

April 8, 2010

CITY COUNCIL AGENDA

Monday, April 12, 2010

5:30 p.m.

Council Chambers, 315 N. Broadway

1. Call to Order
2. Agenda Additions or Deletions
3. Approval of Minutes – 03-30-10
4. Approval of Accounts Payable Listing
5. Utility Superintendent Report
 - NPDES Permit
6. Library Report
7. Police Chief Report
 - Joint Powers Agreement for eCharging
8. Street/Park Superintendent Report
9. Financial Report
10. Election Information
 - Primary Election on 08-10-10
 - Filing Period for Mayor and City Council Offices 08-03-10 thru 08-17-10
11. Instant Alert System Information
12. Liquor Store Project Update
 - Bid Opening Report
13. Otter Tail County Public Safety Radio Communication – 800 MHZ
14. Board of Review – 04-14-10, 2:00-3:00 p.m., Council Chambers, City Hall
15. PRA Economic Development Corporation Annual Meeting – 04-15-10, 7:00 p.m., LREC

CITY OF PELICAN RAPIDS COUNCIL MEETING MINUTES -04-12-10

The City Council of Pelican Rapids met in regular session at 5:30 p.m., on Monday, 04-12-10, in Council Chambers, City Hall. Mayor Ben Woessner, Council Members Steve Foster, Kevin Ballard, John E. Waller, III and Richard E. Peterson were present. No one was absent. Administrator Don Solga, Clerk-Treasurer Glenys Ehlert, City Attorney Greg Larson, Police Chief Jeff Stadum, Street and Park Superintendent Brian Olson, Utilities Superintendent Brent E. Frazier, Library Director Annie Wrigg and Stephan Halonen of JP Structures, Inc., were also present.

Mayor Woessner called meeting to order. All present stood, addressed the flag and said the Pledge of Allegiance.

AT&T Cell Towers, Debris Issues were added to the agenda. Motion by Foster, seconded by Waller to approve the agenda with the additions. Motion passed unanimously.

Council reviewed minutes. Motion by Ballard, seconded by Foster to approve the minutes of 03-30-10 as presented. Motion passed unanimously.

Utility Superintendent Brent Frazier reported on water and wastewater departments. CMC replaced non-functioning pumps in lagoon. They iced up during winter and would not restart this spring. Bio-solids were hauled from sludge storage. Frazier presented the NPDES Permit Application and explained the fee has increased from \$343 to \$1240 in the past five years. He also presented information about a back up generator he would like to purchase for the wastewater facility.

Motion by Waller, seconded by Ballard to authorize Mayor Woessner to sign the NPDES Permit Application and to approve payment of the fee of \$1240 to Minnesota Pollution Control Agency. Motion passed unanimously.

Motion by Waller, seconded by Foster to approve 04-12-10 Accounts Payable Listing for City accounts payable as presented in the amount of \$44,424.71 with the addition of Verizon for cell phones in the amount of \$552.10; Library accounts payable in the amount of \$8,044.30; Liquor Store March bills in the amount of \$59,378.63 and Liquor Store April bills for new building expense in the amount of \$1247.65. Motion passed unanimously.

Library Director Annie Wrigg reported that there are 5,669 active card holders in the Pelican Rapids Public Library. Meeting rooms were well used again this year. Everything is going well and they are prepping for summer.

Street and Park Superintendent Brian Olson reported that they are about a month ahead of schedule with street sweeping. They have completed sweeping all the streets. Superintendent Olson said he has investigated the cost of crack sealing using city crew. They can do 98 blocks for \$27,000 which includes the department's labor. He would also like to do a seal coat project with the remaining \$53,000 the City has set aside in previous years and 2010. Motion by Foster, seconded by Waller to approve the city crew rent necessary equipment and purchase supplies for crack sealing project in June. Motion passed unanimously.

Motion by Waller, seconded by Peterson to authorize Superintendent Olson to obtain quotes for a seal coat project in the amount of approximately \$53,000. Motion passed unanimously.

Superintendent Olson reported that the steel structure has been taken down at Veterans' Memorial River Park.

Clerk-Treasurer Glenys Ehlert presented the 03-31-10 Financial Reports. Motion by Waller, seconded by Peterson to approve the Financial Reports of 03-31-10. Motion passed unanimously.

Clerk-Treasurer Glenys Ehlert reported on Election law changes. The state primary will be conducted on the second Tuesday in August, 08-10-10. The filing period for city offices will be open from 08-03-10 through 08-17-10 at City Hall.

Administrator Don Solga reported that the Instant Alert system with Otter Tail County will be used for the state wide Tornado Drill on 04-22-10.

Stephen Halonen of JP Structures, Inc., the 03-11-10 apparent low bidder, addressed City Council. He said, "I'm here to personally tell you that we would welcome the opportunity to do this project for you. We submitted a clear and compliant bid at the original bid opening on 03-11-10." Hollan said he was available to answer questions. No questions from Council for JP Structures, Inc.

Administrator Don Solga reported that based on Council's instruction of 03-30-10, the un-reviewed bids were opened on 04-08-10. An additional seven bids resulted in a bid lower than the first disclosed bids. Administrator Solga reviewed the pros and cons of accepting the new apparent low bid of Project One.

