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**PROCEEDINGS OF THE AFTON CITY COUNCIL
CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA**

APPROVED City Council Regular Meeting Minutes
May 17, 2016
Afton City Hall
3033 St. Croix Trail
Afton, MN 55001
7:00 P.M.

1. THE MEETING WAS CALLED TO ORDER at 7:00 P.M. by Mayor Bend.

2. THE PLEDGE OF ALLEGIANCE – was recited.

3. ROLL CALL: Council Members Nelson, Ross, Richter, Palmquist and Mayor Bend. **Quorum Present.**

ALSO PRESENT: City Attorney Fritz Knaak, City Engineer Diane Hankee, Planning Commission Chair Barbara Ronningen, City Administrator Ron Moore and City Clerk Kim Swanson Linner.

4. APPROVAL OF AGENDA –

A. Agenda for the Regular City Council Meeting of May 17, 2016 – Item 9C14, Wedding Venue, was added; Item 7A, Sheriff's Report, was moved to after Item 4A, Approval of the Agenda, to accommodate the deputy's schedule.

Motion/Second: Palmquist/Richter. To approve the agenda of the May 17, 2016 Regular City Council Meeting as amended. Motion carried 5-0-0.

7A. Sheriff's Monthly Report – Deputy Sullivan reported that emergency vehicles have had difficulty finding several addresses in the last month due to address numbers missing from mailboxes or driveways. He asked that residents check to make sure the address is readable, put the address on BOTH SIDES of the mailbox, and make sure the DRIVEWAY indicates the address as well.

The deputy also reported there have been break-ins and trespassers at the city property. Deputies have secured the building and have put other surveillance and security measures in place; they will also be patrolling more frequently.

5. APPROVAL OF MINUTES -

A. Minutes of the March 16, 2016 Joint City Council Work Session with the Natural Resources and Groundwater Committee –

Motion/Second: Palmquist/Richter. To approve the minutes of the March 16, 2016 Joint City Council Work Session with the Natural Resources and Groundwater Committee as presented. Motion carried 4-0-1 (Abstain: Nelson, due to absence).

B. Minutes of the April 19, 2016 Regular City Council Meeting –

Motion/Second: Palmquist/Richter. To approve the minutes of the April 19, 2016 Regular City Council Meeting as presented. Motion carried 5-0-0.

5. PUBLIC INPUT –

- 1) Bob Cohrs, 15025 Afton Hills Drive, spoke about Afton Hills Drive road conditions.
- 2) Mary Boyd, 15111 Afton Hills Drive, commented that Afton Hills Drive going up to the loop road is in bad condition and they believe it needs a total reconstruction. They reported watching the potholes being repaired and believe the repairs would hold better if they were pre-sealed and the mix tamped in. They referred to the number of households in Afton Hills contributing about \$90,000 to taxes and wondered how much of that would go to road repair.

6. REPORTS/PRESENTATIONS -

- 57 A. Sheriff's Monthly Report – [was moved to after 4A]
58 B. Tom Niedzwiecki, Budget Report – [Mr. Niedzwiecki was not in attendance.]
59 C. Lower St. Croix Fire District Report – Nelson reported that the 2017 budget was approved and it shows a
60 savings to Afton and 3 of the other cities. Bend indicated the refinancing dropped the rates.

- 61
62 7. **CONSENT AGENDA** – Item C was pulled from the Consent Agenda.
63 A. Just and Correct Claims
64 B. 4M Fund Transfer – APRIL - **Resolution 2016-20**

65
66 **Motion/Second: Palmquist/Richter. To approve the Consent Agenda, Items A and B including Resolution**
67 **2016-20. ROLL CALL: All Ayes. Motion carried 5-0-0.**

- 68
69 C. Election Judge Salary Increase – Head Judge, \$12 to **\$14/hour**; Election Judge, \$8 to **\$10/hour**.
70 Council members wanted to know how the increase impacts the Election budget line item. Past years have shown a
71 balance, so staff felt the budget line item was sufficient.

72
73 **Motion/Second: Richter/Ross. To approve the Consent Agenda, Item C, Election Judge Salary Increases for**
74 **Head Judges from \$12 to \$14/hour and Regular Election Judges from \$8 to \$10/hour. ROLL CALL: All**
75 **Ayes. Motion carried 5-0-0.**

76
77 **5. CITY COUNCIL BUSINESS -**

- 78 A. **Planning Commission Report** – Chair Ronningen reported that the Planning Commission held two Public
79 Hearings which needed to be continued to the June PC meeting due to not having information from the staff review
80 of the application with which to make a decision.

