

CITY OF CASSELTON
Tuesday, September 5, 2017
REGULAR MEETING 7:00 P.M.
Council Chambers

Present: Mayor Lee Anderson, Councilmen Mike Eberhardt, Charlie Francis, Kent Buss, Fred Wangler, Char Gust and Joan Carvell. Also present: Dan Weber, Carol Weber, Michele Rieniets, Tanya Kahl, Kelly Everson, David Belling, Roberta Butler, Julie Nelson, Bob Miller, Ed McConnell, Angela Kolden, Mike Staber, Lindsay Koffler, City Forester Sam DeMarais, City Attorney Del Losing, City Engineer Brandon Oye, Public Works Supervisor Kevin Mayer, Administrative Assistant Becky Dunker, Deputy Keegan Murphy & Deputy Jacob Longlet.

Minutes, Agenda, Bills and Financial Report

Councilman Wangler made a motion, seconded by Councilman Eberhardt to approve the agenda. All voted aye on voice vote; **motion passed.** Deputy Murphy gave sheriff's report. Councilman Buss made a motion, seconded by Councilman Francis to approve the consent calendar; minutes of August 7, City Attorney's Report, Municipal Judge's Report, Police Report and the delinquent utilities list. All voted aye on voice vote; **motion passed.** Councilman Carvell made a motion, seconded by Councilman Francis to approve the following bills and refunds. All voted aye on roll call vote; **motion passed.**

Aflac	\$19.80
Ameripride	\$253.80
Avesis Vision	\$97.62
Baldwin Cooke	\$346.54
Birch Communications	\$520.11
Cass County Electric	\$365.70
Cass County Treasurer	\$12,451.50
Cass Rural Water Users	\$48,385.73
Casselton Lumber	\$43.32
City of Fargo	\$3639.09
Dakota Supply Group	\$385.58
Morgan Forness	\$113.84
Gordy's Service Center	\$26.61
Guardian	\$690.87
Medica	\$3,562.97

Moore Engineering	\$-29.79
Municipal Government	\$50.00
Northstar Safety	\$229.08
Ohnstad Twichell	\$4200.00
Ottertail Power	\$3692.41
RDO Equipment Co-JD	\$174.55
RDO Equipment/Powerplan	\$4.52
Sam's Club	\$16.76
Secretary of State	\$36.00
Sig Olson & Sons Plastering	\$1760.00
Sweeney Controls Company	\$126.50
Team Laboratory	\$2,152.50
Titan/Productivity Plus	\$186.12
Verizon Wireless	\$125.10
Weber Insurance Agency	\$50.00
Xcel	\$92.24

Financial Statement

Invoice for \$20,000 was received from Ohnstad Twichell for bond counsel fee for the sales tax bond. Parks & Rec share is \$5,000 leaving city with \$15,000. Councilman Wangler made a motion, seconded by Councilman Francis to pay the \$15,000 from sales tax revenues before starting payments on the bond. All voted aye on roll call vote; **motion passed.**

Councilman Wangler made a motion, seconded by Councilman Buss to approve the financial statement. General Fund \$58,099.43; Special Revenue Funds \$1,180,514.25; Debt Service Funds \$1,860,191.32; Construction Funds \$17,212.02; Special Assessment Funds \$1,311,545.55; Enterprise Funds \$265,228.82; Trust and Agency Funds \$8,904.99; total \$4,701,696.38. All voted aye on roll call vote; **motion passed.**

Correspondence

Phone, email and in-office correspondence was shared from the past month. There was a question on the clay pile south of town and whether it was to be reseeded with grass. Oye said that it was, but that there has been activity happening at the site yet. Dunker also invited the council to join the auditor and herself to the North Dakota League of Cities Conference in Fargo, September 28-30th.

Tree Stump

David Belling introduced himself as the artist of the American elm tree on the south side of town and gave

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background of his work on Dutch elm disease in Stanley. He wanted to know what the opposition was to his work. Reply was that the decision was based on lack of information, the City Forester's recommendation, and the tree being on a boulevard. Owner of tree, Kahl, says tree is next to property driveway and five feet from neighbor's driveway. Forester DeMarais agrees art was fine, but didn't agree on tree in boulevard where something can be replaced. Dunker reminded council that at last meeting there was a motion made that stated "Councilman Buss made a motion, seconded by Councilman Francis to not allow any tree stumps to be left in the boulevard" and the question is whether this tree is on boulevard or not. Brandon from Moore Engineering was asked if verification of tree could be done and he said he could do location at no charge.

