

**APPROVED MINUTES
OF THE CITY COUNCIL
CITY OF EAST GRAND FORKS
TUESDAY, JUNE 2, 2015 - 5:00 P.M.**

CALL TO ORDER:

The Regular Meeting of the East Grand Forks City Council for June 2, 2015 was called to order by Council President Mark Olstad at 5:00 P.M.

CALL OF ROLL:

On a Call of Roll the following members of the East Grand Forks City Council were present: Mayor Lynn Stauss, Council President Mark Olstad, Council Vice-President Chad Grassel, Council Members Clarence Vetter, Mike Pokrzywinski, Craig Buckalew, Henry Tweten, and Marc DeMers.

Dave Aker, Parks & Recreation Superintendent; Karla Anderson, Finance Director; Greg Boppre, City Engineer; Dan Boyce, Water & Light Manager; Nancy Ellis, City Planner; Ron Galstad, City Attorney; Paul Gorte, EDA Director; Mike Hedlund, Police Chief; Gary Larson, Fire Chief; David Murphy, City Administrator/Clerk-Treasurer; Megan Nelson, Executive Assistant; and Jason Stordahl, Public Works Director.

DETERMINATION OF QUORUM:

The Council President Determined a Quorum was present

PLEDGE OF ALLEGIANCE:

OPEN FORUM:

“An opportunity for members of the public to address the City Council on items not on the current Agenda. Items requiring Council action maybe deferred to staff or Boards and Commissions for research and future Council Agendas if appropriate.” If you would like to address the City Council, please come up to the podium to do so.”

Mr. Dale Helms, 613 2nd Ave NE, updated the Council on the flower project and how the planter by the VFW had been planted and that the hanging pots were going to be put up the following day.

APPROVAL OF MINUTES:

1. Consider approving the minutes of the “Regular Meeting” for the East Grand Forks, Minnesota City Council of May 19, 2015.
2. Consider approving the minutes of the “Work Session” for the East Grand Forks, Minnesota City Council of May 26, 2015.

A MOTION WAS MADE BY COUNCIL MEMBER POKRZYWINSKI, SECONDED BY COUNCIL MEMBER BUCKALEW, TO APPROVE ITEMS ONE (1) AND TWO (2).

Council President Olstad stated that there had been a wording change at the end of page five from the work session minutes from running to fixing in regards to the rinks.

Voting Aye: Grassel, DeMers, Vetter, Pokrzywinski, Buckalew, Tweten, and Olstad.

Voting Nay: None.

SCHEDULED BID LETTINGS: NONE

SCHEDULED PUBLIC HEARINGS: NONE

CONSENT AGENDA:

Items under the "Consent Agenda" will be adopted with one motion; however, council members may request individual items to be pulled from the consent agenda for discussion and action if they choose.

3. Consider approving an extension to the East Side Rides Car Club permit to continue to hold a car show on Wednesday evenings from 6:00pm until 8:30pm through the end of June 2015.
4. Consider approving the special event application for Extreme North Dakota Racing for their Bicycle, Orienteering, and Boat Race for June 6, 2015 from 9:00am until 5:00pm contingent upon the certificate of liability being turned in to the Administration Office prior to the race.
5. Consider accepting and ratifying the Recording Fees and Taxes Policy adopted by the Economic Development Authority at the May 5, 2015 Board Meeting.
6. Consider approving the request from the Senior Inc Group to install a patio door at the Senior Center as well as pay for all of the incurred costs for the project.
7. Consider approving the special event application for Northern Star Cycling Club for their Time Trial Bicycle Race to be held on the evenings of June 11th, June 25th, July 9th, and July 23rd from 6:30pm until 8:30pm contingent upon the certificate of liability being turned into the Administration Office prior to the race.

A MOTION WAS MADE BY COUNCIL MEMBER TWETEN, SECONDED BY COUNCIL MEMBER GRASSEL, TO APPROVE ITEMS THREE (3) THROUGH SEVEN (7).

Ms. Nelson stated that she was still waiting on insurance from Extreme North Dakota Racing but was told she should receive it within a day or two. She added that the time trial event might be held outside of city limits but if something changed they would need to turn in their insurance to host the event within the City.

Voting Aye: Grassel, DeMers, Vetter, Pokrzywinski, Buckalew, Tweten, and Olstad.

Voting Nay: None.

ACKNOWLEDGE RECEIPT OF REPORTS OF OFFICERS, BOARDS, AND COMMISSIONS:

8. Regular meeting minutes of the Water, Light, Power, and Building Commission for May 7, 2015.

COMMUNICATIONS:

9. Acknowledge the retirement of Stuart Kovar from the Public Works Department and for his 36 plus years of service to the City.

