

CITY OF BEULAH

October 16, 2023, 6:30 pm

Beulah City Hall Council Chambers

CITY COUNCIL MEETING

The regular meeting of the Beulah City Council was called to order at 6:30 pm by Mayor Sean Cheatley with Council Members Eric Hoffer, Gary Miller, Ben Lenzen, David Czywczynski, Jason Isaak, Amanda Mohl and Auston Biles present.

Also Present: City Attorney Scott Solem, Economic Dev. Dir. Beaver Brinkman, Water Supt. Gary Bovkoon, City Engineer Charlie Hankins, Public Works Supt. Kenny Yeager, Police Chief Frank Senn, Assessor/Planner Heidi Hamelton, City Auditor Heather Ferebee, Cal Oldenberg, Mike Saunders, Kurt Zazeski, Bruce Neuberger, Adam Baker, Roger Gazur, Beulah Residents, Alyssa Meier.

Pledge of Allegiance.

Hoffer moved to dispense with the reading of the minutes of the regular meetings on September 27 and October 2 and approve as furnished to the Council by email. Biles seconded. Roll call vote found Czywczynski, Biles, Isaak, Lenzen, Mohl and Hoffer in favor. Miller abstained. Motion passed.

COUNCIL AGENDA ITEMS

Mayor Sean Cheatley

The option for an attorney for the Main Street Project Assessment District #26 was presented. Sarah Wear of Ohnstad Twichell P.C. is the attorney being recommended. The firm represents many cities in ND on municipal law. The cost per hour was discussed. Brinkman did not get a response from the other firms he contacted. There was a written response from the law office in Hazen that they would be interested. Hoffer moved to go forward with Ohnstad Twichell to represent the city on the Main Street Project. Biles seconded. Discussion followed on those contacted for representation. The Hazen law office was contacted by Solem; it was decided there could be a potential conflict of interest. Solem stated he contacted other attorneys, but those contacts did not express interest. This is for a limited time and would be by Zoom. Roll call vote found Hoffer, Biles, Mohl, Isaak and Czywczynski in favor. Miller and Lenzen opposed. Motion passed.

An opinion from Ohnstad Twichell on the potential conflict of interest between the City Engineer and Travis Frey on the Assessment Board was presented. Attorney Sarah Wear's letter states that based on ND law there is no conflict.

Two people have expressed interest in the open council position in Ward 4. They will both be contacted. A special election may need to be held if they both want the position. Solem stated it would be up to the City Council, but they can wait until the election in June to fill the position. Appointing someone now may create an advantage for that person. Miller moved to leave the council position vacant in Ward 4. Lenzen seconded. Roll call vote found Miller, Lenzen,

Czywczynski, Biles, Isaak, Mohl and Hoffer in favor. Hoffer thanked those who are interested with the hope that they both run in June.

Cheatley proclaimed November 1, 2023, as Extra Mile Day. This is to recognize those who go the extra mile in volunteerism. Hoffer moved to approve the proclamation. Lenzen seconded. Roll call vote found Hoffer, Lenzen, Czywczynski, Biles, Isaak, Miller and Mohl in favor.

Council Member Hoffer

AE2S Wastewater Facility Assessment presentation by Cal Oldenberg and Mike Saunders on the north lagoon. It is recommended that sludge dredging take place, replacing blowers and the aeration system. Some grading improvements were identified at the south lagoon. Two alternatives are diffused aeration and surface aeration. Diffused aeration is recommended as it is more efficient and a lower cost. The total estimated cost of all improvements is \$1,096,000, which would amount to an increase of \$3.18 to \$4.34 per month for 1,286 users as a utility rate increase. Approval can be given at the next city council meeting after the public hearing is advertised. The facility plan can be approved to receive the grant funding, but that does not mean the project plan will be approved.

Council Member Isaak

The cemetery computer program at City Hall needs to be updated. Windows 11 doesn't work with the current version. The cost is \$1,200 this year and will be \$1,000 per year to maintain it.

The Tree Board met and went through the Tree ordinance. Biles moved to allow the tree ordinance to be updated. Miller seconded. Roll call vote found Biles, Miller, Czywczynski, Lenzen, Mohl and Hoffer in favor. Isaak abstained. Motion passed.

Council Member Czywczynski

The Snow Removal Policy and Emergency Routes are unchanged from last year. Czywczynski moved to approve the snow removal policy and routes as presented. Mohl seconded. Roll call vote found Czywczynski, Mohl, Biles, Isaak, Miller, Lenzen and Hoffer in favor.

Council Member Biles

Transfer Station hours will change to winter hours on November 13. It will be open Monday, Wednesday, and Friday from 12:00 – 5:00 pm.

CITY PERSONNEL

City Auditor

Assessments to be added to property taxes for unpaid invoices were presented. Isaak moved to approve the unpaid invoices be assessed to the properties as presented. Miller seconded. Lenzen questioned one of the low charges. Right now, the city passes on what the city is billed, but it may change next year to add an administrative fee. Roll call vote found Isaak, Miller, Czywczynski, Biles, Lenzen, Mohl and Hoffer in favor.

