - \$81,900
2. S&J Excavating - \$91,498

The bid was higher than expected but feel that these costs are mostly attributed to higher fuel and disposal costs. Staff is recommending awarding the bid to Beemer Companies for the demolition work.

Budget Impact: Annually the City contributes \$80,000 to the housing demolition fund. The 2022 housing demo fund has a balance of approximately \$165,000. A portion of these costs will be assessed against the property at 403 E 5th Street.

Attachments: Contractor bids – Beemer; S&J

Council Action: _____ Date: _____



1988 135th St
Fairmont, MN 56031

Phone # 507-235-6779
Fax # 507-235-6722

www.beemercompanies.com

Estimate

Date	Estimate #
3/22/2022	4401

Name / Address
City of Fairmont 100 Downtown Plz Fairmont, MN 56031-1709

Ship To

P.O. No.	Project

Item	Description	Qty	U/M	Cost	Total
Excavator	Demolition & Site Backfill 3 Houses within the City of Fairmont Demo House - 403 E 5th st	1		43,000.00	43,000.00
Excavator	Demo House - 713 E 4th st Demo House - 724 E 1st st Demo Bid and Asbestos abatement per report All items tied Sewer and water capped behind sidewalk or where feaseable. Items not included: asbestos not in survey, unknown hazardous materials, trees and stumps, maintenance, permits other than MPCA, water supply, sales tax.	1		38,900.00	38,900.00

1.5% Finance Charge Monthly, \$.50 min.
BALANCE DUE UPON RECEIPT

Any dispute regarding goods or services supplied by Beemer Companies shall be litigated in a court and a county in which Beemer Companies has a business office.

Please sign for approval: _____

Date: _____

Subtotal \$81,900.00

Sales Tax (6.875%) \$0.00

Total \$81,900.00

PROPOSAL

Proposal Submitted To: <u>CITY OF FAIRMONT</u>	Job Name: <u>HOUSE DEMOLITION</u>	Job #
Address: <u>100 DOWNTOWN PLAZA</u>	Job Location: <u>713 E. 4TH ST. 724 E. 1ST ST.</u>	
<u>FAIRMONT, MN. 56031</u>	Date: <u>MARCH 23, 2022</u>	Date of Plans
Phone # <u>507-238-9461</u>	Fax #	Architect

We hereby submit specifications and estimates for:

713 E. 4TH ST. - DEMOLITION
MPCA - DEPT. HEALTH - ASBESTOS REMOVAL
724 E. 1ST ST. - DEMOLITION
MPCA - DEPT. HEALTH - ASBESTOS REMOVAL

DEMOLITION OF BOTH HOUSES - LANDFILL - CONCRETE TO RECYCLE.
FILL BASEMENT W/COMP + CLAY
6" BLACK DIRT - HYDRO SEED - STRAW BLANKET

TOTAL COST - (2) HOUSES
\$33,523.00

We propose hereby to furnish material and labor - complete in accordance with the above specifications for the sum of:

\$ PAYMENT UPON COMPLETION. Dollars

with payments to be made as follows: _____

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully submitted,

Steve Furd

Note - this proposal may be withdrawn by us if not accepted within 30 days.

ACCEPTANCE OF PROPOSAL

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature

Steve Furd

Date of Acceptance: _____

Signature _____

PROPOSAL

S & J EXCAVATING, INC
22 SO SILVER LAKE DRIVE
FAIRMONT, MN 56031

Proposal Submitted To: <i>City of FAIRMONT</i>		Job Name: <i>HOUSE FIRE DEMOLITION</i>	Job #
Address: <i>100 DOWNTOWN PLAZA FAIRMONT, MN 56031</i>		Job Location: <i>403 EAST 5TH ST.</i>	Date of Plans
Phone #: <i>507-238-9461</i>	Fax #	Date: <i>MARCH 23, 2022</i>	Architect

We hereby submit specifications and estimates for:

*403 EAST 5TH ST. HOUSE FIRE DEMOLITION CLEANUP.
Follow MPCA + DEPT. HEALTH RULES
HAUL ALL HAZARDOUS MATERIAL TO LANDFILL - CONCRETE TO RECYCLE
CLAY FILL IN BASEMENT + COMPACTION - TESTING.
CAP SEWER + WATER - INST.
6" BLACK DIRT - SEED - HYDRO OR STRAW BLANKET.*

TOTAL COST \$ 57,975.00

We propose hereby to furnish material and labor - complete in accordance with the above specifications for the sum of:

\$ *PAYMENT UPON COMPLETION.* Dollars

with payments to be made as follows:

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

S & J EXCAVATING, INC
22 SO SILVER LAKE DRIVE
FAIRMONT, MN 56031

Respectfully submitted,

Note - this proposal may be withdrawn by us if not accepted within *30* days.

ACCEPTANCE OF PROPOSAL

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature

Date of Acceptance:

Signature



Fairmont City Council
April 11, 2022

Agenda Item: 9.4

From: Troy Nemmers, PE, Director of Public Works/City Engineer
To: Mayor and City Council

Subject: Award 2022-A CIPP Project

Policy/Action Requested: Approve Resolution 2022-18

Vote Required: Simple Majority Roll Call

Recommendation: Approval

Overview: A bid opening for the cured-in-place pipe (CIPP) lining project was held on Wednesday, April 6th at 11:00 a.m. The city received three bids with Hydro-Klean being the low bidder at \$247,926.50. The engineer's estimate was \$231,901. Staff is recommending awarding the bid to Hydro-Klean.

Budget Impact: \$225,000 was budgeted in the 2022 wastewater CIP for this project. Reserve or contingency funds will be used to cover the difference from the budgeted amount.

Attachments: Resolution 2022-18

Council Action: _____ Date: _____

RESOLUTION 2022-18

STATE OF MINNESOTA)
COUNTY OF MARTIN) SS
CITY OF FAIRMONT)

RESOLUTION ACCEPTING BID

2022-A CIPP PROJECTS – PROJECT NO. 3022001
CITY OF FAIRMONT, MINNESOTA

WHEREAS, pursuant to an advertisement for bids for the 2022-A CIPP Projects, Project No. 3022001, bids were received, opened and tabulated according to law, and the following bids were received complying with the advertisement:

<u>BIDDER</u>	<u>AMOUNT OF BID</u>
Hydro-Klean, Des Moines, IA	\$247,926.50
Insituform Technologies, Chesterfield, MO	\$330,887.50
Visu-Sewer, Pewaukee, WI	\$428,734.75

WHEREAS, it appears that Hydro-Klean of Des Moines, Iowa is the lowest responsible bidder.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRMONT, MINNESOTA:

1. The Mayor and Clerk are hereby authorized and directed to enter into the contract for the 2022 CIPP Projects, City Project No. 3022001 with Hydro-Klean of Des Moines, Iowa in the name of the City of Fairmont, for the improvements according to the plans and specifications therefore approved by the City Council and on file in the office of the City Clerk at a cost of \$247,926.50.
2. The City Clerk is hereby authorized and directed to return forthwith to all bidders the deposits made with their bids, except that the deposits of the successful bidder and the next lowest bidder shall be retained until a contract has been signed

ADOPTED by the City Council this 11th day of April 2022.

Deborah J. Foster, Mayor

ATTEST:

Patricia J. Monsen, City Clerk



Fairmont City Council
April 11, 2022

Agenda Item: 9.5

From: Troy Nemmers, PE – Director of Public Works/City Engineer
To: Mayor and City Council

Subject: MNDOT Airport Grant Agreement (#1050013)

Policy/Action Requested: Approve Resolution 2022-16 and authorize Mayor and City Clerk to sign the grant agreement.