Mr. Kovar said thanks and told the Council it had been one heck of a ride. The Council thanked him for his service. Mayor Stauss thanked Mr. Kovar for this service to the City and hopes Mr. Kovar enjoys his retirement.

OLD BUSINESS:

10. Consider adopting Ordinance No. 13, 4th Series amending City Code Chapter 130 Entitled “General Offenses” by adding section 130.08 and by adopting by reference City Code Chapter 1 and section 10.99 which, among other things, contain penalty provisions. (2nd Reading)

A MOTION WAS MADE BY COUNCIL MEMBER POKRZYWINSKI, SECONDED BY COUNCIL MEMBER DEMERS, TO ADOPT ORDINANCE NO. 13, 4TH SERIES AMENDING CITY CODE CHAPTER 130 ENTITLED “GENERAL OFFENSES” BY ADDING SECTION 130.08 AND BY ADOPTING BY REFERENCE CITY CODE CHAPTER 1 AND SECTION 10.99 WHICH, AMONG OTHER THINGS, CONTAIN PENALTY PROVISIONS. (2ND READING)

Voting Aye: Grassel, DeMers, Pokrzywinski, Buckalew, Tweten, and Olstad.

Voting Nay: Vetter.

11. Reconsider approving the “On-sale Weekday & Sunday” Liquor License Renewal for the Boardwalk Bar & Grill located at 415 2nd St NW Suite 2 East Grand Forks, MN 56721 by the adoption of Resolution No. 15-06-60 setting conditions for the next renewal process.

Council President Olstad stated discussion will be on the liquor license only.

A MOTION WAS MADE BY COUNCIL MEMBER TWETEN, SECONDED BY COUNCIL MEMBER POKRZYWINSKI, TO APPROVE THE “ON-SALE WEEKDAY & SUNDAY” LIQUOR LICENSE RENEWAL FOR THE BOARDWALK BAR & GRILL LOCATED AT 415 2ND ST NW SUITE 2 EAST GRAND FORKS, MN 56721 BY THE ADOPTION OF RESOLUTION NO. 15-06-60 SETTING CONDITIONS FOR THE NEXT RENEWAL PROCESS.

Ms. Jane Moss thanked the Council for allowing her to speak and explained that she was a shareholder in the Boardwalk Bar & Grill. She said how she had been the operating manager at the Boardwalk Bar & Grill for the last six years and explained how this license issue has hurt her business and employees. She asked Council member DeMers if the Boardwalk Bar & Grill loans were current with the EDA. Council member DeMers stated the loans specific to the Boardwalk Bar & Grill were current. She continued explaining how the article in the paper questioning the character of the owners and how that has now raised concerns with their creditors and vendors. She then played a part of one of the closed meetings which are now open to the public. After the recording was played she asked the Council if it was their intention to put something on the agenda every six months to remind the public that they are bad people. Council member DeMers said no.

Ms. Moss said how it had been stated her character was bad. Council member DeMers asked if she was the only proprietor. Ms. Moss stated she was one of the owners and that he had damaged her character when he said the proprietors because he never stated names. She went on to say the license was for Boardwalk Bar & Grill, not Boardwalk Enterprises, and how they are separate entities. She explained how they have received many phone calls and emails from clients regarding upcoming receptions and if they are able to have liquor served at them. She continued stating the City did not have a reason to deny the license and informed the Council the sales tax is always paid on time, and that Boardwalk Bar & Grill paid over \$2 million in payroll over the last six years.

Ms. Moss said that Council member DeMers said on the radio that he wants their business to be successful. She asked when the last time he had been in there or invited anyone in there lately. Council member DeMers said not recently. She added that he needs to show the people that is what he means. She said there were many faxes, emails, and phone calls from clients and how this issue has killed their business because of a vendetta against Boardwalk Enterprises. Ms. Moss then read an editorial written by a retired Hallock City Clerk stating how much hurt that can be caused when a business or individuals names are brought forward at a meeting. Ms. Moss stated how Boardwalk Bar & Grill is being held hostage because of a vendetta against Boardwalk Enterprises.

