

CITY OF FOLEY, MINNESOTA
CITY COUNCIL MEETING – August 4, 2020

The Foley City Council held a regular meeting on August 4, 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 Gondeck, seconded by Swanson, to approve the agenda. Motion carried, unanimous.

Consent Agenda

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

- Approve minutes of July 14, 2020.
- Allow music (beyond noise ordinance) until 11 p.m. for Mr. Jim's on Aug. 4, 14, 21, and 28, 2020.
- Allow music (beyond noise ordinance) until 12 a.m. for Mr. Jim's on Sept. 11, 2020.
- Approve LMCIT insurance form (not waiving tort limits set by statute).
- Adopt Resolution #2020-16 Election Judge Appointment.
- Adopt Resolution #2020-17 Approving Election Judge Hazard Pay.
- Accept resignation of Scott McClure, Public Works Lead Operator.
- Approve initiation of hiring process to replace public works operator.
- Approve payment of bills paid for by checks #52324-#52366.

Brosh asked what was wrong with the street sweeper. Mark Pappenfus explained that the repair was for maintenance reasons and would mean they could continue to use the sweeper for several more years. Motion carried, unanimous.

Foley Area CARE

Executive Director of Foley Area CARE gave an overview of the program and how they help seniors in the community. The COVID-19 pandemic has created several challenges. Seniors are at high risk. Social distancing is imperative to keep them safe. Currently, the state of Minnesota is seeing an increase in requests for funding. CARE has not received any funds from the state. CARE has worked with other non-profits in Foley along with restaurants to help distribute food to people who need it. Cardinal thanked the City and Foley Public Works for the use of their heavy equipment to get the food out. To date, 42 tons of food has been distributed to the community. Foley does not have a food delivery service. Many seniors don't have computers to take advantage of curb side pickup. In addition to food, CARE also helps provide much needed rides to doctor's appointments, telephone reassurance calls to combat social isolation, and distribution of books and magazines. CARE has partnered with Jewish Family Services to provide seniors with tablets that can help provide in-home counseling through the internet to combat social isolation and depression. The biggest challenge CARE currently faces is funding. Cardinal asked the city for financial support for their programs for this year and next. After the pandemic, seniors will continue to need help. Musachio commented that the traffic created by people waiting in line on food distribution days is managed by Foley PD. Gondeck asked what state representative Shane Mekeland has said about the funding situation. Cardinal said Mekeland is

working with them, but that no new funding is coming through at this time. Brosh expressed concern that if the city supports one non-profit in the community that it might cause more requests from other non-profits.

Right of Way at 230 Norman Ave S

Tom DeMarais, 230 Norman Ave S, was not at the meeting. Lou DeMarais, 230 Norman Ave S, addressed the council on his behalf. DeMarais expressed concern regarding the ongoing dispute over who would maintain the property in the right-of-way and asked that an agreement be officially reached.

Director of Public Works, Mark Pappenfus, and Swanson have had ongoing conversations with the DeMarais, but the homeowners were requesting clarification of responsibilities moving forward. Swanson said the biggest problem seemed to be after the trees were removed a stump was left, making it difficult for the homeowner to mow. DeMarais agreed stating that they had maintained the property for several years, but the stumps and rocks left from the tree removal and the fill dirt made it impossible to continue to mow.

DeMarais asked if there was a city or state ordinance that established easements. City Administrator, Sarah Brunn, said the right-of-way belongs to Benton County and is not the city's land. She further explained that she had reached out to the Benton County engineer who said that the county's policy is they do not mow the right-of-way along county highways. The city has an agreement with the county for some maintenance of the right-of-way but not for mowing. This right-of-way is significantly larger than others in town.

Pappenfus explained there are a lot of utilities on the property, so there would need to be an easement. He also expressed that he did not think the city was legally responsible to maintain the right-of-way. Brunn said she would need to speak to the city attorney. Swanson said the homeowner had expressed a willingness to maintain the property if the city could put the property back to how it was so he could mow. Pappenfus stated that Public Works had already restored the property and that the homeowner should have been able to mow for the last two months. Pappenfus also expressed concerns regarding time and manpower if Public Works was expected to maintain right-of-ways and if this were to lead to other homeowners asking for maintenance of right-of-way. DeMarais expressed appreciation to Public Works for everything they've done. Gondeck asked who would maintain moving forward. Brunn said she would talk to the city attorney. She also stated that if the city was required to mow right-of-way property it would create an additional problem of costs and staff time.

Foley Fire Relief Fund

Bryan Moshier of the Foley Fire Department presented his yearly report to the council. Moshier gave an overview of how investments were going. While the current pandemic had caused a decrease in funds for a lot of investors, the Fire Relief fund had not seen a decrease as much as other investors. Based on the second quarter report, the projected surplus was near \$30,000 (after liabilities), where they like to keep it. Moshier also explained that looking forward investments can be strange during an election year. Brunn asked for a motion to approve. Swanson motioned to approve the report, seconded by Gondeck. Motion carried, unanimous.

Mayor's Comments and Open Forum

Debra Olson, 600 Dewey Street, expressed concern with the city's enforcement of Section 1030 – Motor, Commercial Vehicle, R.V. and Trailer Storage and Parking. Olson said the city has not

enforced other parking ordinances (e.g. parking near fire hydrants, rail road crossings, crosswalks...etc). Olson said the city should focus on enforcing these parking issues rather than the parking and storage ordinance.

No one else spoke during the open forum.

