

City Council Minutes
October 21, 2024

The Fergus Falls City Council held a regular meeting on Monday October 21, 2024 at 5:30 pm in the City Council Chambers. Pastor Tim O'Shields gave the invocation and the Pledge of Allegiance was recited. Mayor Schierer reminded the council and the public that the council meetings are no place for campaign or political conversations and then called the meeting to order at 5:32 pm. The following council members were in attendance: Fish, Job, Kvamme, Rufer, Kremeier, Rachels and Hicks.

Open Forum

Duane Cookman, 543 W Stanton Ave requested updates on the golf course, the former old dairy plant and the ethics concerns brought up at the last meeting. Staff were asked to provide these updates at a future meeting.

Bob Noah felt Mayor Schierer has a conflict of interest in working at West Central Initiative as the organization advocates for other governmental entities. Mayor Schierer said each council member has employment outside of their elected position and said when he was sworn in as the Mayor, he took an oath to uphold the position, the constitution and state laws and he has publicly recused himself of any conflicts of interest. He told Mr. Noah if he wanted to file a complaint against him, there were multiple channels to do so, but accusing him of breaking the law was beyond the scope of the open forum. Noah said the first amendment allows him to speak and continued to address what he felt was the Mayor's lack of ethics and violation of the city code.

Approval of the Agenda

A motion and second were made by Hicks and Kremeier approving tonight's agenda with the removal of two items from the consent agenda and the motion carried.

PI 5373, Shoreview Drive Public Hearing

Public Improvement 5373 is the bituminous street improvement of Shoreview Drive: Pebble Lake Road to the east termini (cul-de-sac). The project includes paving the roadway and driveway aprons, but not curb and gutter. The total project cost is \$267,475 with a portion being specially assessed to the affected property owners. The interest rate on the special assessments is 5.70% over 15 years. The city has received no written objections, one possible senior citizen deferral, and noted four lots owned by Moline's would be deferred. A public hearing was opened at 5:41 pm.

Bruce Money, 1822 Shoreview Drive stated he and his wife were in favor of the project if the current infrastructure project into DeLagoon Park is completed first. That project was to be completed within two weeks but has been ongoing for three months. The additional work at the same time would be problematic for the neighborhood. The City Engineer confirmed the infrastructure project would be complete prior to beginning the bituminous project.

Duane Cookman, 543 W Stanton asked if Stanton Avenue would receive its final overlay prior to the Shoreview project. The sanitary sewer line was televised 30 days after receiving its first surface layer and they found a ruptured pipe that required repair. The final layer will be installed next summer. The public hearing was closed at 5:44 pm. Fish offered **Resolution #186-2024** adopting the final cost assessment roles for PI 5373, the Shoreview Drive bituminous improvement project, contingent upon

awarding the construction contract to Mark Lee Asphalt & Paving, which was seconded by Rufer and was adopted.

PI 5373 Bid Award

Hicks offered **Resolution #187-2024** awarding the construction services contract for PI 5373, the Shoreview Drive street improvement project to Mark Lee Asphalt & Paving in the amount of \$194,493, which was seconded by Rachels and was adopted.

Consent Agenda

The following items were approved under **Resolution #188-2024** by Kvamme: A motion approving the following licenses: Excavator (2024) Dirt Dynamics; Paving/Sidewalk (2024) Pettow Construction Inc.; Building Waste Hauler (2025) Big Red Boxes; 3.2% Malt Liquor (2025) Holiday Stationstores, Little Chief Outpost; Tobacco (2025) Holiday Stationstores, AJ Specialty Store (dba Smoke N Vape), King Tobacco, Little Chief Outpost; Minnesota Lawful Gambling Permit Fergus Area College Foundation for a raffle on December 16, 2024 at M-State, Fergus Area College Foundation for a raffle on February 1, 2025 at M-State, Ducks Unlimited Spring Migration, MN Chapter 162 for BINGO on December 15, 2024 at the Fraternal Order of Eagles; Full Liquor License (2025) VFW Post 612, FOE (Eagles) Aerie 2339. **Resolution #189-2024** waiving the monetary limits on municipal tort liability established by Minnesota Statutes, Section 466.04. **Resolution #190-2024** declaring items as surplus and authorizing their disposal. The resolution was seconded by Kremeier and was adopted.

Amendment to October 7 Minutes

Kremeier asked for the following amendments to the October 7 council minutes: “Kremeier recommended Kvamme step down from his council seat due to his habitual unethical conduct” and “Job said the code of conduct states private encounters should be included in the standards for conduct (page 5). A motion and second were made by Kremeier and Rachels to approve the amended October 7, 2024, council minutes and the motion carried.