City Attorney Greg Larson said the whole goal of the bid process is that tax payers receive the lowest responsible bidder for project. Courts will generally hold that Cities may waive minor irregularities. It would be difficult to show that anyone received a benefit from waiving the minor irregularity (regarding the bidder's bond inside the bid envelope rather than separately attached). Contractor must prove that the prevailing contractor received a benefit from the irregularity. Yes, the statute says the lowest responsible bidder. Yes, the lowest responsible bidder should comply with the requirements of the bid. Yet, courts will generally give City the ability to waive minor irregularities. It would be difficult to prove that a contractor had an unfair advantage from the second bid opening. What uncertainty is more attractive? The uncertainty of accepting the low bid or the uncertainty that JP Structures may temporarily stop construction. Since the City will be covered by LMCIT on a defensible claim, the costs to the city will be the insurance deductible of \$250.

JP Structures Stephen Halonen said, "Our perspective is that if the City had made the decision to open all the bids on 03-11-10, there would be no question that the City would select Project One. Instead they decided to open all the bids to see if the bid bond was in a separate envelope. In the four weeks between the bid openings, there was an opportunity for collusion in replacing the bids." He said that they are asking minimally for the City to rebid the job and no one can fault the City for rebidding. With the economy the way it is, Halonen said he thinks the City will receive lower bids.

Administrator Solga said he thinks that 50% of the bidders will drop out of the process. He continued that at the bid opening the City only knew about the discrepancy in the bid advertisement. When the City learned about the inconsistency between the advertisement for bids and instructions to bidders, the City Council decided that reading the seven additional bids was the fair thing to do.

City Attorney Greg Larson reiterated, "Does the City perceive more risks in rebidding or in accepting the known low bids?" Council Member Foster asked Larson what he recommended regarding the additional bid opening. Larson replied, "I recommended that the City, due to the circumstances that the City became aware of the inconsistency, then the City should open the additional bids to allow the City to review the bids. It would be difficult to show how any contractor received an unfair advantage from opening the seven bids on 04-08-10."

Council Member Peterson questioned if the architect is responsible for the costs of rebidding the project. City Attorney Greg Larson said the firm has the same argument that the City has.

Council discussed additional costs, loss of time and the possibility new bids would be higher. City Attorney Greg Larson said, "I think there is a strong likelihood of success. In the worst case, there is the risk of delaying the project longer by proceeding than by re-bidding. Under the circumstances, I think we're talking about a minor technical defect," Larson said. Administrator Solga summarized that there is less uncertainty in rebidding than in proceeding.

City Attorney Greg Larson said the court could not award the bid to another contractor. At most the court might require the City to rebid or it might require the City to pay JP Structures, Inc., the cost of preparing their bid.

Motion by Waller, seconded by Peterson to reject all bids for the liquor store construction project and re-bid the liquor store project as soon as possible to permit proper advertisement for bids. Motion passed unanimously.

Administrator Don Solga reported that the Fire Chief, Police Chief, Superintendent Olson, Mayor Woessner and he attended a meeting with the Otter Tail County Sheriff's Department regarding the 800 MHZ radio system. At a recent fire call in Perham, the radio channels were all taken up and the fire departments could not communicate nor would the City have been able to contact their department if there was a new emergency. City officials and staff expressed the opinion that Otter Tail County should fund this because they made the decision to go to the 800 MHZ radio system. The County says if they oversee getting the equipment, then they could lease/purchase it to the City. Another idea was a 2% public safety County wide tax and the County would own the equipment. They would provide it to the other entities. City's insurance would probably cover radios they are using. The estimated cost to the City to purchase equipment would be \$120,000. Council Member Peterson said the highest cost would be to the fire department and a part of that cost could be charged to the townships. Administrator Solga agreed. The fire departments are applying for grants. Mayor Woessner said the County needs to do this so all communities have the equipment. He continued, "Otherwise some communities won't do it and if we're called to the area, what have we accomplished?"

Administrator Solga said he thinks it does need to be a County wide program. Motion by Waller, seconded by Ballard to recommend that the County should oversee the program, purchase and maintain the 800 MHZ radio equipment. Motion passed unanimously.

Board of Review will be Wednesday, 04-14-12, Council Chambers, City Hall from 2:00 p.m. to 3:00 p.m. Mayor Woessner and Council Members all plan to attend this scheduled meeting of the City Council for purposes of hearing concerns about property values in the City of Pelican Rapids.

The Pelican Rapids Area Economic Development Corporation Annual Meeting with speakers will be at 7:00 p.m., 04-15-10, at Lake Region Electric Cooperative. Mayor Woessner and Council Members plan to attend this public meeting and notice has been posted as required by the Open Meeting Law.

Administrator Solga read the response to the City's petition for discretionary review of the AT&T cell tower. The FAA scheduled a review and will notify the City regarding the outcome.

Regarding the Debris Issue added to the agenda, Mayor Woessner and Administrator Solga reviewed that property owners are responsible for their property even when the material has been dumped by their dumpsters. Property owners pointed out that it is a city wide problem of dishonest individuals who illegally dump by private dumpsters. Council Members commented that other people have dealt with this problem at their own expense. City Council agreed that we will continue as we have in the past.

Police Chief Jeff Stadum was unable to attend the Council meeting due to a police call. Clerk-Treasurer Glenys Ehlert explained the opportunity to participate with the State of Minnesota in filing police complaints electronically to the County Attorney rather than mailing or driving to Fergus Falls with the complaints. The process is called eCharging and requires a Joint Powers Agreement between the City of Pelican Rapids and the State of Minnesota. Motion by Foster, seconded by Waller to approve eCharging and authorize Mayor Woessner and the City Clerk to sign the Joint Powers Agreement. Motion passed unanimously.

Motion by Peterson, seconded by Waller to approve the Chief of Police written report. Motion passed unanimously.

Motion by Waller, seconded by Peterson to adjourn 7:24 p.m. Motion passed unanimously.

Glenys Ehlert, CMC
Clerk-Treasurer