Department Reports

Chief Katie McMillian gave an overview of the July status report. Speed enforcement and DWIs were up. McMillin also said it had been one year since the Minnesota Hands-Free law went into effect. The department has unlimited Toward Zero Deaths (TZD) hours to use in August. Students will begin going back to school (kindergarten through 5th grade will be in school every day; older students will stagger in-person school days). The Foley School Resource Officer (SRO) is looking forward to going back to school as well.

McMillin also presented to the council the quote from Motorola for 4 encrypted radios – 3 standard and one mobile for the squad car. McMillin asked the council for approval. Gondeck asked how long the new radios would last. McMillin said she estimated between 7 – 10 years if not longer. Swanson stated that the radios the PD currently has had been in use for a while. McMillin confirmed and said the age of the radios means that she switches out batteries 2-3 times per day. McMillin also explained that her recommendation is to purchase the radios now through Benton County rather than wait until next year as it will provide a cost savings of \$2,000 for each encrypted radio and \$1,000 in savings for the others. Brosh asked what was budgeted for next year. McMillin said \$40,000. Brosh made a motion to approve the request, Gondeck seconded. Motion carried, unanimous.

Swanson asked where the speeding was occurring. McMillin explained that most were from people driving into town along Highway 23 and near Casey's. She also said they had received several reports of speeders south of the fire hall on Norman Avenue.

Musachio asked how enforcement of the parking storage ordinance was coming along. McMillin said that a lot of residents were complying, but there were still four residents who were not and new violations keep popping up. Musachio asked if the chief thought progress was being made. McMillin said the letters were working for the most part. Gondeck asked if the homeowners gave any reasons for not wanting to comply. McMillin said no reason has been given to date. Several letters have been sent to the same people and they still have not complied. McMillin asked the council for direction on how to proceed. Discussion followed. Brunn explained that the letters state that non-compliance could result in prosecution. The city has limitations when it comes issuing fines. Musachio expressed a willingness to proceed with prosecution. Gondeck expressed an interest in wanting to know why the homeowners were not complying. Brunn explained that it did not matter to the staff which direction the council chose, but also said it becomes difficult to enforce if the city does not prosecute when faced with continued non-compliance. Musachio made a motion to proceed with enforcement, seconded by Brosh. Motion passed with Musachio, Brosh, Bettendorf, and Gondeck voting aye. Swanson voted nay.

City Administrator Brunn asked the council for a motion to approve COVID Cares reimbursement for election booths purchasing and applying for funds. Motion made by Gondeck to approve, seconded by Musachio. Motion carried, unanimous.

Brunn gave an update on the Highway 23 MNDot project regarding street lighting options. Brunn also said that MNDot was pleased with the number of website visits the project page was generating. The

project is moving forward with plans to start talking about diverting traffic during construction. Staff will bring more information to the council. Brunn also mentioned that over \$500,000 in TAP funding was available for significant improvements for trails, curb and gutter, and pedestrian improvements such as push button pedestrian signals.

Brunn also shared with the council that she is working on the budget for next year. The cleanup sponsored by the Boy Scouts will be held Aug. 15. Primary election is Tuesday, Aug. 11 at City Hall. City Hall offices will be closed to the public to help limit the number of people in the building during voting hours due to Covid-19 concerns. Affidavits for city offices are open until Aug. 11.

Old Business

Brunn gave an update of the orderly annexation agreement. The attorney from the township came back with revisions to the joint planning agreement. Revision were included in the council packet. The staff did not have any concerns with the revisions if the council wanted to consider the revised language to the agreement. The township was meeting later that evening to consider the agreement. Discussion followed. Brosh motioned to approve the revisions, seconded by Gondeck. Motion passed, unanimous.

Wastewater Project Route Alignment

Brunn gave an overview of where the project stands. After a detailed analysis, five route options were presented. Staff recommended the orange modified route as shown on the map in the room. The route was a longer distance but used more county and township right-of-way and avoided more utilities. Brunn asked for direction from the council on if they were comfortable continuing as the engineer is proposing. The council gave direction to continue moving forward with the proposed route.

Discussion on CARES Act Funds

Brunn gave an overview of where things stood. No quotes or estimates yet. Having Benton Economic Partnership (BEP) administer distribution of the funds would make it easier. Brunn also stressed the city utilize expenses already incurred when the city was shut down (e.g. staff time, furlough, PPE). Discussion followed. Musachio asked about funds that could be distributed to the community for non-profits and businesses. Brunn confirmed that it was expected there would be \$20,000 that could be distributed to the community. Musachio made a motion that if the funds were allocated to BEP for distribution that we instruct 50% of those funds must go to non-profits in Foley. No second was given. Motion died. Brosh made a motion to allocate \$20,000 to BEP for distribution with no stipulation, seconded by Swanson. Motion passed with Brosh, Swanson, Bettendorf, and Gondeck voting aye. Musachio voted nay.

New Business

The council discussed the possible purchase of two properties PID 020049300 & PID 020050000. Brunn reminded the council if strategy or price discussion was needed then the council could enter into a closed session. Brosh recommended a closed session.

Mayor Bettendorf gaveled to go into a closed session at 6:37 p.m.

Mayor Bettendorf reconvened the regular city council meeting at 7:08 p.m. The council directed Administrator Brunn to draft conditions as discussed in closed session and bring back to the next regular city council meeting.

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

Sarah A. Brunn

Sarah A. Brunn, Administrator