Grant Request for West Central Initiative

Staff are seeking authorization to submit a \$20,000 grant request to West Central Initiative for a child care project manager. Hicks asked if this is duplication of other organization’s childcare efforts. Klara Beck explained that both West Central Initiative and Otter Tail County have staff dedicated to childcare issues, but each entity is down staff members and have limited time and capability to work on this project. The grant funds would be used to hire a staff member to focus on advancing childcare solutions in Fergus Falls. Pam Ballard was opposed to the city requesting or receiving any funds from West Central Initiative due to the organization has a globist agenda and her opinion the organization is bad for the area. Hicks offered **Resolution #191-2024** authorizing the city to submit a grant request in the amount of \$20,000 for a childcare project manager to West Central Initiative, which was seconded by Rufer and was adopted.

Charter Commission Membership

Charter Commission Chair Sarah Duffy reported they had their annual meeting on September 10. 7 of their members have terms to expire on December 31, 2024, and all 7 members have agreed to serve another four-year term. Eric Shelstad, whose term was to expire on December 31, 2026, has resigned and Larry Enderle has applied to serve on the Charter Commission to complete that term. Kremeier asked if the Charter Commission members should be appointed by the ward to provide equal

representation. Duffy explained the Charter's by-laws state the members must live within the city limits to be eligible to serve, but the members do not need to be appointed by ward. There were questions about the Charter Commission's attendance, and it was confirmed excused and unexcused absences are recorded for each meeting. The Chief Judge of the Seventh District takes the information supplied by the Charter Commission along with the City Council's recommendations when they make the appointments, and the judge has the ultimate decision on who to affirm. Fish offered **Resolution #192-2024** to approve the petition of membership to the Charter Commission, which was seconded by Rufer and was adopted with Kremeier voting in opposition.

TIF District 4-14 Amendment

TIF District 4-14 was established in 2021 for the Campus View Estates housing development. The district and development agreement included parcels for 36 owner-occupied units and 10 rental townhomes. The developer has requested four parcels be removed from the district as they will be included in a trust, which is ineligible within this housing TIF district. The removal of the parcels from the TIF District will not impact the city as the trust will now pay special assessments for each of these parcels making the city whole. Hicks offered **Resolution #193-2024** approving an amendment to TIF District 4-14 and Development Agreement, which was seconded by Rachels and was adopted.

Resolution of Accounts

Fish offered a resolution authorizing the payments and claims in the amount of \$2,033,365.97, which was seconded by Rufer and was adopted.

Update: 801 W Stanton Ave

Brian Yavarow reported the seller of the property located at 801 W Stanton has achieved substantial completion of the project with the three buildings removed. Work yet to be completed includes removing the concrete and cleaning the remaining debris. The city is waiting for the soil sampling report. Six payments have been made to the seller thus far and the remaining \$55,000 will not be paid until the work is complete to the city's satisfaction. The access off Stanton will be remain for future redevelopment.

Westridge Mall Purchase Agreement

City Administrator Andrew Bremseth explained the Westridge Mall was built in 1978 and has fallen into disrepair. The original parcel has been subdivided and re-platted multiple times since 2019 to allow for the sale of space to Westridge Theater (CEC Theaters), Dunham's and a real estate holding company representing Harbor Freight and the Dollar Tree. Each entity holds an agreement with Westridge Mall Limited Partnership concerning the use and upkeep of the common areas which are in poor condition. The mall's owner, Marty Graff, has not been taking care of the buildings or paying his bills. There was an imminent shut-off of water and electrical services due to the owner's high unpaid balances. Shutting off these services would disable the fire suppression system from the four remaining businesses, putting them in jeopardy of closing and possibly leaving the community. The city is proposing purchasing the Westridge Mall from Marty Graff to provide an opportunity to control a property that has been neglected for decades and keep several retail establishments from shuttering their businesses and leaving the community. The \$419,000 purchase price is the amount of the current mortgage, and the closing would be scheduled for December 31, 2024.

Bremseth explained the purchase agreement was written by the City Attorney to ensure the agreement is favorable to the city and it contains multiple opportunities for the city to get out of the purchase

agreement without risk to the taxpayers. Contingencies include assignment to the buyer and the buyer assumption of easements and agreements between the mall's ownership and the existing businesses and the assignment to the buyer and buyer assumption of property expenses incurred against the Westridge Mall Limited Partnership. The city would negotiate deals with the local entities to write off debts or have the debts repaid if future redevelopment is successful.

