

CITY OF FOLEY, MINNESOTA
CITY COUNCIL MEETING – June 4, 2024

The Foley City Council held their regular meeting on June 4, 2024, at 5:30 p.m. at Foley City Hall.

Members Present: Councilmembers Jeff Gondeck, Deb Mathiowetz, Jack Brosh, Gary Swanson, and Brandon Voit.

Members Absent: None

Mayor Jack Brosh presided and called the meeting to order at 5:30 p.m.

The pledge of allegiance was recited.

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

Motion carried, unanimous.

Motion by Gondeck, seconded by Mathiowetz, to approve the consent agenda:

- Approve minutes of May 7, 2024.
- Approve minutes of May 14, 2024.
- Approve closure of downtown streets for Foley Fun Days.
- Approve closure of 7th Avenue for Fun Days car show – June 18, 2024.
- Approve School Resource Officer Agreement.
- Adopt Resolution #2024-11 Approving Additional Election Judges
- Approve Ordinance #480 - Amending Rental Code- Training Requirements.
- Approve seasonal pay rates.
- Approve payment of bills.

Motion carried, unanimous

Mayor's Comments and Open Forum

Brosh addressed the audience asking anyone who wanted to speak during the public hearing to please wait until that time. Anyone else wanting to speak could come to the podium.

No one spoke.

Wastewater Regionalization Project

Jared Voge, Bolton & Menk, gave an overview to the council and recommended Payment Estimate #18 for approval for work completed through May 24. Currently, 89% of the project is complete. The construction meeting was today. Contractor expects delivery of equipment in two weeks. Other restoration items are expected to be completed soon along with gravity sewer tie in. Estimated startup date is the middle of July.

Motion by Gondeck, seconded by Mathiowetz, to approve Pay Estimate #18.

Motion carried, unanimous.

Sarah Brunn, City Administrator, addressed the council regarding Ordinance #479 – Wastewater Treatment System Use Code. This ordinance aligns with the City of St. Cloud's regulations. Similar language is used across all partner cities. St. Cloud is requesting the council adopt this code and won't allow flow to proceed until it is passed. The ordinance was reviewed by staff and the city attorney. Questions and discussion continued. Brunn added that St. Cloud can make changes at any time, but they would allow several months for revisions.

Motion by Mathiowetz, seconded by Voit, to approve Ordinance #479.

Motion carried, unanimous.

Brunn presented the Enforcement Response Plan for discussion and council approval. She explained the second part involves the pre-treatment program. The city must have an enforcement plan in place as new businesses come in. All the partner cities must have this plan for compliance under St. Cloud.

Motion by Gondeck, seconded by Mathiowetz, to approve the Enforcement Response Plan.

Motion carried, unanimous.

Public Hearing – Liquor Violations of Mr. Jim's and Stone Creek Golf Course

Brosh closed the regular meeting at 5:37 p.m. to conduct the public hearing. No one spoke for or against the liquor violations in question.

Discussion and questions followed. Brunn explained that both entities failed to meet the responsibilities of the existing licenses and renewal process. Ashely Bukowski, City Attorney, added that the businesses do not have to speak at the public hearing regarding the consequences of the violations.

Brosh closed the public hearing at 5:38 p.m. and reopened the regular council meeting. Discussion and questions followed.

Brunn explained that for the existing liquor license there was a lapse in the liquor liability insurance. This has since been corrected. They also submitted a renewal application, but it was not submitted on time and only after a letter from the city was served ten days after the deadline. Brunn stated the ordinance calls for a \$500 fine for the first violation. Discussion followed.

Motion by Mathiowetz, seconded by Voit, to fine Mr. Jim's \$500 for liquor license violation.

Motion carried. Gondeck, Mathiowetz, Swanson, and Voit voting aye. Brosh nay.

Motion by Gondeck, seconded by Voit, to fine Stone Creek Golf Course \$500 for liquor license violation.

Motion carried. Gondeck, Mathiowetz, Swanson, and Voit voting aye. Brosh nay.

Public Hearing – Liquor License Renewals

At 5:42 p.m. Brosh closed the regular council meeting and opened the public hearing on liquor license renewals.

- On Sale Liquor: Mr. Jim's, Foley American Legion, and Stone Creek.
- Sunday On Sale Liquor: Mr. Jim's, Foley American Legion, and Stone Creek.
- Off Sale Liquor: Coborn's Liquor, Foley American Legion, and Super Spirits.
- 3.2 Off Sale – Coborn's Inc., Little Dukes
- Non-enclosed Premises On Sale Liquor: Foley American Legion, Stone Creek and Mr. Jim's.
- Temporary Liquor Licenses:
 - Foley Lion's Club –to be used for Foley Fun Days, June 17-19, 2024.
 - St. John's Church, 621 Dewey Street, to be used July 21, 2024.
 - Foley Chamber of Commerce, 329 Oak Drive, to be used for Oktoberfest on September 21, 2024.

