

CITY OF FOLEY, MINNESOTA  
CITY COUNCIL MEETING – July 14, 2020

The Foley City Council held a regular meeting on July 14, 2020, at 5:30 p.m. at the Foley City Hall.

Members Present: Mayor Gerard Bettendorf, Councilmembers Jeff Gondeck, Rosalie Musachio, Gary Swanson and Jack Brosh.

Members Absent: None

The pledge of allegiance was recited.

Motion by Swanson, seconded by Gondeck, to approve the agenda. Motion carried, unanimous.

**Consent Agenda**

Motion by Brosh, seconded by Musachio, to approve the consent agenda, which includes the following:

- Approve minutes of June 2, 2020.
- Adopt Resolution #2020-12 Accepting Donation.
- Approve Assessment Agreement with Kevin & Nelda Starr
- Approve School Resource Officer Agreement with Foley Public Schools.
- Adopt Resolution #2020-13 – Authorizing PSIG Application.
- Approve Mr. Jim’s for Outdoor Music until 12 a.m. on July 24, 2020.
- Accept letter of retirement of firefighter Adam Orton.
- Adopt Resolution #2020-14 Emergency Election Judge Appointment.
- Approve payment of bills paid for by checks #52230-#52323.

Motion carried, unanimous.

**Bond Refunding Sale**

City Administrator Sarah Brunn presented the quotes for a refunding of the 2011 and 2012A bonds. The refunding will save over \$100,000 in interest costs as well as reduce paying agent fees for the remaining term. Falcon Bank was the low quote so the bonds will be held privately. Brunn also indicated the bonds are callable at any point if the city would choose to do so. Motion by Swanson, seconded by Gondeck, to adopt Resolution #2020-15 Providing for Issuance of \$2.281 million GO Refunding Bonds, Series 2020A. Motion carried, unanimous.

**Orderly Annexation Agreement/Joint Planning Agreement**

Mayor Bettendorf gave an overview of the township meeting that had occurred last week. Public comment was allowed but only for up to two minutes each. Paige Henry, 6633 115<sup>th</sup> Avenue NE, spoke at the meeting and indicated that the agreement feels like its overkill and there is no trust with property owners. Henry asked if annexation could instead be done one at a time without an agreement or only with interested land owners in the area. Henry also indicated no information was provided at the township meeting when more should be provided. The council questioned city staff and Brunn indicated that the information was provided on the city website but how the information is provided to people at township meetings is not usually something the city handles. Brunn also elaborated that the city put together the additional information based on questions that were received prior to the meeting.

City Attorney Adam Ripple also outlined the agreement terms and establishment of a joint planning board. Gondeck expressed frustration with individuals lacking desire to make future plans and

Swanson also expressed support for planning for future growth. Musachio indicated all properties need some type of zoning whether city or county. Musachio also indicated township representatives would be part of the board and have a say with the new agreement rather than Benton County having total control. Bettendorf reiterated this is a partnership between the city and township to make planning in the future easier. Jeremy Legatt, 6151 Hwy 25 NE, said if he wants to do something then we will forcibly annex his property. City Attorney Adam Ripple indicated there are many provisions before annexation and a property transfer would not necessarily trigger annexation. City Administrator Brunn further elaborated that utilities need to be provided and development needs to occur typically before this happens.

Motion by Swanson, seconded by Gondeck, to adopt the orderly annexation agreement. Brosh indicated concern with the two out of three clause. Gondeck, Musachio, Swanson, Bettendorf – aye. Brosh – nay. Motion carried.

### **Solar Moratorium**

Motion by Gondeck, seconded by Musachio, to adopt Ordinance #452 Moratorium on Solar Gardens. City Administrator Brunn indicated this is just a freeze on solar gardens and that the city will look into options on how they can be developed in the area keeping in mind the need for utilities in the future. Gondeck, Musachio, Bettendorf, Swanson. Brosh – nay. Motion carried.

### **CARES Act Funding**

There was considerable discussion on CARES act funding. The council discussed considering a business subsidy offering as part of the options. Brunn will come back with more information at the next meeting once there has been more time to work through the requirements.