The city has been working with Otter Tail County on this complex issue and they have expressed their willingness to assist by being designated as the leading agency on a Community Energy Transition Grant from DEED. This grant application is only available to communities that have lost their local electric generating plant. The grant application would request \$1 million (the maximum allowed) for the acquisition, demolition of the mall and stabilization of the remaining businesses. The likelihood of the grant being given to the county is higher than a city application as the city recently received a similar grant for the former Checkers property. These grants are reviewed on a rolling basis and if it is unsuccessful, the city can walk away with no risk. If the grant is successful, the city would transfer the property to Otter Tail County and they would use their economic development expertise to help redevelop the property, which may include demolition of unused portions. The matter of allowing Otter Tail County to operate their Community Development Agency within the City of Fergus Falls would be made by a resolution once the outcome of the state funds has been determined.

Mayor Schierer reiterated the driving force for this action is the threatened loss of four local retail businesses and the city's goal to save these businesses using non-local funding to accomplish that. Trying to gain local control of the mall's ownership has been ongoing for over 20 years. The property has gone to auction twice within the past 18 months unsuccessfully. The goal is not long-term control of the mall by a governmental unit, but to see private redevelopment of the property. Schierer agreed, he would rather not provide funding to the mall owner, but it is not a perfect world and without the city stepping in, the city would have to wait until 2027 for the property to go into the foreclosure process. In the meantime, the community would see multiple retail businesses leave. This purchase signals the city's commitment to the long-term success of our business community.

Hicks addressed multiple sections of the Purchase Agreement to ensure the city has options out of the contract if the project is not viable. He suggested limiting what the city would take on of Graff's debts, inquired about the cost of demolition and his concern about setting a precedence for taking on a business's debt. City Attorney Rolf Nycklemoe spoke about the complexity of the project, the protections offered to the city through the Purchase Agreement and the agreements that would need to be secured with the creditors. Job asked what would happen if the city were to allow the county's CDA to operate within the city and she felt she was missing information as she had not heard about possible demolition. Schierer said the goal is to stabilize the existing businesses and if the grant is successful, \$419,000 would be used for the purchase price and the remainder for demolition and stabilization so the existing businesses each have their own fire suppression system. The transfer of the purchase to the county is a separate conversation for a future meeting. Tonight's intention is to move forward with the purchase agreement and to allow the submission of the grant application. The other parts of the transaction will come back to the council for future consideration. Bremseth said once the property is transferred to the county, it will be their decision on which, if any, buildings will be demolished.

Kremeier spoke about the council's conversation at the September 16th closed meeting and asked when this conversation was initiated. Bremseth said after the unsuccessful mall auctions, Otter Tail Power

approached the city as they were carrying significant debt from the mall (\$192,107) and were considering turning off the power, which would not allow the fire suppression system to operate. Without this system, or the city's water, the four businesses would be adversely affected and could close. When the businesses were given notice of the possible shut-off and they contacted owner Marty Graff urging him to pay his outstanding bills, which he has not done. The city stepped in to try to save these retail businesses by offering a temporary solution for taking over local control of the mall. Ron Spangler of Otter Tail Power said they have been concerned with the large debt the mall has been incurring and they have been talking to Graff for months, trying to find a resolution for the debt. With community as one of their company's core values, they understand turning off services over the winter could further damage the mall if it was left unheated over the winter and adversely impact the businesses.

Kremeier said last week he met with the mall's maintenance employee who told him a council member approached him in August, asked about his salary and told him the sale of the mall was "pretty much a done deal", making that employee feel his job was in jeopardy. Kremeier questioned how this council member knew so much when the council didn't hold a closed meeting about this subject until September 16 and why the other council members weren't given the same information. Bremseth reminded him the council held two closed meetings regarding the possible sale of the mall, on August 5 and September 16. Additionally, the council received multiple confidential email updates from him. Council members Rachels and Job serve on the Tax Levy Committee where this was discussed and Rachels is the city's Greater Fergus Falls representative and that organization is involved in this economic development transaction. Bremseth asked Kremeier to stop clouding the city's focus of saving multiple retail businesses in the community. Kremeier asked why the county doesn't purchase the property outright and questioned if the county's involvement creates a detriment to the city taxpayers. Bremseth said the city already has a relationship with the businesses and mall owners and would pass the project onto the county if the contingencies are met and the grant is successful. Nick Leonard of Otter Tail County said it is their goal to work with the city in an additive and supportive manner and the county cannot conduct their Community Development Activity in a community until they are invited to participate by the city adopting a resolution allowing them to do so. That action would come at a future meeting. Tonight, there will be a request for the city and county to submit a joint grant application to DEED.