Vote Required: Simple Majority Roll Call

Recommendation: Approval

Overview:

The Council recently approved a federal ARPA grant for the airport in the amount of \$32,000. To receive reimbursements under the ARPA Program, MnDOT and the City of Fairmont need to execute the attached Agency Agreement. The Agency Agreement augments the FAA grant and allows the Office of Aeronautics to make payments under the FAA grant per the channeling arrangement.

Budget Impact: N/A

Attachments: Resolution 2022-16
MNDOT Grant agreement 1050013

Council Action: _____ Date: _____

RESOLUTION 2022-16

AUTHORIZATION TO EXECUTE
MINNESOTA DEPARTMENT OF TRANSPORTATION
AGENCY AGREEMENT FOR FEDERAL AIRPORT
EXPENSES REIMBURSEMENT

It is resolved by the City of Fairmont as follows:

- 1. That the state of Minnesota Agreement No. 1050013,
"Grant Agreement for Federal Airport Expenses Reimbursement," for
State Project No. A4601-C3 at the Fairmont Municipal is accepted.
2. That the Mayor and City Clerk are
authorized to execute this Agreement and any amendments on behalf of the
City of Fairmont.

CERTIFICATION

STATE OF MINNESOTA
COUNTY OF MARTIN

I certify that the above Resolution is a true and correct copy of the Resolution adopted by the
City of Fairmont
(Name of the Recipient)

at an authorized meeting held on the 11th day of April, 2022
as shown by the minutes of the meeting in my possession.

Signature:
(Clerk or Equivalent)
Patricia J. Monsen, City Clerk

CORPORATE SEAL

/OR/

NOTARY PUBLIC

My Commission Expires:

STATE OF MINNESOTA
AGENCY AGREEMENT for
FEDERAL AIRPORT EXPENSES REIMBURSEMENT

This agreement is entered into by and between the City of Fairmont (“Local Government”) and the State of Minnesota, acting through its Commissioner of Transportation (“MnDOT”).

RECITALS

1. Local Government has received an Airport Rescue Grant (“ARG”) under the American Rescue Plan Act of 2021 (H.R. 1319, Public Law 117-2) (“ARPA”) directly from the Federal Aviation Administration (“FAA”) to reimburse eligible airport expenses at Local Government’s airport.
2. This agreement is not a subgrant of the ARG funds. The FAA will be conducting oversight and monitoring the ARG funding (see ARPA FAQs for more information, at: https://www.faa.gov/airports/airport_rescue_grants/media/20211124_ARPA_FAQs.pdf).
3. Pursuant to Minnesota Statutes Sections 360.016 and 360.039, subd. 2, the Local Government desires MnDOT to act as the Local Government’s agent in accepting the federal funds on the Local Government’s behalf and disbursing the federal funds to the Local Government for expenses at the airport.

AGREEMENT TERMS

1. Term of Agreement

- 1.1. Effective Date: This agreement will be effective on the date the MnDOT obtains all required signatures under Minn. Stat. §16C.05, Subd. 2.
- 1.2. Expiration Date: This agreement will expire on September 30, 2024.

2. Local Government’s Duties

- 2.1. The Local Government designates MnDOT to act as its agent in accepting the federal funds on its behalf and disbursing the federal funds to the Local Government for airport expenses deemed allowable by the FAA under the ARPA Act.
- 2.2. The Local Government will prepare reports, keep records, and perform work so as to meet federal requirements and to enable MnDOT to disburse the federal aid sought by the Local Government.
- 2.3. The Local Government will comply with all applicable Federal, State, and local laws, ordinances, and regulations. The Local Government will comply with all requirements and assurances in the ARG Grant, which is incorporated into this contract by reference.

