

**APPROVED MINUTES
OF THE CITY COUNCIL
CITY OF EAST GRAND FORKS
TUESDAY, NOVEMBER 15, 2016 – 5:00 PM**

CALL TO ORDER:

The Regular Meeting of the East Grand Forks City Council for November 15, 2016 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.

Karla Anderson, Finance Director; Dan Boyce, Water & Light Manager; Nancy Ellis, City Planner; Steve Emery, City Engineer; Ron Galstad, City Attorney; Paul Gorte, Economic Development Director; Charlotte Helgeson, Library Director; Reid Huttunen, Parks and Recreation Superintendent; Gary Larson, Fire Chief; David Murphy, City Administrator/Clerk-Treasurer; Keith Mykleseth, Water & Light Manager; Megan Nelson, Executive Assistant; and Jason Stordahl, Public Works Director.

DETERMINATION OF A 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.”

APPROVAL OF MINUTES:

1. Consider approving the minutes of the “Regular Meeting” for the East Grand Forks, Minnesota City Council of November 1, 2016.
2. Consider approving the minutes of the “Work Session” for the East Grand Forks, Minnesota City Council of November 8, 2016.

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

*Voting Aye: Buckalew, Tweten, Olstad, Grassel, DeMers, Vetter, and Pokrzywinski.
Voting Nay: None.*

SCHEDULED BID LETTINGS: NONE**SCHEDULED PUBLIC HEARINGS:**

3. Public Hearing regarding the special assessments for 2016 Assessment Job No. 1 – Street Improvements for a total assessment of \$705,563.31.

A MOTION WAS MADE BY COUNCIL MEMBER DEMERS, SECONDED BY COUNCIL MEMBER VETTER, TO OPEN THE PUBLIC HEARING.

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

Voting Nay: None.

Mr. Steve Emery explained that he along with Mr. Bail and Mr. Fanfulik were at the meeting to answer questions about the project. He stated how this was the second year of the three year street improvement project. He reviewed how assessments were figured on the shortest dimension of a lot, how both front and end benefits were figured using that dimension, and then turned it over to Mr. Bail to review how assessments were calculated.

Mr. Bail informed the group that the system that is used was established to maintain consistence and to try and treat everyone as fairly as possible. He added how assessments are a method used to pay for projects. He reviewed an example of how a lot would be assessed, how the assessment rate is figured, and how the footage used is based on the shortest side of the lot. He also explained how the footage for irregular lots are calculated and assessed. He ended by saying he would be happy to answer any questions. Council President Olstad requested any resident that would like to address the Council to step up to the podium and state their name and address for the record.

Mr. Emery reviewed the assessment rates. He stated for the seal coat project the estimated cost was \$370,648 with the actual cost ending up at \$284,208.78. He added that the assessment rate for front benefit ended up being \$9.77 for front benefit and \$3.25 for end benefit which is a third of the cost of the front end benefit. He then continued on with the costs of the mill and overlay project. He stated that the estimated cost for this portion of the project was \$488,558 with the actual costs ending up at \$421,354.53. He explained the assessment rates ended up at \$60.58 for front benefit and \$20.19 for end benefit. He added how the assessments can either be paid in full and that partial payments were allowed until December 15th otherwise it would be assessed on the property for the next seven years at 4.5%. He then asked for questions.

Mr. Don Coulter, 512 7th Ave SE, stated that he was affected by a mill and overlay project. He commented that he objected at first but then decided it was needed. He asked if the engineers were satisfied with how the job was done and if there was any kind of warranty. Mr. Bail stated the project was completed as it has been done before and that they haven't had issues with the roads once they were redone. Mr. Emery added that there was a one year warranty which is standard in the industry for these kinds of projects. Mr. Coulter asked about both the mill and overlay and seal coat projects. Mr. Emery explained how every seven to ten years there is maintenance done to bituminous roads and how the maintenance alternates between seal coat and mill and overlay. Mr. Coulter commented that he also had questions about the round-a-bout. Council President Olstad stated that was going to be discussed at

another meeting. Mr. Coulter asked about making payments on the assessments. Ms. Nelson explained that if the amount was assessed and added to the property tax statement, the installment would have to be collected by the County. She added that each year property owners would have the chance to pay off the remaining balance in full before the end of November, that they would be able to do so at the City, and if they had any questions to contact her in the Administration Office.