City Forester

There was much discussion on dead trees, ash and elm trees, replacing trees and removing stumps. The Mayor asked Sam for a Forester report before next council meeting. Thirty two elm trees have been removed as of today and most of stumps ground. He'd like to streamline process of getting trees down quicker.

Raffle Permits

St. Leo's Catholic Church and Central Cass Dollars for Scholars applied for a raffle permit. Councilman Wangler made a motion, seconded by Councilman Eberhardt to pay approve both raffle permits. All voted aye on voice vote; **motion passed.**

Trade Waste

Trade Waste definition from the State Health Department was read by Buss. (Trade Waste means solid, liquid, or gaseous waste material resulting from construction or the conduct of any business, trade or industry or any demolition operation including wood, wood containing preservatives, plastics, cartons, grease, oil, chemicals and cinders. *From the State Health Department*) Sanitation committee had decided that anything considered trade waste and being charged for now would not be accepted at the landfill. Trade woods was listed on the agenda, but the State Health Department is going to start getting tougher with compliance of their rules in regards to all trade waste. Most of the waste denied at local landfills will be taken to the Fargo Landfill. Committee also discussed options to not accept and give options for disposal or raise the rates for disposal to be able to pay for the city to dispose of materials. The recommendation will only affect commercial entities, not homeowners. Councilman Buss made a motion, seconded by Councilman Francis to not accept any trade waste. Councilman Gust made an amendment to the motion to notify businesses and contractors of options to dispose of their waste. All voted aye on voice vote; **motion passed.**

Assessors Agreement

Councilman Wangler has not talked to anyone yet on assessor's job. Mayor Anderson talked to the County Assessor's Office. There are three cities in county that are not using the Cass County Assessor for city assessing services. The County Assessor used a calculation with parcels and values to come up with the \$13,600 per year plus new construction for their services. The County felt this fee was fair and non negotiable. Kindred pays \$4400, Mapleton pays \$8300, and Horace is at \$17,700. An outside assessor would have some expense for software and once a year have to get with county to share data. Councilman Wangler will try to get in touch with assessor he knows. Lee suggests we table the agreement. Councilman Carvell made a motion, seconded by Councilman Buss to table the assessor's agreement. All voted aye on voice vote; **motion passed.**

Radon Gas

Mayor Anderson was made aware of a Casselton resident's home having a radon level of over 200. A level of 1-2 is ok and 3-4 you should do something. Radon comes out of cracks in basement. First Alert and State Health Dept have kits for free. There are various options to take care of radon levels with varying prices. Mayor wants to get information out to public that radon in their homes might be a concern.

Attorneys Agreement

Ohnstad Twichell has proposed an increase of their retainer to \$2000 a month. Ohnstad separately bills for bonding,

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court litigation and special assessment processes. Councilman Gust asked if there is a service level agreement documented in the new agreement. There is not and there are no other changes other than the fee change. First agreement with Ohnstad was 2011 at \$1500 and in 2016 the fees increased to \$1700. The increase request comes from attorney hours that were tracked. \$250-\$285 is Ohnstad's billable rate per hour. For 2016, if the city was billed for all hours the charge would be \$49,875. Councilman Wangler made a motion, seconded by Councilman Carvell to approve the new attorney's agreement. All voted aye on roll vote; **motion passed.**

No smoking in parks

The ordinance committee borrowed language from the Fargo Park's smoking and tobacco ordinance. The Casselton Parks has a policy for no smoking, but if this ordinance passes then it's enforceable. The ordinance says if someone is smoking they will be asked to leave the park and if they do not leave they would be subject to a trespassing violation. Parks and Recreation has reviewed the ordinance. Councilman Carvell made a motion, seconded by Councilman Gust to approve the 1st reading of the Smoking and Tobacco ordinance. All voted aye on voice vote; **motion passed.**

