

CITY OF FOLEY MINNESOTA  
REGULAR CITY COUNCIL MEETING – April 5, 2016

The April 5, 2016 City Council meeting was called to order at 5:30 P.M. at City Hall. Members Present: Mayor Dave Mosford, Council members Kris du'Monceaux, Brian Weis, Leslie LeCuyer and Gerard Bettendorf.

The pledge of allegiance was recited.

**Approve the agenda** – Mosford called for a motion to approve the agenda moving item 20 Mayors Communication to the last agenda item. Motion made by Bettendorf, seconded by duMonceaux to approve the agenda. Motion Carried.

**Mayor's Comments:** Chief McMillin introduced the Officer of the Month as the department continues to increase the visibility of officers serving the City. Officer Eric Heck gave an overview of his background indicating that he has been with the Foley Police Department for just about a year as a part time officer. He indicated that he was born in Waconia, grew up in Foley and really enjoys his work as an Officer especially interacting with the people of the community.

Motion by Bettendorf, seconded by Weis to approve the consent agenda items: March 1 & 18, 2016 minutes, Central MN Noon Optimist Club Gambling Permit premises located at the Other Bar & Grill for electronic, tip boards & paddlewheel gaming, Fire Dept. Purchase of 2010 Chev Tahoe & sale of 2000 GMC Yukon, Agreement between the City & County on 4th Avenue reconstruction, Appointment Planning Commission Member, Rosalie Musachio to 3 years, 2016, thru 2018 and Payment of the list of bills.

**Public Hearing on Amendment to Conditional Use Permit Foley Schools** Mayor Mosford opened the public hearing. Barbian provided an overview of the process and introduced Rick Olson, Director of Finance, Foley Public Schools. Olson provided an explanation of the construction work being planned for the athletic fields and the four segments of the project: Field #1 Backstop, grandstand, concessions and restroom. 2. Field #2 Backstop, grandstand and restroom. 3. Tennis Court storage and pavilion. 4. Miscellaneous sidewalks and utility extensions. Mr. Olson identified district efforts to keep a minimal budget and requested the Council charge only for the meters and not the WAC and SAC. He indicated that when the school expanded the campus a sizable investment was made by the School to increase city utility capacity. Discussion on the request and amount paid by the school took place. The use for the athletic fields was noted as ancillary to the facilities and not an issue. It was stated that future building expansions carry standard SAC and WAC.

LeCuyer asked if this was part of the 1 day bonds being issued. Mr. Olson indicated that it was part of these unique 1 day bonds that will allow the district levy to go down by ½ in 2019. Mosford enquired about dugout elevations, which was indicated to be designed at grade so water would not collect inside.

Brian VanderWeyst, 19 Lone Ridge Lane asked if there were to be bathrooms for men and women at both ballfields. Mr. Olson indicated that was the plan.

Mayor Mosford called for additional comments, hearing none closed the public hearing.

Barbian went over the resolution in the packet. Pappenfus indicated an exception for the school to pay just the cost of the meters was justified.

Motion was made by du'Monceaux, seconded by Weis to pass the Resolution Amending the Conditional Use Permit for Foley Schools, with the SAC and WAC condition removed. Motion Carried.

**Public Hearing on amendment to Foley Zoning Ordinance 319, Section 15 B-1.** Mayor Mosford opened the public hearing. Barbian provided an overview of the Planning Commission recommended changes. Current ordinance allows "Accessory apartment when included as an integral part of the principal commercial building to be occupied only by the owner or an employee of the business." The change allows apartments as a permitted use for all occupants provided it is less than 30% of the retail ground level and not adjacent to a road. Discussion of the modifications and impact on future uses and investment occurred.

Motion made by LeCuyer, second by du'Monceaux to adopt Ordinance # 423, Amendment to Foley Zoning Ordinance 319, Section 15 B-1. Motion Carried

Mayor Mosford asked Brian VanderWeyst to approach the podium to speak. Mr. VanderWeyst spoke of the traumatic events that started with a call from his Uncle Art VanderWeyst and how his brother Dave and he responded in their efforts to rescue their Uncle. Brian called attention to his brother Dave and called for his recognition for efforts to get their Uncle out of the house in spite of a dangerous situation. Mayor Mosford thanked Mr. VanderWeyst for speaking and expressed condolences to him and the family.

**Plans and Specs for 4th Avenue** Dave asked the City Engineer to provide an overview. Jon Halter proceeded to go over the specifics of the plans laying out the proposed time line to open bids in May and target a project start for late June, after Foley Fun Days. He indicated that plans are at MDOT being reviewed and upon approval he would like to advertise for bids. The project estimate has come down from \$1.342 million to 1.174 million. The City portion is \$427K and the County \$747K.

Jim Bruno owner of the Brickhouse Cinema spoke of the unique pavers that are being removed and replaced with concrete. Jim offered to donate the pavers if they are used by the City to accent the main downtown intersection of Foley. He suggested borders to the curb or bump outs. LeCuyer thanked him for his offer to donate the pavers. The City Engineer indicated that it would take 6 to 8 thousand to reinstall the ~800 square feet of pavers and ~1100 square feet would be available with Dewey reconstruction in 2017. Bettendorf indicated he was not interested. LeCuyer called it an opportunity to define the main intersection of Foley with an artistic design and called for support for the investment. Weis stated concrete was the way to go.

Discussion of how modifying the plans will require resubmittal to MNDOT and impact the time line for bidding and possibly the project cost. duMonceaux asked about methods to expedite a MNDOT review of the change, to which no certainty could be provided.

