

**MINUTES OF THE REGULAR MEETING
OF THE ZIMMERMAN CITY COUNCIL
MONDAY, MAY 4, 2020**

CALL TO ORDER

The regular meeting of the Zimmerman City Council was called to order at 7:00 p.m. at City Hall by Mayor Stay, followed by the Pledge of Allegiance.

ROLL CALL

Present: Mayor Stay and Council Member Shepherd were present in the Council Chambers. Council Members Bondhus, Frederick, and Whiting were present remotely pursuant to MN Stat. 13D.021, subd 1. Also present were Administrator Piasecki (remote), Clerk/Treasurer Tillmann (remote), Public Works Director Koehler (remote), City Engineer Kevin Bittner (remote) Martha Ingram, Bond Counsel, Kennedy & Graven (remote), and Jessica Green, Municipal Advisor, Northland Securities (remote).

AGENDA APPROVAL

Whiting/Frederick unanimous to approve the agenda as presented.

Roll call on the motion: Bondhus, aye; Frederick aye; Shepard, aye; Stay, aye; Whiting, aye. Motion carried.

APPROVAL OF MINUTES

Bondhus/Shepard unanimous to approve the meeting minutes of the April 20, 2020 Regular Meeting as presented. Roll call on the motion: Bondhus, aye; Frederick, aye; Shepard aye; Stay, aye; Whiting, aye. Motion carried.

CONSENT AGENDA

Whiting/Shepard unanimous to approve the consent agenda as presented as follows:

- a. Approve the payment of claims (check #41955 - #41986) in the amount of \$52,440.24 as presented.
- b. Accept Invoice #249115 as presented by Bolton & Menk in the amount of \$17,188.52 (ck #42024) for engineering and project management services related to the 2020 Morrison Addition Improvement project, for the period of February 22 – April 3, 2020, as recommended by staff.
- c. Approve payment in the amount of \$9,233.12 (ck #42025) to Hawkins, Inc., for bulk chemicals to be used at the Wastewater Treatment Plant as identified on Invoice #4695581, with funds to be paid from SBR budget in the Sewer Fund, as indicated by the Public Works Director.
- d. Approve partial payment to Kodiak Power Systems for the purchase of a Cummins 30kw natural gas generator with extended warranty for Lift #11 as approved by Council on April 6, 2020, and as identified on Invoice #KPS0514 in the amount of \$8,000.00 (ck #42026) to be paid from the Sewer Fund as recommended by staff.

Roll call on the motion: Bondhus, aye; Frederick, aye; Shepard aye; Stay, aye; Whiting, aye. Motion carried.

OPEN FORUM

Wendy Kowalski, 26412 Lake Avenue, Zimmerman, was present remotely to address the Council regarding the Centerpoint Energy Franchise Fee Ordinance. Kowalski stated that she is against Council adoption of the franchise fee ordinance and there is case law to support her point of view. According to Kowalski, the MN Supreme Court ruled against a City who had instituted franchise fees opining that franchise fees are not an authorize exercise of the City's police powers. Kowalski urged Council to review the documentation she provided via fax earlier in the day before acting on the fee ordinance. In her opinion, franchise fees are a tax and not allowed and ultimately the City if passing those fees on to non-profits and churches who are tax exempt.

Kowalski further questioned the consideration of tax abatement bonds for the event center portion of the proposed Fire Hall building. Because the event center side is a business, the District will be paying taxes on that portion since it will be operated as a private entity. She feels it is too expensive and Council should consider only building the Fire Hall portion of the building.

PUBLIC HEARING – Proposed Tax Abatement Bond Financing of Fire District Event Center

Mayor Stay opened the public hearing at 7:15 p.m. Mayor Stay noted that the purpose of the hearing is to consider the proposed issuance of Tax Abatement Bonds to finance the City’s portion of the Event Center as part of the Zimmerman/Livonia Fire District Fire Hall project. The City and Livonia Township have retained Bond Counsel Martha Ingram of Kennedy & Graven, and Municipal Advisor Tammy Omdahl from Northland Securities to lead the City through the bonding process. The District has also retained Mike Schellin and John Brandel of Kodet Architectural Group to design the proposed building.

Mike Schellin introduced himself as the primary Architect on the project. He provided an overview of the full project design and also provided detailed information on the Fire Hall and the Event Center portions of the building.

Martha Ingram introduced herself as Bond Counsel and summarized the proposed Fire District fire hall and event center project, stating that this evening’s hearing was only regarding financing the event center portion of the project. Construction of the event center can be financed using Tax Abatement Bonds if the City authorizes their issuance. The City share of taxes are abated on identified parcels that benefit from the event center, with those abated taxes being used to secure payment for debt service. Statute requires the City levy the tax abatement in an amount equal to 105% of the annual debt service. By law, the City is not allowed to pledge revenue towards paying off bonds.

Due to a scheduling conflict, Jessica Green from Northland Securities was present remotely in Tammy Omdahl’s place as Financial Consultant to answer any questions relating to how the debt is proposed to be structured. Greene stated that the City is limited to a 15-year term on the bond unless the School District or Sherburne County decline to participate in the project as a partner to the abatement. Both ISD 728 and Sherburne County submitted letters to the City declining participation, which allows the City to extend the term on the note to 20 years.

Member Bondhus expressed concerns on the need for the event center portion of the project. Bondhus added it would be a long time before the Fire District is able to recoup the costs, especially due to the current state of the economy caused by COVID-19. Bondhus suggested this may not be the appropriate time to issue additional debt.

Ms. Ingram also explained in detail the Post-Issuance Compliance Procedure and Policy which provides guidance for staff as the bond process is annually reviewed and documented. It outlines the IRS regulations and records required with the issuance of tax-exempt bonds

Mayor Stay closed the hearing at 7:37 p.m.

