

Pursuant to due call and notice thereof, a City Council Meeting was duly held in the City Council chambers at 7:00 p.m. on the 12<sup>th</sup> day of November 2019. The following members were present: Mayor Doug Henke, Council Members, Dan Rehtzigel, Tom Gard, and John Mortensen. Also, present: Attorney Scott Riggs, Administrator Mark Vahlsing, Administrative Assistant Holli Gudknecht, Police Chief Lee Sjolander, Public Works Director Wayne Ehrich, Engineer Derek Olinger  
Also present: Todd & Kris Bauernfeind, Tony Buck, Don & Vickie Skillestad, Jody & Melissa Cusey, Jim Gould, David Stevenson, Michelle Maring, Dariel Opsahl, Terri Malloy

### **CITIZEN COMMENT**

None

### **ADOPT AGENDA**

Motion by Mortensen second by Rehtzigel to approve the agenda. Motion carried 4-0-0.

### **CONSENT AGENDA**

Motion by Mortensen seconded by Rehtzigel to approve the Consent Agenda, which includes payment of check numbers, 70274 through 70375; 3359E through 3370E; and additional checks 70376 through 70394. Motion carried 4-0-0.

### **PRESENTATIONS/PUBLIC HEARINGS**

#### **Tobacco Minimum Age 21 – David Anderson, Live Well Goodhue County Coordinator**

David Anderson, the Goodhue County Live Well Coordinator, discussed the Countywide effort to increase the minimum age to purchase tobacco to 21. Minnesotans are facing a new tobacco challenge. E-cigarettes or vaping has caused tobacco use in Minnesota to increase for the first time in 17 years. The US Surgeon General is calling for raising the buying age to 21. This would increase the chance of not using tobacco at all, since most tobacco users start using before the age of 18. Anderson will be meeting with all the Goodhue County Cities and the County Board. His presentation was just for information at this time.

### **ENGINEERING**

#### **2<sup>nd</sup> Street Sanitary Sewer Improvements**

Engineer Rhein stated that RAW Construction completed the 2<sup>nd</sup> Street Sanitary Sewer project during the week of November 4<sup>th</sup>. The project is still subject to a final walk through with MnDOT to close the right-of-way permit.

#### **Pay Request #3**

Engineer Rhein stated that RAW is requesting a payment of \$67,044.17 for work completed between September 28 and November 1, 2019. Liquidated damages are currently calculated at \$34,396.50.

Additional details regarding the liquidated damages will be discussed later.

Motion by Rehtzigel second by Gard to approve pay request #3 to RAW Construction for \$67,044.17.

Motion carried 4-0-0.

#### **Red Wing Avenue Update**

Engineer Rhein stated that the final design proposal is approximately 25% complete. In the past month, the topographic survey was completed for the alley south of 2<sup>nd</sup> Street and the 4<sup>th</sup> Street area. A utility design meeting will be held with property owners in the next month. The final plan will be ready for approval in February and go out for bids in March.

#### **1<sup>st</sup> Street Improvement Project – Utility Trench Settlement**

Engineer Rhein stated that due to settling in some areas of 1<sup>st</sup> Street that was reconstructed in 2017, the Contractor Heselton Construction has agreed to make needed repairs in 2020. The 1<sup>st</sup> Street reconstruction is still under warranty, so there will be no cost to the City for repairs.

### **EDA/Business Park Development**

Engineer Olinger stated that the design team is working to complete the preliminary design and platting documents for the Business Park in December.

### **FEMA Disaster Relief Program Grant Application -Storm Water System Repairs – North Park**

Engineer Olinger provided an update on the grant application for funding through the FEMA Disaster Relief program for Riverside Park. The City's repairs would include sloping the river banks to eliminate the present vertical soil wall, re-setting sections of storm sewer pipe, and repairing the eroded east access to the park. FEMA requires the City to split the project into two categories: repairs and improvements. If the City would like to move forward with this project, the next step would be to get a topographic survey of the area and prepare plans and specifications for bidding.

Motion by Mortensen second by Henke to authorize Bolton & Menk to proceed with the data collection needed for this project. Motion carried 4-0-0.

### **LEGAL**

#### **North End of Gates Ave Easement Request– Bauernfeind**

Administrator Vahlsing stated that Todd Bauernfeind was requesting an easement from the City to access two parcels: PID numbers 66-640-0130 and 66-640-0190. Currently, in order to access these properties, City land must be crossed. Bauernfeinds are seeking an easement that would continue north through City property at the end of Gates Ave. Vahlsing noted that the best long-term access needs to be found to make a permanent solution for this request. Bauernfeind addressed his concerns with needing an easement to access his land locked property when two other property owners currently use this same area for access to their properties. Attorney Riggs stated that there are legal aspects that need to be put in place to address this situation. Attorney Riggs will look into this situation further.

### **OLD BUSINESS**

#### **Resolution 2019-32: Designating Annual Polling Place**

Administrator Vahlsing stated that at the October meeting the Council directed staff to review the Fire Hall as a possible site for the 2020 election. Public Works Director Ehrich and Vahlsing visited the Fire Hall site to review the meeting room layout and parking options. The meeting room would be larger than the council room and would provide a better layout with more space for voting booths and election judges. There would also be closer onsite parking. Some adjustments would be needed to ensure that City staff were present on site if the election was held at the Fire Hall. The main advantage of the City Hall site is the proximity to City offices and the downtown area, but it is smaller and there is no on-site parking.