The pastor from the Reform Church located at 712 6th Ave SE stated they had received a letter informing them they were going to be assessed for the street project. He asked the Council to correct him if he was wrong and said that he didn't think that churches were assessed. Mr. Murphy said churches could be assessed. The pastor then continued saying that the amount they were to be assessed was over \$15,000 which is almost the whole year's income. He asked if there was any leeway or forgiveness for churches or non-profit group. Mr. Galstad said the special assessment could be paid over time and that they wouldn't have to pay it in full up front. He added that there aren't any special considerations for churches or non-profits included in the city code.

Alesha Coleman, 1622 7th Ave NW, explained her property was affected by a seal coat and that it was better to drive on before the project was completed. She stated that there is gravel everywhere still and that there are drag marks in the road. She added she wanted to make sure this was done correctly. Mr. Emery stated that he would stop over and take a look at the road.

A MOTION WAS MADE BY COUNCIL MEMBER BUCKALEW, SECONDED BY COUNCIL MEMBER DEMERS, TO CLOSE THE PUBLIC HEARING.

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

Voting Nay: 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.

4. Consider approving the Exempt Gambling Permit Application for Sacred Heart to hold a raffle at Sacred Heart Church located at 200 3rd St NW on January 28, 2017 and to waive the 30 day waiting period.
5. Consider approving the Exempt Gambling Permit Application for the Knights of Columbus Council #5341 to hold a raffle at Sacred Heart Church located at 200 3rd St NW on April 1, 2017 and waive the 30 day waiting period.
6. Consider approving the Parade Application for the Downtown Development Association for the Hollydazzle Parade on November 27, 2016 from 6:00pm to 7:00pm.
7. Consider approving the Site Use Agreement between the City of East Grand Forks and Lutheran Social Services for the use of the kitchen facilities at the East Grand Forks Senior Center for 2017.

A MOTION WAS MADE BY COUNCIL MEMBER TWETEN, SECONDED BY COUNCIL MEMBER DEMERS, TO APPROVE ITEMS FOUR (4) THROUGH SEVEN (7).

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

Voting Nay: None.

ACKNOWLEDGE RECEIPT OF REPORTS OF OFFICERS, BOARDS AND COMMISSIONS:

8. Regular minutes of the Economic Development Authority Board for October 18, 2016.
9. Regular minutes of the Water, Light, Power, and Building Commission for October 20, 2016.

COMMUNICATIONS: NONE

OLD BUSINESS:

10. Consider adopting Resolution No. 16-10-102 approving the denial of the variance application for the property located at 606 21st St NW.

A MOTION WAS MADE BY COUNCIL MEMBER DEMERS, SECONDED BY COUNCIL MEMBER TWETEN, TO ADOPT RESOLUTION NO. 16-10-102 APPROVING THE DENIAL OF THE VARIANCE APPLICATION FOR THE PROPERTY LOCATED AT 606 21ST ST NW.

Ms. Ellis reviewed the RCA which stated a porch with a roof was built onto the front of a duplex, it is considered an addition, and it does not meet the front yard setback. She explained before a permit could have been issued for this addition they should have applied for a variance. She continued saying there are three factors when considering a variance. She stated the first factor was if the property owner proposed to use the property in a reasonable manner which the use was reasonable for the zoning but the request to vary from the setback was not and that they started the project without a permit. She said the second factor was if the land owner had a problem due to circumstances unique to the property not caused by the landowner and there are no conditions unique to this property. She stated the third factor is if it would not alter the essential character of the locality. Ms. Ellis explained that the request would not alter the look or the feel of the neighborhood. Ms. Ellis reviewed other items that are used when considering a variance. She said based on these things she has recommended the denial of the variance based on how she is required to interpret the zoning ordinances. She added how the Council proceeds is up to the Council. She added that the Council will need to provide findings of fact for why it is either approved or denied and then asked if there were any questions.