3. MnDOT’s Duties

- 3.1. MnDOT accepts designation as agent of the Local Government for the receipt of the federal funds and disbursement of the federal funds to the Local Government and will act in accordance herewith.
- 3.2. MnDOT will make the necessary requests to the FAA for authorization to disburse federal funds for airport expenses and for reimbursement of eligible costs under the ARPA Act.
- 3.3. MnDOT may withhold federal funds where the FAA determines that airport expenditures were not made in compliance with federal requirements.
- 3.4. MnDOT, the FAA, or duly authorized representatives of the state and federal government will have the right to audit the work performed under this agreement. The Local Government will make available all books, records, and documents pertaining to the work hereunder, for a minimum of six years following the closing of the contract.

4. Payment

- 4.1. **Eligibility.** Eligible expenses under the act include costs related to operations, personnel, cleaning, sanitization, janitorial services, combating the spread of pathogens at the airport, and debt service payments for the Fairmont Municipal Airport. Eligible expenses will be determined by the Federal Aviation Administration. Eligible expenses will be determined in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenues, 64 Federal Register 7696 (64 FR 7696), as amended by 79 Federal Register 66282 (79 FR 66282), which is incorporated into this agreement by reference, and the ARPA Act.
- 4.2. **Reimbursement.** Local Government has been awarded \$32,000 in Federal ARPA Act funding to reimburse federally-eligible expenses at airport(s) it operates. Local Government will be reimbursed for 100% of federally-eligible expenses not reimbursed by any other source. The Local Government will pay any part of the cost or expense that is not paid by federal, state, or other funds. MnDOT will receive the federal funds to be paid by the FAA for eligible expenses and will reimburse the Local Government from said federal funds for each payment request, subject to the limits of those funds.
- 4.3. **Payment Requests.** The Local Government will prepare payment requests in accordance with the terms of the federal award.
- 4.3.1. In the event MnDOT does not obtain funding from the Minnesota Legislature or other funding source, or funding cannot be continued at a sufficient level to allow for the processing of the federal aid reimbursement requests, the Local Government may work directly with FAA to receive the federal funds under the ARPA Act grant pursuant to any terms and conditions imposed by FAA.
- 4.4. **Federal Funds.** Payments under this Agreement will be made from federal funds. The Local Government is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for the Local Government's failure to comply with federal requirements. The Local Government agrees to pay any and all lawful claims arising out of or incidental to the performance of the work covered by this Agreement in the event the federal government does not pay the same.
- 4.5. **Closeout.** The Local Government must liquidate all obligations incurred under this Agreement and submit all financial, performance, and other reports as required by the terms of the Federal award. The FAA will determine whether a closeout audit is required prior to final payment approval. If a closeout audit is required, final payment will be held until the audit has been completed.
5. **Conditions of Payment.** Local Government's use of federal funds disbursed under this agreement must be in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Local Government will not receive reimbursement under this Agreement for expenses that are not eligible as described in Section 4.1 above.

6. Authorized Representatives

- 6.1. MnDOT's Authorized Representative is:
 Name: Jessica McBroom, or her successor or designee.
 Title: Grants Specialist
 Email: jessica.mcbroom@state.mn.us
- 6.2. The Local Government's Authorized Representative is:
 Name: Deborah Foster
 Title: Mayor

Email: dfoster@fairmont.org

If the Local Government's Authorized Representative changes at any time during this agreement, the Local Government will immediately notify MnDOT.

7. Assignment Amendments, Waiver, and Agreement Complete

- 7.1. **Assignment.** The Local Government may neither assign nor transfer any rights or obligations under this agreement without the prior written consent of MnDOT and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this agreement, or their successors in office.
- 7.2. **Amendments.** Any amendments to this agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original agreement, or their successors in office.
- 7.3. **Waiver.** If MnDOT fails to enforce any provision of this agreement, that failure does not waive the provision or MnDOT's right to subsequently enforce it.
- 7.4. **Agreement Complete.** This agreement contains all negotiations and agreements between MnDOT and the Local Government. No other understanding regarding this agreement, whether written or oral, may be used to bind either party.
- 7.5. **Severability.** If any provision of this Agreement or the application thereof is found invalid or unenforceable to any extent, the remainder of the Agreement, including all material provisions and the application of such provisions, will not be affected and will be enforceable to the greatest extent permitted by the law.
- 7.6. **Electronic Records and Signatures.** The parties agree to contract by electronic means. This includes using electronic signatures and converting original documents to electronic records.

