

MINUTES OF THE BOARD OF CITY COMMISSIONERS
HELD DECEMBER 20, 2021

The regular meeting of the Devils Lake City Commission was held December 20, 2021 at 5:30 P.M. with the following members present: President Johnson, Shane Hamre, Dale Robbins, Rob Hach and Jack Volk. None were absent.

Pledge of allegiance was recited.

Commissioner Volk moved to approve the minutes of the regular City Commission meeting held December 6, 2021. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

Rory Sudbeck, Viking Painting, appeared before the City Commission to discuss the water tower project and protest the amount of liquidated damages.

The City Engineer reviewed the contract clauses and the amount allowed for damages. The contract allowed for the water tower to be offline August 2, 2021 through October 1, 2021. The water tower was not back in service until November 6, 2021. The cost of burden according to the contract was \$900.00/day plus the inspection fees for not completing the project on time. The project was 22 days over the timeframe.

Rory Sudbeck acknowledged the lack of communication with the City over the late start of the project. They had a delay in another project and the loss of an employee. According to his attorney and bonding company, no liquidated damages should be paid since the city did not incur any additional expenses.

Discussion followed on trying to assign costs to the stress on employees and on the pumps during the time the water tower was down. The amount of the liquidated damages is a substantial percentage of the contract price of \$291,000.00.

It was noted no additional inspection fees will be incurred. According to KLM Engineering the inspections will be completed within the budget. The Commission discussed decreasing the damages to \$19,800.00 (22 days times \$900.00 per day). Mr. Sudbeck indicated he would be willing to pay \$5,000.00 to settle the matter even though it is against the advice of his attorney and bonding company.

The City Engineer recommended reducing the damages to \$19,800.00 if the company would commit to warranty issues.

Discussion followed on providing an itemized list of costs. The amount in contract was agreed to so costs would not have to itemized.

Commissioner Volk moved to reduce the liquidated damaged to \$25,000.00 for the water tower repair contract with Viking Painting. President Johnson called for a second to the motion three times. The motion died for the lack of a second.

Commissioner Robbins moved to reduce the liquidated damages to \$19,800.00 for the water tower repair contract with Viking Painting. The motion was seconded by Commissioner Hach. Discussion followed playing hard ball and not reducing the amount and on litigation being costly. On roll call Commissioners Robbins, Hach and President Johnson voted aye. Commissioners Hamre and Volk voted nay. The motion carried.

Mr. Sudbeck indicated he would need to take that amount back to his bonding company and attorney.

Sean Roed appeared before the City Commission to discuss the joint training center and EMS projects. The covid grant funds will be passed through the City. Currently a little over \$50,000.00 has been received.

Altru Hospital will pay for one-half of the mini ambulance with Ramsey County paying for the other half. Discussion followed on funding for the disabled veteran van through North Central Planning Council or on the possibility of using enterprise funds.

Quarterly billings will be submitted to the City for utilities at the joint training center. Otter Tail Power will be removing the substation by the center, so the center may obtain the land for additional parking. The joint training center would like to check with a contractor on the cost of finishing the building.

Commissioner Hamre – Everything was fine in Public Utilities.

Commissioner Hach – There will be no garbage picked up on Friday this week. It will be picked up the following Monday. It will be the same for next week with New Year's Eve.

Just a reminder that Christmas wrap is not accepted at the recycling center.

Christmas trees will be picked up the first Monday in January.

The City Assessor said everything was fine.

Commissioner Robbins – The City Engineer said everything was fine.

The Police Chief reported everything was fine.

Commissioner Volk – The items on the online auction sold for \$37,681.19.

President Johnson – The City Auditor requested to carry forward to 2022 funds budgeted in 2021 for accounting software. The amount was \$23,800.00 for 2021 less any amounts to be billed yet this year.

Commissioner Hamre moved to approve carrying forward to 2022 the uncommitted funds for accounting software as recommended by the City Auditor. The motion was seconded by Commissioner Hach, and the motion carried unanimously.

The City Administrator discussed plans to fill the upcoming vacancies. The City Assessor is working on getting updated job descriptions for the assessor and then the position will be advertised. The City Attorney is done at the end of the year. The contract allows for any member of the firm to serve as city attorney. The new city attorney will be appointed the third Tuesday in June. Sixteen applications were received for the city administrator position. Discussion followed on the ranking of the applicants and interviewing four local individuals and the three from out-of-state. Interviews were scheduled for January 19th at noon and 1:30 P.M. and January 21st at 9:00 A.M. and 10:30 A.M.

The Fire Chief indicated the 202 truck will be readvertised for sale next week with bids being opened January 18th.

The Fire Chief requested out-of-state travel for two employees the week of December 27th to inspect the new truck.

Commissioner Volk moved to approve out-of-state travel for the week of December 27th for two Fire Department employees to inspect the new truck. The motion was seconded by Commissioner Hamre, and the motion carried unanimously.

The City Attorney said everything was fine.

The Commission thanked Tom Traynor for his years of service as City Attorney.

Commissioner Volk moved to approve the consent agenda which included the following:

1. Appointing Peter Owlboy to the Lake Region Public Library with the term expiring June 30, 2024; and
2. Designating the Memorial Building as the voting place for precinct 1 for the city election to be held June 14, 2022.

The motion was seconded by Commissioner Hamre, and the motion carried unanimously.

City Attorney indicated no response has been received from the attorneys managing the opioid litigation. The agenda item will be tabled until the January 3, 2022 meeting.

Commissioner Hach moved to approve a Resolution Establishing Fees and Rates effective January 1, 2022. The motion was seconded by Commissioner Robbins, and the motion carried unanimously.

The City Administrator stated Bill Fahey will be at the January 18, 2022 meeting to report on the bond sale results.

Commissioner Hamre moved to approve the resolution providing for the issuance and sale of Refunding Improvement Bonds, Series 2022A as recommended by the City Administrator. The motion was seconded by Commissioner Volk, and the motion carried unanimously.

The City Engineer reviewed the urban road projects.

Commissioner Volk moved to approve the urban road projects as recommended by the City Engineer. The motion was seconded by Commissioner Hach, and the motion carried unanimously.

Commissioner Hamre moved to approve the list of bills as submitted. The motion was seconded by Commissioner Volk. On roll call all Commissioners voted aye, and the motion carried.

President Johnson acknowledged the following report:
Municipal Court monthly report

Discussion followed on upcoming street and water main projects and on the ARPA funds.

There being no further business to come before the Commission, President Johnson adjourned the meeting at 7:00 P.M.

LINDA LYBECK
CITY AUDITOR

RICHARD S. JOHNSON
PRESIDENT