Rachels talked to the mall's maintenance person but never threatened his job. He asked for his wage because Graff asked the city to assume this employee's employment which is a deal breaker for the city. He spoke of the importance of getting this project done, working with the county and keeping these businesses in the community. Kremeier feels the city already has too many properties such as the Bigwood Event Center, former Checkers and dairy properties and RTC and they are costly to the taxpayer. Schierer said the city was able to take the former dairy, a dilapidated and contaminated property and get it ready for redevelopment next to nothing using state funds. The same is being done for the former Checkers property. He encouraged the council to stop spreading fear as there is no risk to the taxpayers. The council should be showing the business community the city's support.

Tony Thielman, owner of Westridge Theater expressed his appreciation to the city for trying to take local control of the mall. If nothing is done, the facility will continue to deteriorate, and they will close. They, along with the other businesses are paying their bills and have come to a temporary solution to cover Graff's bills but cannot and will not accept long-term responsibility for payment as it puts their businesses at risk. He spoke about the tough times affecting businesses like his, how malls

across the country are failing and the new solutions that are necessary to allow businesses to continue to operate. He applauded the city for their proactive approach to keeping businesses and felt the county taking the lead on the grant is a smart decision as no developer has access to those funds. Duane Cookman suggested the city consider more creative solutions such as moving these businesses into vacant buildings in the community or using the grant dollars that could be used to build a new theater. He reminded the council that state grants are still taxpayer funds. Thielman confirmed building a new theater would cost much more than \$1 million.

Mark Leighton felt the council is moving too fast on this decision, spending too much and making bad choices. He suggested this decision should wait until the new council is seated or until the foreclosure process happens in 2027. He said the economy is bad as referenced by the decline in sales tax revenue of \$30 per person. Bill Sonmor said the sales tax collection is not calculated on a per person basis as it fluctuates, and it is impossible to know how many people are paying the sales tax each month. There was one month of an anomaly, but the collection is going as expected. Bremseth countered Leighton's comments noting the city has been completely transparent with these transactions and his allegations are simply untrue and an attempt to gaslight the community. The council has been having these conversations since August and the entire purchase agreement was included in the public council packet. Lisa Workman, representing the Chamber of Commerce thanked the city for using creative solutions to save four retail businesses and the council's actions show they care about the business community. Although this may not be an easy decision, she encouraged the council to move forward especially considering the safeguards in place for the taxpayers.

Jeff Ackerson spoke as a business owner stating if the council truly believes business is important for the community, they need to move forward. State funding is a unique opportunity and good use of tax dollars. If the deal falls apart, the city can walk away without risk. He felt complaining about the past was neither useful nor helpful. He reminded the council that businesses are looking for the city's lead and without their support, businesses that can leave may do so. Cecelie Cookman asked if the purchase price includes the back taxes and utilities, which was confirmed are beyond the purchase price in Exhibit C of the council agenda packet. The purchase agreement states the city will negotiate with each entity regarding the funding Graff owes them, but they may be able to later collect some of the funds if redevelopment occurs. The entities have acknowledged they may need to write off the debt as uncollectible. The negotiations need to be made to the council's satisfaction and if a party says no, the city can walk away.

Marc Sikkink talked about his business, SCR Solutions, their growth and the lack of suitable space for business in the community. He said the current mall ownership has let the building fall into this condition and without trusted entities such as the city and county taking over, it will continue to deteriorate, and the community will continue to be short of space for businesses to grow. He encouraged the council to take over local ownership to spur on redevelopment as this is the best opportunity to move forward without risk to the city.

Lee Rogness spoke as a County Commissioner about the multiple initiatives since 2002 to get local ownership of the facility as Graff has made many promises he has not fulfilled. Today presents an opportunity to get the local control using state grant funds that this community earned when they lost the Hoot Lake Power Plant. This is the first agreement they have been able to have Graff sign and now it is the council's turn to sign the document as well. The county can help in this process using

their economic development expertise and there is nothing he would like to see more than the county seat flourishing. Job and Hicks stated they would vote in favor of the resolution as the purchase agreement has multiple outs for the city but need to hear more before agreeing to future action. Rufer offered **Resolution #194-2024** authorizing entering into a purchase agreement for the Westridge Mall, which was seconded by Fish and was adopted with Kremeier voting in opposition.

Grant to Energy Transition Fund

Rachels offered **Resolution #195-2024** authorizing the city to submit a joint application with Otter Tail County to the Energy Transition Fund, which was seconded by Fish and was adopted.

The meeting adjourned at 7:30 pm to open and closed Port Authority meetings.

Lynne Olson