Mr. Jon Brakke said that he represented the Boardwalk. He stated the suggested conditions for the renewal of the Boardwalk's liquor license are without support from the City Code, recited section 117.03 subpart B, and stated the problem the debt the City is trying to collect is owed to the East Grand Forks Economic Development Association (EDA). He explained that Minnesota State Statute states the EDA and the City are independent legal entities and how it was the EDA who has the right to pursue recovery on the loan. He continued by saying he had seen the letter from the City Attorney, reviewed the Supreme Court case decision referenced in the letter was because of an ambiguous agreement, and stated how this situation was not the same. Mr. Brakke explained how the City Code defines the City only as the City and no reference to the EDA. He said there was another difficulty with relying on the statute since the applicant is not the entity that is alleged to have owed a debt to the EDA and how the Council is being asked to rely on a code section that does not support the conditions being suggested in the resolution.

Mr. Brakke continued by stating the Boardwalk understands the Council's frustration with the EDA and how they are equally frustrated. He went on to say that the action being contemplated is not constructive and if the City approves a one year conditional license the Boardwalk's event business may be harmed in a devastating fashion. He stated the loss of that revenue may force the Boardwalk to close which would lose both the City and State tax revenues, loss of jobs, and how the current loans with the Boardwalk Bar & grill will not get paid. He asked the Council what the advantages were for the City and residents of the City. He said the Boardwalk would like to come to a resolution and how this was not the way to do that. He said there had been a negotiating committee, settlements were discussed, and a counter-proposal was brought forward by the City without support. He said the conditions imply the City would like to negotiate but tying it to the liquor license is at the point of a sword. He stated if the City and EDA were sincere in wanting to negotiate there shouldn't be conditions. He said if the City is sincere about trying to getting this matter resolved the Boardwalk is ready, willing, and able. He added the last thing he had been told by Mr. Sinclair, the City's Attorney was that the City was not going to take further action so negotiations would not be continued. He stated a resolution could be passed without conditions that doesn't threat the Boardwalk, preserves their ability to keep paying on the loans, or if the resolution was passed it would send a message to the public using the press as a proxy. He said the Boardwalk is encouraging the City to approve the license without conditions and then get back to

fair negotiations.

Mr. Dale Helms stated what had been said makes sense and how some on the campaign trail stated they were going to get the \$510,000 back. He told the Council that they need to get together with the Boardwalk and get this handled. He added how the motion had been made to leave this alone but it keeps getting brought back up and asked what good was it to make a motion if the Council doesn't abide by it.

Council member Pokrzywinski stated he would like to respond. He stated that was he felt the community who voted for him would and expect to get the loan paid back. He said he knows they won't get the full amount back and how there is a disagreement about what the payback number should be. He added he would like nothing more than to get this issue resolved and if the offer to start negotiating again was sincere he said they were looking for was a good faith sign to try and resolve this. Council member Pokrzywinski said he didn't want to put anyone out of business. He stated how this does not get brought up every week but this came up because of the license renewal and how he hopes this can be resolved for the good of everyone. He asked Mr. Galstad with the information brought forward by Mr. Brakke if he stands by his recommendation. Mr. Galstad stated he followed up with both Mr. Sinclair and the Legal Department of the League of Minnesota Cities and this is an issue he believes the City has a legal standing.

Mr. George Kelly, 921 10 Ave SE, stated he urged the Council to defeat the resolution before them. He stated he was a resident of the City as well as co-owner of Dakota Harvest Bakers who is a vendor for the Boardwalk Bar & Grill. He stated that they had never been late on a payment and had been a pleasure to work with as well as being a friend. He told the Council they are making a fundamental mistake with confusing the Boardwalk Bar & Grill with Boardwalk Enterprises. He said as a citizen of East Grand Forks he is concerned about the loan and how all parties have made mistakes in the handling of this affair. He stated he wanted to make clear is that the people he has worked with from Boardwalk Bar & Grill are people of good character, been a pleasure to work with, and by tying these separate entities together it is threatening the livelihood of one of the entities and does not send a good message to the region that East Grand Forks promotes and welcomes business. He urged the Council to defeat the resolution on the floor and renew the license without conditions.

Council member Buckalew asked Mr. Brakke based on his statements that the group he represents is willing to negotiate or seek one of the four options that were outlined to resolve this matter. Mr. Brakke stated they don't want to have to do it at the point of a sword and if the resolution is passed they will have to sue because they believe the resolution is fundamentally improper under the City Code. He added they don't want to have to sue because they will all be diverted which would waste time and effort. He asked to have the liquor licensed passed without conditions and get back to the bargaining table. He added that the Council has his assurance they are sincere. Council President Olstad commented that he had spoken with Mr. Galstad, reviewed the information, and it was his opinion that he was not in favor of approving the license with conditions but just renewing the license. He stated this needs to move forward and that he appreciates the comments from everyone.