Council member Buckalew asked if the setback is the problem. Ms. Ellis said the front yard setback was the problem. Council member Buckalew asked what the setback was. Ms. Ellis stated it was a 30 foot setback from the property line which is not at the back of the curb. She explained that in older neighborhoods the property line is 19 feet back from the curb which is where the 30 foot setback would be measured from and that is where the structure should be located. She added that stairways and landings or anything that is needed to get into the building provided that is less than 36 inches in height with the exception of a railing have been given permission to go closer than the 30 feet. She stated that once the roof was added on this project everything is then connected and it then turns it into an addition. Council member Buckalew asked how many feet it went into the setback. Ms. Ellis said because the road curves part of it is around eight feet but some of it may be less than that. Council member Buckalew commented the part he has a hard time with is that the roof that extends over the walkway

seems prudent so ice and snow stay off this area. He added how the roof seems to be the problem. Discussion followed about looking at standards, how pitched roofs have been allowed, and typically stairways and landings that have been granted haven't extended the entire length of the house. Ms. Ellis said what they are doing is reasonable but it was the adherence to the ordinance that she was looking at. Council member Pokrzywinski commented that one problem is that this variance request came forward after the structure was built and asked if that was correct. Ms. Ellis said that was correct. Council member Pokrzywinski stated how there are codes that need to be enforced and regulations were violated. He added that he will be voting to go along with the denial.

Mr. Randy Boushey, Planning and Zoning Commissioner, explained that the commission recommended denying the variance. He stated that there were circumstances that could have been misunderstood regarding this whole process and is the only reason why the project moved forward. He commented how Mr. Scheving went in with a list of things to get a permit for and left with none. He added how part of the job of the permit office is to help facilitate things with the homeowners so they are able to leave with a building permit. He continued saying there were a number of misunderstandings, portions of the projects cannot be done this time of year, that the deck would have been approved without the roof, and that the Council shouldn't be debating an issue about a permit in November when it was applied for in April. He added how the City Council should look at this from all point of views. Discussion followed about how this process could have been done differently, how it is a misunderstanding, and how Mr. Scheving would like to do what it will take to make this right. Mr. Boushey stated that they should be fined for building without a permit but also given an opportunity to get the variance. He asked to have the building inspector complete an inspection on the structure. Council member Pokrzywinski stated that a building inspector is sent to inspect something when a permit is issued and that Mr. Boushey is speaking for the minority of the Planning and Zoning Commission since a majority recommended denying the variance. Mr. Boushey said that was correct but there were two members of the Planning and Zoning Commission present that could also speak on the issue.

Council President Olstad asked when this project was found if the roof was on the deck at that time. Mr. Bail stated that they were in the process of working on the roof at that point but the deck portion was done. Council President Olstad asked if the roof hadn't been included if there wouldn't be an issue. Ms. Ellis said that was correct. Council President Olstad continued asked if the variance is denied what the process would then be. Mr. Bail stated if it was denied the property owners would be asked to remove the roof. Mr. Galstad stated that they could be asked to voluntarily or have an action brought against them to remove the roof but the decision could be appealed in court. Council President Olstad asked Mr. Scheving how he would proceed if the variance is denied. Mr. Scheving stated that he would appeal it. Council member DeMers commented that many other things have been brought up today but what the Council needs to focus on is if the structure passes the test for an issuance of a variance. He stated that it does pass on some but fails on others. He added how it fails the variance test, to disregard the other items, and urged them to vote for the denial of the variance. Ms. Ellis reminded the Council she only makes recommendations and the Council can vote on the matter however they choose.