No one spoke for or against.

Brosh closed the public hearing at 5:43 p.m. and reopened the regular council meeting.

Brunn stated Mr. Jim's would still need to pay their property taxes before the license could be renewed.

Bukowski recommended giving the business 30 days to pay their taxes and then issuing the license. The taxes must be paid before the license can go into effect. You will want to make a separate motion to approve Mr. Jim's. Certification must wait until tax payment.

Motion by Mathiowetz, seconded by Voit, to grant Mr. Jim's license contingent on paying their taxes within 30 days (as of today's date June 4).

Motion carried, unanimous.

Motion by Voit, seconded by Gondeck, to grant license renewals for the remaining businesses.

Brosh stated Mr. Jim's has a non-enclosed premises license.

Bukowski recommended a motion to amend.

Mathiowetz made an amendment to include the non-enclosed premises for Mr. Jim's, seconded by Gondeck.

Motion carried, unanimous.

Motion by Voit, seconded by Gondeck to grant the license renewals for the remaining businesses.

Motion carried, unanimous.

Approval of Tobacco Licenses

Brunn added Smokin' Joes to the list on the agenda. She also explained that the tobacco renewals do not require a public hearing but must meet requirements.

- Brenny Oil
- Casey's Retail Co. #1813
- Coborn's Liquor
- Coborn's Grocery Store
- Little Dukes
- Speedway
- Super Spirits
- Smokin' Joes

Motion by Gondeck, seconded by Swanson, to approve the tobacco renewals.

Motion carried, unanimous.

Public Hearing – 2025 Improvements – Preliminary Assessment Hearing

Brunn gave an overview to the council. Staff has been working through this project. The community meeting was held last week. She shared there are a few cost impacts to go over and additional updates for estimates. Estimates show bond issued for \$5.28 million for 15 years. Staff has looked at a 20-year bond as well which would be slightly lower. Water/sewer fees for everyone in the community would help fund the project. A portion would also be paid by special assessment revenue. The largest amount would be paid by the property tax levy. Different components of the projects are funded differently, i.e. water/sewer – out of water/sewer funds, etc. Earlier estimates have changed – now seeing a lower impact to the tax levy (street, sidewalks, storm) with pipe costs higher that would require increases in water/sewer fees. Certain portions of the project must be paid for from enterprise funds and not the general fund. Impact on residents and commercial properties can vary because they are taxed at different rates. It may not be 10% for everyone, but that's what is overall for the city. The city doesn't determine property values. Discussion and questions followed.

Brunn added that the council should be aware the final cost of the project can fluctuate. The final impact will be determined on the final project bid. We're still low on some interest rates and haven't seen the uptick as in other markets. We're only guessing at this point what it would be. The city has a good credit rating. More questions and discussion.

Jarod Griffith, City Engineer, gave an overview of the Project Improvements presentation that was shown during the community meeting. He added that the private sanitary sewer (lateral) will need to be done with the project or hired separately. The rates and how assessments are

determined by front footage of each property. If the council approves the project, it will begin in late spring or early summer of 2025.

Public Hearing on 2025 Project

Brosh closed the regular council meeting at 6:13 p.m. and opened the public hearing for the 2025 improvement project.

Kim Laterell, 511 Broadway Avenue N, asked if there have been any changes in the plan.

Griffith explained that the council has the opportunity to make changes for street width and sidewalk location. They were given the comments from the community meeting.

Voit asked if the council could suggest edits before approving the design stage.

Questions and discussion followed

Ashley Bukowski, City Attorney, reminded residents to please speak at the podium so they can be heard. She also reminded the council that they have the option to table their decision to a future meeting if more information is needed.

Kim Latterell, 511 Broadway Avenue N, expressed concerns over widening Murphy Street. Not everything would be able to fit in residents' yards. He also expressed concerns over the 10% increase on property taxes.

Brunn clarified that the 10% increase would be for everyone's property in town. Residents in the project area would also see an assessment for the improvement's value. Bukowski explained the benefits test makes sure the benefits the property owner receives from the project do not exceed the value of the property. Property owners have the ability to challenge the assessment amounts.

Discussion and questions followed.

Karen Kampa, 550 Broadway Avenue N, expressed concerns over traffic patterns and speeding if Broadway is narrowed. She also asked if people would still be able to park on the street.