RESOLUTION 2020-05-01 Shepard/Whiting to adopt RESOLUTION #2020-05-01, approving a property tax abatement for the construction of an event center for the Zimmerman/Livonia Fire District. Roll call on the motion: Bondhus, naye; Frederick, aye; Shepard, aye; Stay, aye; Whiting, aye. Motion carried.

Whiting/Frederick to adopt a Post-Issuance Compliance Procedure and Policy for Tax-Exempt Government bonds as recommended by Kennedy & Graven. Roll call on the motion: Bondhus, naye; Frederick, aye; Shepard, aye; Stay, aye; Whiting, aye. Motion carried.

Ingram, Greene, Schellin and Brandel disconnected remote access and left the meeting.

PUBLIC WORKS REPORT – presented by Public Works Director Keith Koehler

2020 Morrison Improvement Project Update

Engineer Bittner was present remotely to provide an overview of construction activities to date for the Morrison Addition Improvement Project. No action taken.

Pay Request #1 – C & L Excavating

C & L Excavating was contracted to perform the 2020 Morrison Addition Improvement Project and has submitted Pay Request #1 for work completed through April 17, 2020. Bolton & Menk and City staff have reviewed the Pay Request and recommend approval.

RESOLUTION #2020-05-02 Whiting/Frederick unanimous to adopt RESOLUTION #2020-05-02, approving Pay Request #1 in the amount of \$171,168.67 (ck #42027) submitted by C & L Excavating for expenses related to the 2020 Morrison Addition Improvement Project, as recommended by staff and the City Engineer. Roll call on the motion: Bondhus, aye; Frederick, aye; Shepard, aye; Stay, aye; Whiting, aye. Motion carried.

Generator Purchase

Public Works Director Koehler provided information regarding the replacement of a backup generator at Lift Station #7. The City placed a pre-owned diesel generator and transfer switch at Lift Station #7 in 2014. This generator is failing to provide consistent or dependable backup power and needs significant repairs per inspection by Kodiak Power Systems, our contracted generator maintenance provider. Koehler is requesting authorization to purchase and install a 30KW natural gas generator from Kodiak Power Systems at a cost of \$16,000, plus installation and connection fees.

Whiting/Bondhus unanimous to approve the purchase of a Cummins 30KW natural gas generator and extended 5-year warranty from Kodiak Power Systems at a cost of \$16,000, plus third-party installation and connection fees, to be paid from the Sewer Fund. Roll call on the motion: Bondhus, aye; Frederick, aye; Shepard aye; Stay, aye; Whiting, aye. Motion carried.

Portable Radar Signs

Discussion was held regarding the purchase of temporary speed radar signs for use throughout the City.

Whiting made a motion to authorize the purchase of temporary portable speed radar signs at a cost not to exceed \$3,000 total. Koehler reminded Council that Administrator Piasecki has the authority to approve purchases up to \$5,000 under the current purchasing policy. Whiting withdrew his motion.

ADMINISTRATOR'S REPORT – presented by City Administrator Randy Piasecki

Natural Gas Franchise Fee Ordinance

The terms of the CenterPoint Energy franchise ordinance, which was adopted on February 24, 2020, allow the City to collect a franchise fee after adoption of a fee ordinance. The City has provided CenterPoint notice of its intention to adopt a fee ordinance, and the City Attorney has been assisting staff in the development and negotiation of a fee ordinance. Those negotiations resulted in the adoption of Ordinance #336 and the proposed draft fee ordinance currently presented for consideration. Per the term of the Franchise Ordinance, fee collection would begin 90-days after the City provides CenterPoint notice of the fee ordinance adoption.

Staff has recommended that franchise fees collected through this ordinance deposited in the Park Fund for future park improvements. Statute allows the collection of the fees and Council has sole authority on uses of the fee revenue.

Staff recommends a per meter fee for implementation. The fee will be uniformly charged to user accounts defined by CenterPoint based on customer meter type, such as Residential, Commercial, Commercial/Industrial and larger meters. The fees would be charged/collected by CenterPoint to its customers, with quarterly reimbursement to the City. Billing would reflect the franchise fee being collected on behalf of the City. Based upon information provided by CenterPoint, this fee structure should generate approximately \$96,000 annually if applied against accounts existing January 2020. Considering the 90-day notice and implementation period, it would be anticipated the first franchise fees would be applied in September 2020.

Stay/Shepard unanimous to approve Ordinance No. 337, implementing a franchise fee on Centerpoint Energy's natural gas franchise and authorizing publication of a summary ordinance. Bondhus, aye; Frederick, aye; Shepard aye; Stay, aye; Whiting, aye. Motion carried.

MAYOR/COUNCIL ITEMS

Discussion was held regarding the City's current Community Health Declaration considering the COVID-19 pandemic. Council agreed by unanimous consensus to continue to mirror the State of Minnesota's Shelter at Home order for the conduct of City business and extended current city hall operating procedures until May 18, 2020.

Upcoming Meetings and Events

Mayor Stay noted the following:

- ISD 728 continues to offer school lunches for pickup from 11 a.m. – 1 p.m. daily at Zimmerman Elementary School. Families should contact the school district with any questions.
- May 5 – Ruby's Pantry Pop-Up – 4 – 5:30 p.m. at Zimmerman City Park hosted by Restoring Lives Church

Before adjourning, Mayor Stay asked for a moment of silence in honor of US military personnel at home and abroad as well as law enforcement personnel serving in the community.

Frederick/Whiting unanimous to adjourn the meeting at 8:08 p.m. Motion carried.

Approved this 18th day of May 2020.

s/s Kary Tillmann, Clerk/Treasurer