Mr. Roger Scheving stated that his son owns the property and that he was the person who had applied for the building permit. He explained that their intent was to improve the property and not to do anything against the City. He stated the front porch was bad, it was torn off, and that it needed to be replaced immediately. He continued saying that part of the porch would be allowed as it has other

places, and that there is only two feet more of an overhang compared to the neighbors. He said part of the rules is to ask if it benefited the community or neighborhood and that is all they tried to do. He ended by saying they weren't trying to do anything that wouldn't be beneficial to the City or neighborhood.

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

Voting Nay: Grassel and Vetter.

NEW BUSINESS:

11. Consider adopting Resolution No. 16-11-117 adopting assessment roll #338 for 2016 Assessment Job No. 1 – Street Improvements for a total assessment of \$705,563.31.

A MOTION WAS MADE BY COUNCIL MEMBER DEMERS, SECONDED BY COUNCIL MEMBER TWETEN, TO ADOPT RESOLUTION NO. 16-11-117 ADOPTING ASSESSMENT ROLL #338 FOR 2016 ASSESSMENT JOB NO. 1 – STREET IMPROVEMENTS FOR A TOTAL ASSESSMENT OF \$705,563.31.

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

Voting Nay: None.

12. Consider approving the request to start the hiring process to hire two individuals to fill the vacancies within the Public Works Department Wastewater/Stormwater division.

A MOTION WAS MADE BY COUNCIL MEMBER DEMERS, SECONDED BY COUNCIL MEMBER VETTER, TO APPROVE THE REQUEST TO START THE HIRING PROCESS TO HIRE TWO INDIVIDUALS TO FILL THE VACANCIES WITHIN THE PUBLIC WORKS DEPARTMENT WASTEWATER/STORMWATER DIVISION.

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

Voting Nay: None.

13. Consider adopting Resolution 16-11-118 approving the variance application of the City of East Grand Forks for three driveway accesses along 23rd Street NW.

A MOTION WAS MADE BY COUNCIL MEMBER POKRZYWINSKI, SECONDED BY COUNCIL MEMBER BUCKALEW, TO ADOPT RESOLUTION 16-11-118 APPROVING THE VARIANCE APPLICATION OF THE CITY OF EAST GRAND FORKS FOR THREE DRIVEWAY ACCESSSES ALONG 23RD STREET NW.

Council Vice-President Grassel asked how this would affect state aid for that road. Ms. Ellis stated that it does not affect it at all. She explained how they had previously gone over this, it hadn't been pointed out that there are access easements to these lots, that this had been an oversight, and that it should have been completed back in 2004. She said everything is in place for utilities and this was just cleaning up what has been missed. Council Vice-President Grassel commented how they had reviewed different ways to make this work and asked if that was a waste of time. Ms. Ellis said they had tried different

things but none worked well so that is why they are going forward with these accesses.

Council member DeMers commented that the Planning and Zoning Commission had recommended passing this on. He added he voted against this, that access management has been set up for this corridor, and adding these accesses would be a detriment to the corridor. He stated that this is now at the Council's discretion and he doesn't believe the best use for these parcels best used for residential property. Ms. Ellis said she had received comments from two landowners that had been notified about this with one being in favor and the other was against it. Council President Olstad commented how this has always been this way and correcting the error is the proper thing to do.

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

Voting Nay: Grassel and DeMers.

14. Canvass/Declare City Election Results – Consider adopting Resolution No 16-11-120 declaring the results of the General Election returns for the November 8, 2016 City Elections for the City of East Grand Forks, Minnesota.

A MOTION WAS MADE BY COUNCIL MEMBER DEMERS, SECONDED BY COUNCIL MEMBER GRASSEL, TO ADOPT RESOLUTION NO 16-11-120 DECLARING THE RESULTS OF THE GENERAL ELECTION RETURNS FOR THE NOVEMBER 8, 2016 CITY ELECTIONS FOR THE CITY OF EAST GRAND FORKS, MINNESOTA.

Ms. Nelson asked the Council to review the abstract information, commented how some things had to be double checked the day before, and that she would answer any questions.

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

Voting Nay: None.

15. Consider approving the Special Event Application for the Downtown Development Association for the Hollydazzle Events on November 27, 2016.