Griffith explained the proposed width for Broadway is the same width as 2nd and 3rd street are currently. There will be room for people to park on both sides of the street.

Jim Moshier, 320 Birch Drive, stated the thickness of the road is important due to the school bus traffic. He also expressed agreement with the others on not needing sidewalks in some areas of the project.

Carrie Rhoda, 410 4th Avenue N, wanted to make sure the council was being careful with spending money for the project. She also said the neighborhood in the project area is an old neighborhood and residents want it to stay beautiful with mature trees. She asked the council to build something that reflects the neighborhood.

Sue Janey, 301 Murphy Street, expressed concerns over narrowing the road and what the advantages were. She also expressed concerns that narrowing the road would shorten residential driveways. She said she was told that narrowing the road would make it easier to maintain the boulevard and for plowing. She thought it would make it worse.

Adam Pundsack, 610 4th Avenue N, said adding a boulevard is unnecessary as there are only three driveways on Parent Street. There are few cars and few walkers. The project design would take a lot away from the community and the neighbor.

Nick Frisbie, 431 4th Avenue, stated that driveways are already short and if the project widens the street the driveways will be shorter. He expressed concerns over where residents will park if they can't park in the driveway if they are too short and they can't park in the street. He also stated changing the side streets are unnecessary.

No one else spoke. Brosh closed the Public Hearing at 6:35 p.m. and reopened the regular meeting.

Discussion and questions followed. Mathiowetz stated that she heard the residents' concerns because she lives on Broadway and will be in the project area if it moves forward.

Voit agreed that sidewalks were a concern as well as the east/west side streets.

Brunn stated it would be helpful for staff and the engineers to have clear direction for the project so if there are any changes the council would like to make it would be best to hear them now.

More questions and discussion. Voit expressed concerns that the cost of the project will only increase if the council continues to put it off. Removing sidewalks from the project plan won't decrease the cost of the project by much. Voit expressed more concern about the water treatment plant project. He also stated he didn't feel comfortable making a decision tonight.

Gondeck stated he felt the drinking water is a bigger issue. He said the council was considering the road project because the county was planning to redo a section of 4th Avenue. He also said he'd like more information and more outside of the box options. He also said that the project estimates (originally considered in 2009) have increased by \$2 million every year it hasn't been done. He agreed with Voit that the water treatment project may be a higher priority.

Discussion and questions followed. Swanson stated the city is well overdue for some improvements on the north side. He hoped they could address some of the concerns from residents. Would hate to put off the project as it will be more expensive later. He stated he thought there could be some revisions made to Murphy and Parent Streets plans.

Brosh stated the council should table the discussion to work out revisions to bring back for a vote. Brunn encouraged the council to discuss the revisions now.

The council expressed they would like some of the sidewalks for the side streets (Parent and Murphy) to be removed from the project plan. They discussed the width of the street.

Mark Pappenfus, Director of Public, stated that 90% of the trees would need to be removed if residents wanted longer driveways.

Council asked staff for a redesign and updated estimates for the proposed project.

Pamela Vizenor, 600 Broadway Avenue N, asked the council if the assessable portion of the project could be reduced to 20%.

Brunn stated that currently the assessable portion is at 30%. Voit added if the assessable portion was lowered for residents in the project then everyone else in town (including the residents in the project area) would see a higher increase to their property taxes. Brunn added that 20% is the minimum that can be assessed. She cautioned the council because if any property dips below the mark, the city wouldn't qualify for bonding. 30% has been the adopted assessment policy for some time, but it is up to the council to decide. Brunn stated if the council wants to move forward with the design phase they would need 4 out of 5 votes for approval.

Motion by Gondeck, seconded by Swanson, to adopt Resolution #2024-12 Ordering the Improvement.

Motion carried with Gondeck, Mathiowetz, Swanson, and Voit voting aye. Brosh voted nay.

Garbage Contract Discussion

Brosh stated the council had received three bids and added he would like the council to approve the bid from Jim's Mille Lacs Disposal.

Discussion and questions followed. Voit stated that major difference will be the cost to commercial properties. The business owners he spoke to were happy with their current garbage service.

Bukowski explained provisions in the contract would not allow the city to unilaterally cancel the contract – potential for damages if breach of contract. She gave a brief overview of some of the differences between Republic Services and Jim's Mille Lacs Disposal. Discussion continued.

Motion by Brosh, seconded by Swanson, to approve the bid from Jim's Mille Lacs Disposal.

Motion carried, unanimous.

Downtown Façade Program

Brunn presented the recommendation from the EDA that Thorsten Financial and Benton County Abstract be approved for the Downtown Façade Program.