Voting Aye: DeMers, Vetter, Pokrzywinski, and Tweten.

Voting Nay: Grassel, Buckalew, and Olstad.

NEW BUSINESS:

12. Consider approving Ordinance No. 14, 4th Series amending City Code Title XV Land Usage by adding Section 154 to create Urban and Rural Service Districts in the City of East Grand Forks Pursuant to Minnesota Statute 272.67. (1st Reading)

A MOTION WAS MADE BY COUNCIL MEMBER DEMERS, SECONDED BY COUNCIL MEMBER GRASSEL, TO APPROVE ORDINANCE NO. 14, 4TH SERIES AMENDING CITY CODE TITLE XV LAND USAGE BY ADDING SECTION 154 TO CREATE URBAN AND RURAL SERVICE DISTRICTS IN THE CITY OF EAST GRAND FORKS PURSUANT TO MINNESOTA STATUTE 272.67. (1ST READING)

Ms. Nelson explained to the Council Mr. Galstad recommended setting the ratio at 20% and that the blank would be filled in on the ordinance for the next meeting. Mr. Galstad stated he had spoken with Mr. Rob Wagner, the County Assessor, and how it was suggested to set the tax rate at a 20% ratio for the agricultural land would be very similar to what the property owner was currently paying in taxes. He added that once the land was developed it would then be taxed at the urban or City's tax rate.

Voting Aye: Grassel, DeMers, Vetter, Pokrzywinski, Buckalew, Tweten, and Olstad.

Voting Nay: None.

13. Consider adopting Resolution No. 15-06-58 approving the amendment to the waste water facility plan and moving forward with the interconnect project.

A MOTION WAS MADE BY COUNCIL MEMBER DEMERS, SECONDED BY COUNCIL MEMBER BUCKALEW, TO ADOPT RESOLUTION NO. 15-06-58 APPROVING THE AMENDMENT TO THE WASTE WATER FACILITY PLAN AND MOVING FORWARD WITH THE INTERCONNECT PROJECT.

Council member Tweten asked Mayor Stauss if he was going to veto this resolution. Mayor Stauss asked to hear the discussion. Council member Tweten stated there were problems, the City was moving ahead prematurely, how there are problems with the Minnesota Pollution Control Agency, and how the MPCA has made this very difficult. Discussion followed about how there are other cities that have issues with the MPCA. Mayor Stauss commented how any other project would put too much on the taxpayer and that he will support the interconnect. Council Vice-President Grassel stated this had been a hot topic when he ran for Council and how the other projects cost too much. He added that he would be voting for the interconnect.

Council member Vetter commented how the people that have talked with him wanted to keep control and how it is hard to tell what MPCA will require in the future. He mentioned how large the lagoons were already and asked if the City kept growing how much bigger would they have to get. He stated this project is based on 30 years so at the end of 30 years it could be reviewed again to see what would be best for the City. He stated how the current COSA has the City paying over \$500,000 per year and is projected to be over a million dollars at the end of 30 years. He said there was a lot of work left on the COSA to try and bring the costs down. Council President Olstad commented how the representatives from Grand Forks had been open and willing to work with East Grand Forks on this project and COSA. Mr. Boppre stated that he will be looking into the different options for the interconnect to see what would be the most cost effective for the City. Council member Pokrzywinski stated how this had been a

long, hard fought issue and thanked everyone for their work on this process.

Voting Aye: Grassel, DeMers, Vetter, Pokrzywinski, Buckalew, Tweten and Olstad.

Voting Nay: None.

14. Consider adopting Resolution No. 15-06-59 accepting and awarding the bid for 2015 City Project No. 3 – Sidewalk Improvements to R.J. Zavoral and Sons in the amount of \$75,241.85.

A MOTION WAS MADE BY COUNCIL MEMBER POKRZYWINSKI, SECONDED BY COUNCIL MEMBER BUCKALEW, TO ADOPT RESOLUTION NO. 15-06-59 ACCEPTING AND AWARDING THE BID FOR 2015 CITY PROJECT NO. 3 – SIDEWALK IMPROVEMENTS TO R.J. ZAVORAL AND SONS IN THE AMOUNT OF \$75,241.85.

Council member Tweten asked to call the question.

Voting Aye: Pokrzywinski, Buckalew, Tweten and Olstad.

Voting Nay: Grassel and Vetter.

Abstain: DeMers.

CLAIMS:

15. Consider adopting Resolution No. 15-06-61 authorizing the City of East Grand Forks to approve purchases from Hardware Hank the goods referenced in check numbers 21639 for a total of \$475.92 whereas Council Member Buckalew is personally interested financially in the contract.