Hoffer moved to approve the September Financial Reports. Mohl seconded. Roll call vote found Hoffer, Mohl, Czywczynski, Biles, Isaak, Miller and Lenzen in favor.

Lenzen moved to approve the local permit for a raffle for Zion Lutheran WELCA at the church on December 2, 2023. Miller seconded. Roll call vote found Lenzen, Miller, Czywczynski, Biles, Isaak, Mohl and Hoffer in favor.

Public Works Superintendent

They have been leaf sweeping. Sand and salt have been delivered and are ready for winter. The leased loader will be here November 20.

Water/Wastewater Superintendent

They are waiting for wastewater parts to fix a pump.

Economic Development Director

The second round of income surveys is being sent out. The information does not come back to the city, it goes to a separate organization. Beulah Housing Authority loan is being worked on. Beulah and Hazen are being looked at as unmanned Aircraft test sites. There is a ND Petition to Eliminate Property Tax being circulated. Brinkman has asked the NDLC to offer a presentation on the consequences of this. If the Legacy fund is used to replace property taxes, it will be eliminated in 3.5 years.

Oil production is up 20%. The Bakkan is at half of its life. The state needs five times the amount of CO2 it produces currently to provide enhanced oil recovery. The Hydrogen plant will be located in the Dickinson area.

City Assessor/Planner

An application for property tax abatement for Alan Mehrer at 1713 Blackstone Loop E was presented. Lenzen moved to approve the property tax abatement for 1713 Blackstone Loop E. Isaak seconded. The value is based on the current condition of the property. Roll call vote found Lenzen, Isaak, Czywczynski, Biles, Miller, Mohl and Hoffer in favor.

City Engineer

Patching will possibly be completed this month. DOT has a new flex funding program and it will be considered as they look at a bridge in Beulah. The bridge may become eligible for grant money. It was recommended that the city increase its charges on permits for major commercial and industrial improvements to include plan reviews to ensure everything meets code and is safe.

PUBLIC INPUT

Public Comment Policy

The time limit for each person for public input was discussed.

Adam Baker commented on the requests to be put on the agenda. He disagrees with having to provide an exact reason for speaking during public input and doesn't agree that five minutes per

person is enough. Also, limiting public input to six people is not fair if there are more people. Presentations should not be eliminated. Addressing the item instead of the person might not work every time. He stated he would like an open government that involves citizens in the decision-making process. He questioned what dollar amount the police department budget can achieve before it is enough and at what point would the city pay the county to cover Beulah 24/7. At what point will the city say the department head can no longer operate within this budget.

Bruce Neuberger questioned why the change in policy. Cheatley stated the council wants a policy in place to streamline the meeting. Neuberger stated that the council needs to be willing to listen to the residents. He doesn't agree with limiting the time to five minutes per person. Neuberger stated the mayor cannot predetermine what he speaks on. He stated he will not follow the policy if it limits him calling people out by name. He recommended the City Attorney review the policy and questioned if the city is denying his first amendment rights.

Roger Gazur commented that he always liked the policy the council has had and lately there seems to be more demands for input to be heard. There are a number of Attorney General opinions that state the NDCC requires that the public is allowed to attend public meetings but there is no authorization that they be allowed to speak. There are also opinions that state governing bodies can adopt policies to manage public input. He believes there should be a limit on time, but presentations should be allowed. He questioned how to address items that come up during the meeting. The public should be able to question decisions made.

Kurt Zazeski requested a refund of \$211.75 for his open records request and went through communications of that request. He stated that the PD office could have redacted the reports instead of the law office. Isaak stated that sending it to Solem Law Office takes the liability off of the city. Solem stated that they reviewed the extra copies and have determined that the refund for the copies and time would be \$29.82. It was requested that the city look at the technology to redact information. Isaak commented that the city did look into it and the technology cannot do that. Isaak stated that the city should refund the amount of \$29.82.

The Public Input policy will be tabled until the next meeting. Solem stated he did review the policy, which comes from larger cities that have developed policies, and he does not see any First Amendment rights violations in it. It is completely legal for the council to develop a policy to get work done. When a topic is talked about over and over again and the city limits that, it is not a violation. The city needs to conduct orderly meetings to complete business. His legal opinion is there is no violation in the policy.

Hoffer commented that it is the mayor's meeting, and it is his responsibility to run a smooth meeting. There could be a change to allow more time as needed. A presentation could be preapproved by a council member. Solem commented that it isn't productive for people to try to surprise the council with items. Hoffer thanked Cheatley for allowing input on the policy. Biles commented the council requested a policy to streamline meetings and thanked the mayor for listening. There is a chain of command for residents to follow and they may be able to get an answer before coming to a council meeting. Isaak commented that public comment could be at the end of the meeting. Hoffer commented that people might not want to wait until the end of

the meeting. Mohl commented that if the agenda is full there might not be enough time for public input.

The meeting adjourned at 8:51 pm.

A handwritten signature in blue ink, appearing to be 'S. Cheatley', written over a horizontal line.

Sean Cheatley, Mayor

A handwritten signature in blue ink, appearing to be 'Heather Ferebee', written over a horizontal line.

Heather Ferebee, City Auditor