Motion by Voit, seconded by Mathiowetz, to approve the recommendation from the EDA for the two applicants.

Motion carried, unanimous.

Discussion on Cannabis Moratorium Ordinance

Bukowski gave an overview on state guidelines that are still in the development stage. No final rules on what that will look like. Cities are not allowed to completely ban cannabis, but can adopt time, place, and management restrictions. She also gave a review on the rules regarding social equity applicants. Foley doesn't have a zoning ordinance that limits cultivation. That's why the discussion on moratorium. The council will need to have a public hearing before an ordinance can be passed. Also need to discuss licensing. Staff is in discussion with Benton County. They have volunteered to handle licensing for the city. Discussion and questions followed.

Brunn added for the long term staff would eventually have to allow recreational and not just medical use. The city could also not refuse any requests for cultivation. A moratorium would give the city six months to get some things in place.

Chief Katie McMillin expressed support for the moratorium as it would help staff get a better handle on the guidelines.

Motion by Voit, seconded by Mathiowetz, to hold a public hearing on July 9 regarding a Cannabis Moratorium Ordinance.

Motion carried, unanimous.

Brunn explained that if the council is open to the idea of the county handling the licensing then no motion is needed. Council expressed agreement. Brunn stated staff will continue conversations with Benton County.

Xcel Franchise Agreement Discussion

Bukowski gave an overview to the council and referred them to the draft in their packet for gas and electric franchise fees with Xcel. She stated staff was not expecting major changes to the draft. The franchise fees would begin in January of 2025. Once the draft was approved, two ordinances would need to be passed. The city would also need to make sure the franchise fees for Xcel would be equal or greater than the fees with East Central Energy. The fees would be passed on to their customers. Discussion and questions followed. No motion is needed at this time.

Department Reports

Police Department

Chief Katie McMillin gave an overview to the council. There were 412 calls in May with DWIs, gas drive offs, child incidents at school, and agency assists are all up. There were 26 letters sent to residents for tall grass. No Mow May does take a lot of staff time once it is over. The Bike Rodeo is scheduled for June 15 for kids 10 years and under. There are 77 kids pre-registered. The department is prepping for Foley Fun Days. The 2019 squad is still burning a lot of oil. The 2021 squad got new brakes. The root beer float social is scheduled for July 11.

City Engineer

Jarod Griffith, City Engineer, stated the south side project has wrapped up the wetland

delineation and a report was sent to the county. No major changes at this time. The county has 60 days to review.

Public Works and Fire Department

Mark Pappenfus, Director of Public Works, presented the county agreement for CSAH Maintenance.

Motion by Brosh, seconded by Gondeck, to approve the CSAH agreement.

Motion carried, unanimous.

Pappenfus presented a quote to overlay the walking trail and for repairs to Lion's Park parking lot. Questions and discussion followed.

Motion by Brosh, seconded by Swanson, to approve items 1 and 2 on the quote. Motion carried, unanimous.

Discussion regarding the accident on the roundabout on Hwy 23. Brunn said staff is still working on that. There is a significant cost to repair the damages.

Administration

Brunn gave an overview to the council. The Planning Commission meets on Monday. She also stated she received the preliminary draft of the audit report yesterday and sent to the council. She will follow up with the agenda and presentation when we get it from the auditors prior to Friday's meeting on June 7 at noon.

Old Business

Brosh stated the council still needs to update the snow fence ordinance. Gondeck said it should be sent to Planning Commission for recommendations first.

New Business

Brunn stated that the pool will open tomorrow, June 5. Gondeck and Voit shared they will be doing the Big Splash event at the pool before the evening swim.

Gondeck also shared in the payment of bills the countertop for \$243 for the Lion's Park countertops. He will donate his time for the installation for the kitchen countertops. He also recognized staff for completing 25 hours of software training. Public Works is also doing a great job getting the pool ready. He thanks the police department for assisting the students across Hwy 23 for their end of school year field trips to the park. He also expressed support for the Fire Department's raffle and calendar. He thanked all the staff for their hard work.

Mayor's Open Forum

Joseph Burgardt, 510 Broadway Avenue, asked a question about parking in front of the dental office on Broadway Avenue N. The angled parking makes it difficult to see. Asked the city to put up a no parking sign right next to the driveway. He also expressed frustration on receiving a grass letter when the land around Dollar General has not been mowed.

Motion by Gondeck, seconded by Mathiowetz, to adjourn.

Motion carried, unanimous.

Meeting adjourned 8:05 p.m.

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

Sarah A. Brunn, Administrator
(Minutes By: Sara Judson Brown, Administrative Assistant)