St. Leo's Special Assessments

Attorney Losing states two areas of St. Leo's cemetery was assessed, but under a ND statute a cemetery should not have been assessed. The way to correct the error is to reassess the properties the way they should have been at the time with the cemeteries not included. The 2008 Swan Creek Diversion project was \$26070.78 and the Sewer and Street Improvement District #25 was \$20,896.09. St. Leo's will be reimbursed with a check. So those parcels reassessed will have a minimal increase in their assessments. If a resident has paid their specials in full they will receive a bill. The cost of reassessing will be zero from the city attorney. Councilman Wangler made a motion, seconded by Councilman Carvell to refund the assessments for the 2008 Swan Creek Diversion project and reassess it according to Exhibit A. All voted aye on roll vote; **motion passed.** Councilman Wangler made a motion, seconded by Councilman Eberhardt to refund the assessments for the Sewer and Street Improvement District #25 project and reassess it according to Exhibit B. All voted aye on roll vote; **motion passed.**

Junk Ordinance

Attorney Losing proposed amending the junk automobile ordinance #279 because of some language in the exception portion Sect 3 & 4 that does not have a definition and to make the ordinance more restrictive. The change would be to allow an exception on a business premises that has received a conditional use permit from the City of Casselton that specifically allows a business to store or accumulate junk or abandoned vehicles. The ordinance is in regards to residential and commercial, but the change in this ordinance is in regards to commercial. Councilman Wangler made motion, seconded by Gust to approve the 1st reading of the junk automobile ordinance. All voted aye on voice vote; **motion passed.**

Several issues have been taken care but some still ongoing. A couple of the owners of residences with junk automobiles have refused their certified mail so the sheriff has been asked to serve them. Attorney Losing would recommend district court action to get permission to go on property. There will be costs for towing and time in impound. Councilman Eberhardt will look for towing and impound service. Boats would not be considered motor vehicles. There are three in non compliance and two with extensions to date. Councilman Carvell made a motion, seconded by Councilman Eberhardt to enforce the junk automobile ordinance on the five remaining residents not complying to ordinance, by being served by the sheriff's office, given 148 hours to comply and city cleaning up if non compliance. All voted aye on voice vote; **motion passed.**

Blighted Buildings

Attorney Losing reported that for the blighted building ordinance to work there has to be some mechanism for enforcement and inspection. The blighted house ordinance #88 change recommendations are deleting Sect 4.1 which says "Inspect or cause to inspected semi-annually, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing or loft buildings for the purpose of determining whether any conditions exist which render such places as "dangerous building" within the terms of Sect 1 of this ordinance", in Sect 6 changing from one to five hundred, and adding to Sect 13 "Any person desiring to appeal from any order issued by the city

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council under and by virtue of this article shall file in an undertaking in the sum of at least \$500 to be approved by the city auditor and conditioned that the appellant will prosecute the appeal without delay and will pay all costs that may be adjudged against him in the district court. Such undertaking shall be payable to the city of Casselton". Councilman Francis asked for clarification why they were told the blighted house ordinance was good enough, but nothing has been done. His impression from the Moore Engineering building inspector was that the International Property Maintenance Code needed to be adopted and an ordinance from Beulah had specific instructions on how to proceed. There will be a meeting on September 11th with the building department from Moore Engineering to ask about their inspection capabilities for this ordinance. Councilman Wangler made motion, seconded by Buss to approve the 1st reading of the blighted building ordinance. All voted aye on voice vote; **motion passed.**

Swan Creek Diversion Slide Repair – Maple River Water Resource District had hired American Enterprises to do a slope repair west of highway 18 on diversion. American Enterprises started cutting trenches East of Hwy 18, just north of the Vet Clinic, and noticed the soil was excessively wet. They felt it was due to a leak in the water main and had the water tested for chlorine. Some chlorine numbers showed up, so the water main was turned off for a couple days to see if water issue remained. Public Works could only leave water off for a couple days and American Enterprise wanted a couple weeks to efficiently dry it out. Several water samples were taken, some by third party and there is still chlorine. Mike Staber representing American Enterprise says he just needs to get his job done and he can't at this point because the dirt is too unstable and unsafe. Recommendation is to put in a valve and a hydrant to isolate a shorter segment of the line along the slide to be pressure tested. Councilman Wangler made a motion, seconded by Francis to approve putting in a valve and hydrant as soon as possible to isolate and troubleshoot the leak issue. All voted aye on voice vote; **motion passed.**

Engineer's Agenda

State Highway 18/2nd Street N – The subcontractor doing the seeding on the 5th St N NDDOT project will reseed the areas not growing on the 2nd Street N project when they are on site.