8. Liability and Claims

- 8.1. **Tort Liability.** Each party is responsible for its own acts and omissions and the results thereof to the extent authorized by law and will not be responsible for the acts and omissions of any others and the results thereof. The Minnesota Tort Claims Act, Minnesota Statutes Section 3.736, governs MnDOT liability. Minnesota Statutes Section 466.04 governs Local Government Liability.
- 8.2. **Claims.** The Local Government acknowledges that MnDOT is acting only as the Local Government's agent for acceptance and disbursement of federal funds, and not as a principal or co-principal with respect to this agreement. The Local Government will indemnify, defend (to the extent permitted by the Minnesota Attorney General), and hold MnDOT harmless from any and all lawful claims or costs arising out of or incidental to Local Government's acts or omissions under this agreement and any *ultra vires* acts, including reasonable attorney fees incurred by MnDOT.

9. Audits

- 9.1. Under Minn. Stat. § 16C.05, Subd.5, the Local Government's books, records, documents, and accounting procedures and practices of the Local Government, or other party relevant to this agreement or transaction, are subject to examination by MnDOT and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this agreement, receipt and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later. The Local Government will take timely and appropriate action on all deficiencies identified by an audit.
- 9.2. All requests for reimbursement are subject to audit by FAA or MnDOT.

10. **Government Data Practices.** The Local Government and MnDOT must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by MnDOT under this agreement, and as it

applies to all data created, collected, received, stored, used, maintained, or disseminated by the Local Government under this agreement.

11. **Workers Compensation.** The Local Government certifies that it is in compliance with [Minn. Stat. §176.181](#), Subd. 2, pertaining to workers' compensation insurance coverage. The Local Government's employees and agents will not be considered MnDOT employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way MnDOT's obligation or responsibility.
12. **Governing Law, Jurisdiction, and Venue.** Minnesota law, without regard to its choice-of-law provisions, governs this agreement. Venue for all legal proceedings out of this agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.
13. **Termination for Cause.** MnDOT may terminate this agreement if Local Government fails to observe or perform any of the terms, conditions, or covenants required to be observed or performed by it pursuant to this agreement and such failure continues for a period of 30 calendar days after MnDOT has given written notice to Local Government of such default or, in the event that such default shall be incapable of cure with reasonable diligence during said 30 day period, shall have failed to commence to cure said default within 30 days of the date of said notice and to diligently pursue the same to completion.
14. **Data Disclosure.** Under Minn. Stat. § 270C.65, Subd. 3, and other applicable law, the Local Government consents to disclosure of its federal employer tax identification number, and/or Minnesota tax identification number, already provided to MnDOT, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Local Government to file state tax returns and pay delinquent state tax liabilities, if any.
15. **Fund Use Prohibited.** The Local Government will not utilize any funds received pursuant to this Agreement to compensate, either directly or indirectly, any contractor, corporation, partnership, or business, however organized, which is disqualified or debarred from entering into or receiving a federal or state contract. This restriction applies regardless of whether the disqualified or debarred party acts in the capacity of a general contractor, a subcontractor, or as an equipment or material supplier. This restriction does not prevent the Local Government from utilizing these funds to pay any party who might be disqualified or debarred after the Local Government's contract award on this agreement.
16. **Discrimination Prohibited by Minnesota Statutes §181.59.** The Local Government will comply with the provisions of Minnesota Statutes §181.59, if applicable, which requires that every contract for or on behalf of the State of Minnesota, or any county, city, town, township, school, school district or any other district in the state, for materials, supplies or construction will contain provisions by which Contractor agrees: 1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no Contractor, material supplier or vendor, will, by reason of race, creed or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; 2) That no Contractor, material supplier, or vendor, will, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause 1 of this section, or on being hired, prevent or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed or color; 3) That a violation of this section is a misdemeanor; and 4) That this contract may be canceled or terminated by the state of Minnesota, or any county, city, town, township, school, school district or any other person authorized to contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this Agreement.
17. **Limitation.** Under this contract, MnDOT is only responsible for disbursing funds. Nothing in this contract will be construed to make MnDOT a principal, co-principal, partner, or joint venturer with respect to this agreement.