### **Golf Course Complaint on Driving Range**

John Bradshaw, trial attorney, Po BOX 551 Eden Valley, MN 55329 presented a complaint regarding golf balls entering private property from the driving range. Bradshaw indicated Mr. Desmarais property is in the county but golf course is located in the city and that paperwork filed with city indicates that the course can not interfere with his property. Mr. Desmarais was forced to tear down the barn for banking reasons and since has had issues with golf balls entering his property and this activity cannot go on and needs to stop now. Scott Desmarais, 13042 65<sup>th</sup> Street NE, has been a resident from even prior to the establishment of the golf course. Mr. Desmarais indicated the county sheriff told him that the city needs to deal with the matter.

City Attorney Adam Ripple indicated he disagrees with Mr. Bradshaw's interpretation of the law in this area. Ripple indicated this is a private, civil matter and the city does not have the ability to prosecute anything based on existing ordinances nor can it enforce different performance standards on this property owner. Gondeck asked the city's position regulating bows and arrows in town. Mr. Bradshaw indicated this is outrageous and this is a commercial matter that the city should resolve. The property owner did not ask for the golf course and this needs to stop now. Gondeck asked about the netting and the golf course owner indicated it was too expensive. There was considerable discussion on if the city could prosecute on it. Bettendorf asked the property owner to check with the county prosecutor on this item regarding their response. Gondeck requested more documentation. Bettendorf indicated he will try and talk to the golf course owner about the issue.

### **Mayor's Comments/Open Forum**

City Attorney Adam Ripple had no report for the council. Swanson asked Ripple about golf course, Ripple said he did not think the City should be involved.

## **Department Reports**

Police Chief Katie McMillin asked council permission to bring back quotes for next meeting on the purchase of new radios. The City is hoping to save costs with partnering the county. McMillin updated the council on the monthly law enforcement report and training. Gondeck asked about the vandalism and the older squad.

McMillin updated the council on parking and storage ordinance enforcement and one not in compliance. Musachio asked about more letters before prosecution to make sure the entire town is in compliance. Bettendorf asked about publishing abbreviated ordinance information in the paper and online and then issuing enforcement. There was considerable discussion on how to enforce the ordinance and staff will put in notifications in paper and online for more information. Notices should also continue with indication of enforcement. Musachio asked about issuing fines versus prosecution and Ripple indicated statutory authority does not allow cities to do that.

City Engineer Jarrod Griffith presented the water tower quote for \$11,985 for water tower repairs. Motion by Brosh, seconded by Swanson, to approve the quote. Motion carried, unanimous. Griffith also indicated the 2020 trail project will be starting this week with marking and stripping next week. Brosh asked about repairs along this stretch of road and Public Works reviewed some repairs that his department had made.

Public Works Director Mark Pappenfus provided some more detail on the work near Fraser Drive and also some overlay work that was done. Pappenfus also indicated work on the solar bees to be done in the future and also some hydrant painting. Swanson asked for an update on the Compost Site and if people are still dumping prohibited items. Swanson suggested possibly putting up cameras.

Foley Fire Chief Mark Pappenfus also provided an updated on the rescue truck and asked for permission to authorize sale of the old rescue truck. The arrival of the new rescue truck is 4-6 weeks out.

City Administrator Sarah Brunn updated Council on the 2020 Elections and COVID-19 procedures. Brunn requested to close City Hall and the Library for the day of the Elections to better meet social distancing guidelines. Brunn discussed the possible Land for Sale (PID's 0200375500 & 130004010) that is owned by Maxine Olson. There was no interest at this time by Council. Brunn discussed the ordinance/building code violations at 720 John St. Motion by Musachio to prosecute all ordinance violations at the 720 John Street property, seconded by Brosh. Motion carried, unanimous.

## **Old Business**

Brunn updated council on the wastewater project and the bonding bill.

## **New Business**

Tanya Peterick, 651 Norman Ave N, indicated she lives Foley with a portion of her property in the backyard in Gilmanton township and desires to keep chickens. The council indicated no desire to change the ordinance and that they could be allowed for township portion if county and township were to approve of it.

There was discussion on the SRO position if there is no in person schooling this year.

Motion by Swanson, seconded by Gondeck, to add July 17<sup>th</sup> for Mr. Jim's to operate beyond the noise ordinance. Motion carried, unanimous.

Motion by Gondeck, seconded by Swanson, to adjourn. Motion carried, unanimous.

A handwritten signature in cursive script that reads "Sarah A. Brunn".

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Sarah A. Brunn, Administrator