A MOTION WAS MADE BY COUNCIL MEMBER GRASSEL, SECONDED BY COUNCIL MEMBER TWETEN, TO ADOPT RESOLUTION NO. 15-06-61 AUTHORIZING THE CITY OF EAST GRAND FORKS TO APPROVE PURCHASES FROM HARDWARE HANK THE GOODS REFERENCED IN CHECK NUMBERS 21639 FOR A TOTAL OF \$475.92 WHEREAS COUNCIL MEMBER BUCKALEW IS PERSONALLY INTERESTED FINANCIALLY IN THE CONTRACT.

Voting Aye: Grassel, DeMers, Vetter, Pokrzywinski, Tweten and Olstad.

Voting Nay: None.

Abstain: Buckalew.

16. Consider authorizing the City Administrator/Clerk-Treasurer to issue payment of recommended bills and payroll.

A MOTION WAS MADE BY COUNCIL MEMBER TWETEN, SECONDED BY COUNCIL MEMBER GRASSEL, TO AUTHORIZE THE CITY ADMINISTRATOR/CLERK-TREASURER TO ISSUE PAYMENT OF RECOMMENDED BILLS AND PAYROLL.

Voting Aye: Grassel, DeMers, Vetter, Pokrzywinski, Buckalew, Tweten and Olstad.

Voting Nay: None.

COUNCIL/STAFF REPORTS:

Mayor Stauss said he never talks about the Boardwalk and wanted to mention something. He stated that

we as a City did a poor job with this. He said it shouldn't have gone in the paper first; a meeting should have been set up between the City and the Boardwalk, but that didn't happen. He said that someone had gone to the press without talking to them first and he tried to figure out who had gone to the press. He added that wasn't the way a bill should be discussed; that both sides should have come together, and determine how it is to be settled. He said there are legitimate bills that are against the City which will have to settle and how this will more than likely end up in court. He ended by saying this was handled totally wrong. He added there were so many other loans that have never been brought forward and at some point they will have to be brought forward.

Council Member Vetter congratulated Mr. Kovar and wished him good luck on retirement.

Council Member Pokrzywinski congratulated Mr. Kovar on his long dedicated service to the City and commented on the recent improvements being done at the movie theater and if anyone had a chance to go and take a look. He applauded Mr. Helms for the flowers. He stated that he appreciates the work that is being done and the people would greatly appreciate the work both he and the mayor had done. Mayor Stauss mentioned none of the flower beds will be done because they had to go out and hire people to take care of the flowers and because of the higher costs of the flower beds will not be done this year because they were not allowed to use seasonal help hired by the City or City equipment.

Council Member Buckalew thanked Mr. Kovar for his many years of service which including fighting floods. He added how long term employees of the City made that seamless and hats off to all employees who have been at the City a long time that have the knowhow to get things done. He thanked him again for his service. He said the second thing was he would like to try and meet with the Boardwalk Enterprise group to try and resolve this issue as soon as possible which would be in the best interest of everyone involved.

Council Member DeMers congratulated Mr. Kovar on his retirement, how this was a special city, and he had something to do with that.

Council Member Grassel congratulated and thanked Mr. Kovar for everything he had done over the years.

Council Member Olstad thanked Mr. Kovar for everything he had done over the years and how much it was appreciated.

Mr. Murphy informed the Council the renovation had started at the Civic Center and that the pool renovation was set to start within a couple weeks.

Mr. Galstad thanked Mr. Kovar and stated it was a pleasure working with him.

Mr. Boyce told the Council that Mr. Scott Gravseth retired after 37 years of working for Water and Light. He added that Mr. Jeff Olson was the new Distribution Superintendent and how both had been there over 30 years which shows how they are a dedicated group of individuals to the City. He said that he will miss Mr. Kovar, he will miss Mr. Gravseth, and that he is glad to still have Mr. Olson working for him.

ADJOURN:

A MOTION WAS MADE BY COUNCIL MEMBER TWETEN, SECONDED BY COUNCIL MEMBER POKRZYWINSKI, TO ADJOURN THE JUNE 2, 2015 COUNCIL MEETING OF THE EAST GRAND FORKS, MINNESOTA CITY COUNCIL AT 6:02 P.M.

Voting Aye: Grassel, DeMers, Vetter, Pokrzywinski, Buckalew, Tweten and Olstad.

Voting Nay: None.

David Murphy, City Administrator/Clerk-Treasurer