Motion made by LeCuyer, seconded by duMonceaux to accept the donation of the pavers and authorize the Engineer to set a design and utilize the pavers on the four corners. The City Attorney stated that acceptance of a donation requires a super majority 4/5 vote. To which a friendly amendment to the motion calling for the purchase of the pavers for one dollar occurred. The motion failed with Mosford, Bettendorf and Weis voting no and LeCuyer and duMonceaux

voting in favor. Motion was made by Bettendorf, seconded by Weis to pass Resolution 2016-8 accepting the Plans & authorizing the project to be bid. Motion carried.

#### **Bond reimbursement for 4th Avenue**

Motion was made by LeCuyer, seconded by duMonceaux to approve Resolution 2016-9 Bond reimbursement for 4th Avenue Reconstruction. Motion carried.

#### **Inflow & Infiltration Progress Report**

The City Engineer gave an overview of the progress the City has made in having property owners correct inflow and infiltration into the sanitary sewer. He noted that about 49K gallons per day or about 15% of average flows have been reduced and 190K gallons per day or about 42% during peak flow are diverted from sanitary sewer system. Demonstrating the impact of the improvements to the system he highlighted the need to remind the remaining 164 owners to complete the repairs. The repairs are to be completed by June 30, 2016. Owners not meeting the deadline are subject to a monthly fee of \$75.00.

**Hiring of Administrative Positions** The position descriptions and job posting were reviewed. Discussion of who to involve in the interview process was covered with Bettendorf expressing an interest to have the full Council involved. Weis agreed. LeCuyer indicated she wished to be involved and stated that it would likely take two meeting with eight interviews, four for each position, expressing concern over the cost to the City unless done by a committee. The Council consensus was to have the full Council involved. Discussion then covered the position descriptions that were reviewed in advance by a subcommittee, which included Mosford and LeCuyer; the proposed revised descriptions reflect the actual duties previously performed and now clarified in the new job descriptions.

Motion was made by LeCuyer, seconded by duMonceaux to approve the administrative position job descriptions, postings and hiring process with all Council Members participating in the interview process. Motion carried.

#### **Department Reports:**

**Police:** Chief McMillin reported that there were 237 calls in March. High demand is being placed on the department for investigations of elevated crimes; required online training is occurring, Emergency Management Plan is being developed and various administrative items being completed while also responding to incidents. Per direction received the report format has been revised to reflect time spent on TZD hours which indicate when there might be more than one officer on duty or outside of the city limits at no cost to the city. The department is also planning to hold a bicycle rodeo as in the past.

**Public Works:** Pappenfus, reported that it is busy; street sweeping is ahead of schedule and nearly done, patching is occurring, follow up on I&I is progressing, pool work starting-tuck pointing and roads are rough so a game plan is being figured out. Training on Gopher One occurred. April 23<sup>rd</sup> is Cleanup Day at City shed. Adam completed DHS water class D licensee certification and Jesse is taking his pool licensee. Question on time of day for downtown sweeping came up usually done in the evening. Pond discharge started as levels are high this year. Weis inquired if the solar bees were working due to the smell being strong. Mark stated they are working but the south winds have brought more odor to the City this year.

**City Engineer:** Halter stated that 4<sup>th</sup> Avenue South would be finished up by June 30 with a few small items second coat of asphalt applied..

**City Attorney:** Ripple reported that the Silt Sock closing has been completed and comments on the County Solar Ordinance.

**Administrator:** Barbian reported that the new staff is learning their roles, enjoying the work and accomplishing what needs to be completed to keep the City operating. Barbian covered the 5:00 Board of Review meeting on the 19<sup>th</sup>. The main aspects of the Rental Housing Ordinance were also covered; being an inspection of the structure to ensure safe conditions and a Crime Fee certificate; which entails going to a full day class, meeting with police and have regular police contact. Modifications to the Crime Fee Housing requirement were discussed, noting that the education can be a frustrating requirement to a single family landlord, that some cities apply this to complexes and others offer incentives when obtained. Motion was made by duMonceaux to have it go to the Housing Board. Motion failed due to a lack of a second. The discussion then went to enforcement of the existing ordinance. The City Attorney commented the process of enforcement and prosecution leads to the issuance of a citation which includes a fine, loss of ability to maintain a rental and has costs to implement. Motion was made by duMonceaux, seconded by Bettendorf to have the Administrator provide a revision of the Rental Housing Ordinance to the Council for consideration. Motion Carried

The League of MN Cities Conference is in June and reduced rates are available for a week or so.

### **Open Forum**

Susie Dolores Beulke and her daughter spoke about being double billed for utilities and that a refund is appropriate. It was discussed in detail and decided that a refund for the full amount of 75.09 be issued and to provide her with a bill for half the quarter.

No new or old business.

Mayor Mosford closed the public meeting for purpose of Performance Reviews of Police Chief & City Administrator at 7:47.

The meeting reconvened into open secession at 9:22. The closed session was conducted for the purpose of providing an evaluation of the performance of Police Chief McMillin in the fulfillment of her responsibilities as Police Chief.

Motion was made by Bettendorf, seconded by duMonceaux to table the performance review of the City Administrator until the 19<sup>th</sup>. Motion Carried

Motion was made by Mosford, seconded by Weis to terminate employment of Officer Tom Fread. A question came up on Officer Tom Fread being represented by a union which according to the City Attorney is dependent upon hours worked even as a part time officer. A union employee is entitled to progressive discipline. Mosford withdrew his motion and Weis agreed.

Motion made by Bettendorf, seconded by LeCuyer to adjourn at 9:35 p.m. Motion carried.