

**WORTHINGTON CITY COUNCIL
REGULAR MEETING, JANUARY 25, 2021**

The meeting was called to order at 7:00 p.m., in City Hall Council Chambers by Mayor Mike Kuhle with the following Council Members present: Chad Cummings, Chris Kielblock, Amy Ernst and Mike Harmon, Larry Janssen (via conference call).

Staff present: Steve Robinson, City Administrator; Todd Wietzema, Public Works Director; Jeremiah Cromie, City Planner; Jason Brisson, Assistant City Administrator/Director of Economic Development; Mindy Eggers, City Clerk.

Others present: Daryle Albersman, Linda Albersman, Ben Weber, Evelyn Anderson, (via conference call) Bill Wetering,(via conference call), Ryan McGaughey, The Globe.

The Pledge of Allegiance was recited.

AGENDA APPROVED WITH ADDITIONS/CHANGES

Mayor Kuhle stated that Item *G.3. Professional Service Agreement (IWORQ Systems)* was being pulled from the agenda. A motion was made by Council Member Kielblock, seconded by Council Member Ernst and unanimously carried to approve the agenda with the noted change.

CONSENT AGENDA APPROVED

A motion was made by Council Member Cummings, seconded by Council Member Harmon and unanimously carried to approve the consent agenda as presented.

- City Council Minutes of Annual Meeting of January 11, 2021
- Water & Light Commission Minutes of January 19, 2021
- Planning Commission Minutes of January 5, 2021
- Heron Lake Watershed Board Minutes of November 18, 2020
- Senior Nutrition Program Site Use Agreement for the Center for Active Living
- Bills payable and totaling \$2,721,163.01 be ordered paid

EXTENDING EMERGENCY PAID SICK LEAVE (EPSL) APPROVED

Steve Robinson, City Administrator, stated the Families First Coronavirus Response Act (FFCRA) which required that public employers provide employees with additional paid sick leave and expanded family and medical leave for specified reasons related to COVID-19 provided employees to be eligible for up to two weeks (up to 80 hours) of Emergency Paid Sick Leave (EPSL) for specific absences related to COVID-19 occurring between April 1 and December 31, 2020. Congress did not take action to extend the provisions included in FFCRA into 2021. Mr. Robinson said with the COVID pandemic continuing, staff polled the Compensation Committee (consisting of Council members Kielblock and Ernst and Commissioners Hayenga and Thompson) about extending the EPSL provisions into 2021. The Compensation Committee approved the extension

to treat all employees equitably and continue to encourage employees to not come to work if they are not feeling well.

The Compensation Committee recommended to extend eligibility for employees to utilize the 80-hour EPSL benefit for qualifying absences from January 1 through June 30, 2021, subject to any State or Federal action that would necessitate reconsideration. Employees who utilized EPSL in 2020 would be limited to the hours, if any, remaining from the originally available 80 hours.

Mr. Robinson noted the Water & Light Commission approved extending EPSL at their January 19, 2021 meeting.

A motion was made by Council Member Ernst, seconded by Council Member Cummings and unanimously carried to approve the recommendation of the Compensation Committee to extend EPSL through June 30, 2021.

DECLARED FIRE DEPARTMENT AERIAL LADDER TRUCK AS SURPLUS PROPERTY

Mr. Robinson stated in accordance with the City's policy for Disposal of Personal Property, City Council shall declare City-owned vehicles as surplus property before they can be disposed of. Staff requested Council declare Fire Department Aerial Ladder Truck as surplus so that it can be sold.

Jason Larsen, Fire Chief, stated that the 1994 Detroit Diesel is currently out of service and has been replaced with a 2014 Pierce 100-foot platform aerial. All of the useable equipment has been removed and installed on the new platform aerial. The surplus truck will be sold via auction sites. Mr. Larsen said the department has talked to a salvage yard in Sioux Falls, SD and the truck is valued anywhere from \$5,000-\$15,000.

A motion was made by Council Member Cummings, seconded by Council Member Harmon and unanimously carried to declare the 1994 aerial platform ladder truck as surplus property and allow city staff to advertise for disposal.

APPROVE A CHANGE ORDER FOR SPEC BUILDING PROJECT

Todd Wietzema, Public Works Director, stated the contractor for the new theater project, Tri-State General Contracting, has submitted a fourth and final change order proposal. Mr. Wietzema explained the change order includes modifications needed to meet code requirements, upgrades to electric, plumbing and certain features added to accommodate a theater. The architect on the project has reviewed and approved the proposed change order. Mr. Wietzema said the proposed change order is an increase of \$21,922.15 increasing our total contract price to \$3,970,951.70.

Council Member Cummings said he is baffled that some of these options were not included in the

original plans. Mr. Wietzema stated that these are the findings after the final inspection and everything was put together on this final change order.