State Highway 18/5th Street N – The Langer Ave intersection is open and south side is close to done. The north side has water and sewer progress. By end of week Adelman will be called in for mainline paving. Because of change orders and some other issues the project is about a week behind. NDDOT requested an addendum to a documented CatEx to change a 5 ft wide sidewalk to an 10 ft wide path to provide continuity with the new development and school. This has been done and submitted in anticipation of approval.

Industrial Park Storm Sewer Improvements – Engineer Oye has drafted a letter to Adelman that was reviewed by the auditor and city attorney. Intent of the letter is to notify Adelman that we have requested final paperwork and final payment to close the project out three times. The city is going to force their liquidated damages provision of \$25,000. If the final information is not submitted, the city will not consider them for bids on future projects. Councilman Francis made a motion, seconded by Councilman Buss to approve the letter drafted to Adelman for the amount of liquidated damages and the amount of retainage and if they don't comply with the remainder of the contract they will be considered nonresponsible for bids on future projects. All voted aye on roll call vote; **motion passed.**

East View 1st Addition – Moore has met with the county to have the utility companies move the fiber lines. Letters are being prepared to the utility companies to order movement in line with the utility easements that are in place. All water and sewer mains have been inspected and considered final. Moore has prepared a letter to assist with setting building elevations. Because of the history of potential flooding in that area the recommendation is that the top of foundations in East View Addition be set 1 foot higher than 15th Ave N road centerline. This issue has been brought up by the building permit department because of building permits being issued already. Councilman Francis made a motion, seconded by Councilman Wangler to approve the 935.00 NAVD88 top of foundation elevation recommendation of 1 foot higher than 15th Ave N road centerline for the East View Addition. All voted aye on voice vote; **motion passed.** Councilman Francis made a motion, seconded by Councilman Buss to pay Fox Underground's to approve final contractor's payment for application #3 for \$15,864.03. All voted aye on roll call vote; **motion passed.**

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Storm Sewer Lift Station and Pond; Casselton Farms & School – A request for time extension is being considered. The Cass County Flood Sales Tax Committee is meeting October 2. There is anticipation that they will not be paying the new development's share of the pond but probably looking at cost sharing the school's portion because it's an existing condition. There would be a special assessment and that cost could be cut in half.

The school's pipe does not match up with the where the pond is and needs to be extended. The city is being asked to help with that cost knowing it will be assessed back to the school. Engineer Oye is waiting for the cost, but estimating it not to exceed \$18,000. Approval was requested for up to that amount to continue on the project. Councilman Francis made a motion, seconded by Councilman Buss to approve an amount of up to \$18,000 to pay for extending the pipe. Councilman Eberhardt, Wangler, Buss & Francis voted aye, Councilman Carvell & Gust vote nay; **motion passed** Councilman Wangler made a motion, seconded by Councilman Buss to approve payment to R.J. Zavoral contractor's application for payment #3 for \$25,718.81. All voted aye on roll call vote; **motion passed**. Councilman Wangler made a motion, seconded by Councilman Francis to approve payment to Moore Engineering for invoice #16513 for \$17802.01. All voted aye on roll call vote; **motion passed**.

Water Tower Improvements – Last update received is the Bureau will be finishing up their review the end of September.

Cass County Highway 10 – County will be doing the design. They will be doing the full road all the way to the drain. Engineer Oye will be recommending a Memorandum of Understanding (MOU) with the county to define the scope of the project and the cost share breakdown for review by city council and county commission. There will be a meeting on September 19th with the public works committee to talk about storm sewer alternatives and then brought before council.

Casselton Farms – no update

LOMR – Moore engineering has been responding to FEMA's requests. FEMA is done with 2 out of 3 quality checks.

Councilman Wangler made a motion to adjourn at 9:40 pm.

Next regular meeting October 2, 2017 at 7:00pm.

Respectfully Submitted,

Becky Dunker
Administrative Assistant