Motion by Rehtzigel second by Henke to adopt Resolution 2019-32 Designating the Annual Polling Place as the Fire Hall. Motion carried 4-0-0.

### **NEW BUSINESS**

#### **Resolution 2019-33: Resolution Adopting Assessment for Delinquent Utility Bills**

Motion by Mortensen second by Gard to approve Resolution 2019-33 adopting assessment for delinquent utility bills. Motion carried 4-0-0.

#### **Conditional Use Permit Application. Jody and Melissia Cusey to construct a new home on a Flag lot in a Zoning District Parcel 66-640-0190**

Administrator Vahlsing stated that Jody and Melissa Cusey were seeking approval of a Conditional use Permit to construct a new home on a Flag Lot in an Ag zoning district. The Planning Commission recommended denial of the application based on concerns including how the drainage from the site would affect adjacent properties, how City utilities would be accessed, and that the house does not meet the 50-foot rear set back requirement. Todd Bauernfeind voiced his opinion that the conditional use

permit should be approved; then as a requirement of the permit, he should be required to provide a drainage plan. He stated that he did not want to spend over \$12,000 on a drainage plan, then have the permit denied. Engineer Rhein stated that it is the responsibility of the owner to show that they can meet all the conditions of the permit before it is approved.

**Resolution 2019-34: Resolution Denying a Conditional Use Permit Application for Construction of a New Home on a Flag Lot in the AG Zoning District.**

Motion by Gard second by Henke to approve Resolution 2019-34 denying a Conditional Use permit application for construction of a new home on a flag lot in the AG zoning district. Motion carried 4-0-0.

**Appeal of Planning Commission Denial of Application from Jody and Melissa Cusey seeking approval to construct a driveway in excess of the 500-foot limit (to a new home) as listed in the Ag zoning district on a flag lot according to Section 510.11 of the Kenyon City Code.**

Attorney Riggs stated that the Cuseys were appealing the Planning Commission's denial of a variance to construct a driveway in excess of the 500-foot limit to a new home as listed in the Ag zoning district on a flag lot according to Section 510.11 of the Kenyon City Code. The variance application cannot be approved until after the CUP application is approved and the easement issues are resolved.

**Resolution 2019-35: Resolution Adopting Findings and Reasons for Denial for Variance Application of Jody and Melissa Cusey for Parcel 66-640-0190.**

Motion by Henke second by Gard to approve Resolution 2019-35 adopting findings and reasons for denial for variance application of Jody and Melissa Cusey for Parcel 66-640-0190. Motion carried 4-0-0.

**2020 Proposed Agreement for Continuation of our City-County Joint-Powers "Agreement for State Building Code Administration".**

Administrator Vahlsing stated that Goodhue County requires the City of Kenyon to approve a yearly agreement to conduct residential and commercial building inspections. The County has done an excellent job conducting inspections for the City. The term of the contract would be for one year starting January 1, 2020.

Motion by Mortensen seconded by Rehtzigel to approve the 2020 agreement with Goodhue County for State Building Code Administration. Motion carried 4-0-0.

**Rose Fest Committee Budget Request – Terri Malloy**

Terri Malloy, representing the Rose Fest Committee, stated that the committee had a fund shortage in 2019 and would like to request that their budget be increased to \$2000 in 2020. Vahlsing stated that this request was reasonable. The Council agreed to put \$2,000 in the budget for 2020 for the Rose Fest Committee.

**Review Continuation of Reduced Building Permit Fees for New Homes**

Administrator Vahlsing stated that in August of 2018, the Council approved a 50% reduction of building permit fees for new homes for the year 2019. The fee waiver was implemented to help stimulate residential building activity. Since 75% to 80% of the building permit fees are paid to the County Building officials, the City had to make up the difference. Currently, six permits for new homes have been issued in 2019. The cost to the City for the reduction in building permit fees has been \$5203 to date. The EDA recommended that the building permit fee reduction continue for another 12 months starting in January 2020.

Motion by Gard second by Mortensen to continue the reduction of building permit fees for new homes in 2020. Motion carried 4-0-0.

**OTHER BUSINESS**

**Schedule of Upcoming Meetings**

KMU Meeting: Wednesday, November 20<sup>th</sup> @ 6:00 p.m.

Township Fire Contract Meeting: Tuesday, December 3<sup>rd</sup> @ 6 p.m.  
2019 Budget & Levy Public Meeting: Tuesday, December 3<sup>rd</sup> @ 6:30 p.m.  
City Council Meeting: Tuesday, December 10<sup>th</sup> @ 7 p.m.

**COUNCIL AND STAFF GENERAL COMMENTS**

Councilman Rechtzigel commented that it was good to hear that the Kenyon Bar and Grill's opening was moving forward. He also appreciated the small town backing that Jami Simonson received at her benefit in Wanamingo last weekend.

Mayor Henke hoped Councilman Nielsen would have a fast recovery and be back soon. He also was glad that the Kenyon Bar and Grill was opening. He had attended Jami Simonson's fundraiser and was glad to see the awesome turnout.

Motion by Mortensen second by Rechtzigel to adjourn the meeting at 9:00 p.m. Motion Carried 4-0-0.

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Holli Gudknecht, Administrative Assistant

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Douglas Henke, Mayor