The motion was made by Council Member Ernst, seconded by Council Member Cummings and unanimously carried to approve the Spec Building Change Order No. 4.

VARIANCE APPEAL - 1123 ELMWOOD AVENUE (DARYLE ALBERSMAN)

Jeremiah Cromie, City Planner, stated the Planning Commission considered a variance application on January 5th submitted by Daryle Albersman for property he owns at 1123 Elmwood Avenue. The applicant sought the approval of a variance to allow a 42-foot by 8-foot garage addition 8 feet into the required 10-foot side yard setback. After a public hearing and discussion was held by the Commission, the variance request was denied on a 4-2 vote. Their denial was based on the Commission's belief that the approval of the requested variance is that the property was not unique based on the State's three-factor test and could possibly undermine the purpose, intent, and credibility of the City and its Code.

Mr. Cromie explained the applicant has appealed the Board of Zoning Appeals decision to deny the variance application. Mr. Albersman is seeking an encroachment of 8 feet into the required side yard setback on his property. Currently his garage is 10 feet off the property line. If approved Mr. Albersman will remove the shed that is in the backyard. Another option would be that a detached garage could be built 3 feet away from the property line and 6 feet away from the home.

Council Member Cummings stated that the detached option versus the addition onto the current structure would result in a one foot difference and Mr. Albersman has received permission from his neighbors. Mr. Cummings said that a precedent has already been set from past variances that were passed. Council Member Ernst stated that he has a unique property because it's on the golf course and if the garage was built as a detached structure it would block the view of the golf course for the homeowner and his neighbors.

Council Member Kielblock said he does not believe that Mr. Albersman's lot is unique and allowing this variance allows this property owner to do more with his property than someone else.

Mr. Cromie said the proper way to address this issue would be through a code text amendment rather than granting a variance.

After discussion by staff and Council on the potential for legal challenges on both sides Council Member Cummings suggested gathering information on drafting a text amendment.

Daryle Albersman said he would be willing to wait for the city to look into amending the code.

City staff said the code amendment could be presented at the March 8th Council meeting which would be before the 60 day deadline that is mandated by the State to make a decision on the variance appeal. The City could also file an extension on that deadline if needed.

GLENWOOD HEIGHTS - SECOND ADDITION CONSERVATION RESERVE PROGRAM (CRP) CONTRACT

Jason Brisson, Assistant City Administrator/Director of Economic Development, stated he talked to an USDA representative that informed staff that the property the City purchased for the purpose of residential housing development was under contract with the USDA through its CRP program. If the City moves forward with its planned development, it would be in violation of the terms of the CRP contract and obligated to buy out the contract, estimated at \$3,562.00. However, until the property is developed, the contract is the responsibility of the previous owner.

Mr. Brisson said staff worked with USDA and the City's consultant, Bolton & Menk (BMI), to determine if the area under contract would be impacted by the City's planned development. The City's consultant has advised that the planned development would not comply with the terms of the CRP contract and the USDA has advised that the property in the original contract cannot be changed. The original purchase agreement did note that the:

“Seller discloses, to the best of Seller's knowledge, that the Property IS NOT enrolled in any federal, state, or local government programs (e.g., CREP, CRP, EQUIP, WRP, conservation programs, riparian buffers, Sustainable Forest Incentive Act, etc.).”

Mr. Brisson said staff has determined that the City can choose to direct the USDA to contact the former property owner to resolve the outstanding contract, or the City may choose to become a successor to the agreement and buy out the contract, including the liquidated damages and other fees in the agreement.

Council Member Ernst suggested that the City should consider paying off the amount to move forward. Mr. Robinson stated that the City has no obligation.

Council directed staff to have the USDA contact the seller.

COUNCIL COMMITTEE REPORTS

Mayor Kuhle - No report.

Council Member Janssen - No report.

Council Member Ernst - The Cross Cultural Advisory Committee held it's first meeting and approved the by-laws and elected the officers.

Council Member Kielblock - He and Council Member Janssen attended a NEON meeting via zoom

and the County reported on the additional CARES Act relief funds they have received and are in the process of doing another grant program.

Council Member Cummings - Attended a YMCA Board meeting today.

Council Member Harmon - Attended a Water & Light Commission meeting last week. The Meadows have had the vaccines but additional vaccines are three weeks out.

CITY ADMINISTRATOR'S REPORT

Steve Robinson, City Administrator said the EDA meeting will be held tomorrow at 4:00 p.m. and the CGMC Legislative Action Day will be held virtually on Wednesday, January 27th.

ADJOURNMENT

The motion was made by Council Member Kielblock, seconded by Council Member Ernst and unanimously carried to adjourn the meeting at 8:10 p.m.

Mindy L. Eggers, MCMC
City Clerk