A MOTION WAS MADE BY COUNCIL MEMBER GRASSEL, SECONDED BY COUNCIL MEMBER DEMERS, TO APPROVE THE SPECIAL EVENT APPLICATION FOR THE DOWNTOWN DEVELOPMENT ASSOCIATION FOR THE HOLLYDAZZLE EVENTS ON NOVEMBER 27, 2016.

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

Voting Nay: None.

CLAIMS:

16. Consider adopting Resolution No. 16-11-119 authorizing the City of East Grand Forks to approve purchases from Hardware Hank the goods referenced in check numbers 25375 for a total of \$596.23 whereas Council Member Buckalew is personally interested financially in the contract.

A MOTION WAS MADE BY COUNCIL MEMBER TWETEN, SECONDED BY COUNCIL

MEMBER POKRZYWINSKI, TO ADOPT RESOLUTION NO. 16-11-119 AUTHORIZING THE CITY OF EAST GRAND FORKS TO APPROVE PURCHASES FROM HARDWARE HANK THE GOODS REFERENCED IN CHECK NUMBERS 25375 FOR A TOTAL OF \$596.23 WHEREAS COUNCIL MEMBER BUCKALEW IS PERSONALLY INTERESTED FINANCIALLY IN THE CONTRACT.

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

Voting Nay: None.

Abstain: Buckalew.

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

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

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

Voting Nay: None.

COUNCIL/STAFF REPORTS:

Mayor Stauss commented how weather was suppose to change and asked if Public Works was ready to go. Mr. Stordahl said they were.

Council Member Buckalew congratulated the winners of the election and said thanks to those who are willing to serve the community and local government. He commented that he has enjoyed his time, learned a lot from it, and is looking forward to warmer weather. He added that he appreciates the variance process; he understands why it is in place, but that they don't have the ability to imagine all of the different scenarios that may come up. He stated he was disappointed the process got this far, that city staff is willing to work with people on projects, and if there is something that is not going to work staff is good at suggesting what a good alternative might be. He encouraged people to use resources wisely in the future instead of having the Council deny a variance request because of statutory issues.

Council Member Tweten commented that Council member Buckalew is retiring to young and there is a lot more to do.

Council Member DeMers asked if the Council will be reviewing the budget before its final approval. Mr. Murphy stated it will be reviewed at the next work session. Council member DeMers asked to receive a copy of the preliminary budget for review.

Council Vice-President Grassel asked if there had been a discussion about the number of deer living in the City. He commented about different deer sightings around the City and asked if anything can be done. Mr. Murphy said there had been some discussion with the Greenway Committee and that the idea of a limited bow hunt had been brought forward for the Grand Forks side. Ms. Ellis stated that this topic has been brought up numerous times at the Greenway Technical Committee meetings. She said they have been counting the deer, this year the number has gone down, and residents feeding them doesn't

help the situation. She commented Fargo/Moorhead does allow a bow hunt, that there are a number of rules and regulations, and where the hunt takes place is not where the trails are located. Ms. Ellis said the Greenway Technical Committee is still looking into this idea. Discussion followed about how deer are bedding down in yards, that people have been feeding them, and that there is a suggestion to put up deer crossing signs in areas. Council member Pokrzywinski stated that he was opposed to an urban hunt of deer regardless if it was done with bows. Ms. Ellis commented how the greenway here is different because of the high number of people in many of the areas compared to the areas that hunting is allowed in the Fargo/Moorhead area.

Mr. Murphy stated part of the discussion at the meeting was that there is a substantial group of people from the campground that enjoy the deer and come specifically because there are deer so it can go both ways.

ADJOURN:

A MOTION WAS MADE BY COUNCIL MEMBER GRASSEL, SECONDED BY COUNCIL MEMBER DEMERS, TO ADJOURN THE NOVEMBER 15, 2016 COUNCIL MEETING OF THE EAST GRAND FORKS, MINNESOTA CITY COUNCIL AT 6:06 P.M.

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

Voting Nay: None.

David Murphy, City Administrator/Clerk-Treasurer