MnDOT may provide technical advice and assistance as requested by the Local Government, however, the Local Government will remain responsible for all aspects of administering this agreement.

[THE REMAINDER OF THIS PAGE HAS INTENTIONALLY BEEN LEFT BLANK.]

LOCAL GOVERNMENT

Local Government certifies that the appropriate person(s) have executed the contract on behalf of the Local Government as required by applicable articles, bylaws, resolutions or ordinances

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

STATE ENCUMBRANCE VERIFICATION

The individual certifies funds have been encumbered as required by Minn. Stat. 16A.15 and 16C.05

By: _____

Date: _____

SWIFT Contract # _____

SWIFT Purchase Order # _____

DEPARTMENT OF TRANSPORTATION

By: _____

Title: _____

Date: _____

MnDOT CONTRACT MANAGEMENT

By: _____

Date: _____

MnDOT GRANT UNIT

By: _____

Date: _____



Fairmont City Council
April 11, 2022

Agenda Item: 9.6

From: Troy Nemmers, PE – Director of Public Works/City Engineer
To: Mayor and City Council

Subject: Revocation of State Aid Route 123-104-010

Policy/Action Requested: Approve Resolution 2022-17

Vote Required: X Simple Majority ___ Roll Call

Recommendation: Approval

Overview: The City annually certifies to MNDOT the length of streets within the city limits. This certification is the basis of the calculation to determine the amount of State Aid roads the city can designate. The designated roads are then used as a basis for calculating the city needs for maintaining those state aid routes. These needs and the city population then determine the amount of state aid funds that the city receives on an annual basis relative to the other 149 state aid cities in MN. The city annual receives approximately \$800,000 in state aid funds for street construction.

This year’s certification was completed using the city’s GIS data rather than the old paper maps and excel spreadsheets. This change resulted in the city having to reduce the total amount of mileage certified for 2021 as well as the amount of state aid mileage the city is eligible to designate. The attached resolution will revoke a portion of 10th Street (0.22 miles) from our state aid designation. This change would revise our state aid designated mileage from 20.18 to 19.96 miles. Staff has worked with MNDOT State Aid staff on this revocation and will be forwarding this resolution on to them for official approvals.

Budget Impact: This change will reduce the amount of state aid mileage used in the needs calculation. However, the actual amount that the city receives on an annual basis is based on the MN Highway Users Tax Distribution Fund (HUTDF) which is variable based on the annual revenues in the fund. The HUTDF consists of revenue from the fuel tax, license fees, and motor vehicle tax.

Attachments: Resolution 2022-17

Council Action: _____ Date: _____

RESOLUTION 2022-17

RESOLUTION REVOKING MUNICIPAL STATE AID STREET

WHEREAS, it appears to the City Council of the City of Fairmont that the road segment hereinafter described is a Municipal State Aid Street under the provisions of Minnesota Laws.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Fairmont that the road segment described as follows, to-wit:

10th Street – North Avenue to Prairie Avenue (123-104-010)

be, and hereby is, revoked as Municipal State Aid Street of said City subject to the approval of the Commissioner of Transportation of the State of Minnesota.

BE IT FURTHER RESOLVED, that the City Clerk is hereby authorized and directed to forward two certified copies of this resolution to the Commission of Transportation for his/her consideration.

PASSED, APPROVED AND ADOPTED by the Fairmont City Council this 11th day of April 2022.

Deborah J. Foster, Mayor

ATTEST:

Patricia J. Monsen, City Clerk