- 81
82 B. **Engineering Report** – City Engineer Diane Hankee reported:

83 a. Proposal for Boundary Survey of the Mount Hope Cemetery Property – WSB provided a proposal to
84 complete a boundary survey for Mount Hope Cemetery in the amount of \$3,578. The boundary survey has been
85 requested to enable the Afton Historical Society to conduct maintenance activities at the Cemetery.

86 Council questioned why the title work (\$600) was included, as the City Attorney had done title work in the last
87 five years for the property. It was noted that a telecommunications company had also done a survey of the property
88 which is on file and could be used to find boundaries.

89
90 **Motion/Second: Bend/Palmquist. To approve the proposal from WSB for a boundary survey of the Mount**
91 **Hope Cemetery property at a cost not to exceed \$3,578. Motion carried 3-1-1 (Nay-Richter; Abstain-Ross,**
92 **due to being President of the Afton Historical Society (AHS) which has entered into an agreement, with the**
93 **city contributing \$9,000 annually for the AHS to do maintenance and restoration of the pioneer cemetery.)**

94
95 b. Minnesota Public Facilities Authority (MN PFA) Loan Application for the Downtown Village
96 Improvement Project – Resolution 2016-21 – An updated resolution with final language from the MPFA was
97 provided in the Supplemental Packet.

98
99 **Motion/Second: Palmquist/Bend. To approve Resolution 2016-21 applying for a Minnesota Public Facilities**
100 **Authority Loan from the Clean Water Revolving Fund for the Downtown Village Improvement Projects.**
101 **ROLL CALL: All Ayes. Motion carried 5-0-0.**

102
103 C. **Administration –**

104 1. Thomas Lehmann Request to Address Council about the Driveway Permit Denial at Stagecoach Trail
105 and Sand Hill Road – Administrator Moorse offered background on the issue: In 2009, the property at 1501
106 Stagecoach Trail was subdivided into two lots. The subdivision materials showed a house location in the southern
107 (lower) portion of the northern lot and a driveway accessing the property from Stagecoach Trail. The house
108 location and driveway access location were based on the large area of steep slopes on the northern portion of the
109 lot, as indicated by the survey on which the subdivision was based. The approval resolution included a condition

110 that the driveway have access from Stagecoach Trail. The lot was purchased by Randall Morgan, who submitted a
111 driveway permit application reflecting a driveway off Sandhill Road. The driveway permit was erroneously
112 approved, but was revoked based on the conditions of the subdivision approval. In the interim, Mr. Morgan
113 completed substantial grading for a driveway from Sandhill Road. A stop work order was placed on the driveway.
114 Mr. Morgan has since brought a legal action against the City regarding the driveway permit.

115 Mayor Bend gave Mr. Lehmann, legal representative for Randy Morgan, the opportunity to address the
116 Council.

117 Mr. Lehmann detailed three requests for his client:

- 118 1. A process for a new subdivision approval that would include a driveway off Sandhill Road.
- 119 2. Discussion of the three surveys of the property showing the planned homesite does not approach slopes
120 greater than 18% and would meet all City zoning codes.
- 121 3. Asking the Council to direct staff to approve necessary administrative permits for a driveway and for a
122 house on the property.

123 Mayor Bend indicated that with litigation ongoing, it would be inappropriate for Council to discuss any
124 negotiation or details at an open meeting. A Special City Council Meeting in a Closed Session would need to be
125 scheduled and properly noticed.

126
127 2. 2015 Audit Report – Administrator Moose stated that Auditor Michael Pofahl has completed the
128 Audit Report for year ending December 31, 2015. Pofahl presented the report to the Council.

129
130 **Motion/Second: Richter/Ross. To adopt the 2015 Audit Report, the audited financial statements and
131 financial information for the fiscal year ending December 31, 2015. Motion carried 5-0-0.**

132
133 3. Petition Regarding Upgrade and Maintenance of Upper 34th Street – Administrator Moose reported
134 that the City had received a petition from two property owners on Upper 34th Street requesting that the City take on
135 responsibility for the upgrade and maintenance of the roadway from Pennington Avenue to Mount Hope Cemetery.
136 He explained the City maintains Upper 34th Street from Pennington Avenue to the boundary of the property at
137 15711 34th Street. The City does not maintain the paved roadway as it runs through the property at 15711 34th Street
138 or the gravel roadway and then up a very steep hill to serve three residential properties and Mount Hope Cemetery.
139 The road has historically been maintained by the owners of the residential properties served by the roadway,
140 specifically the owners of the three properties at the top of the hill. None of these three property owners had signed
141 the petition. Moose reviewed that a number of years ago, the City Attorney assisted the City in claiming a
142 prescriptive easement over the roadway in response to a claim by the former owner of the 15711 property that the
143 public did not have the right to use the roadway to access Mount Hope Cemetery. The City Attorney has advised it
144 is important to fully understand the current rights and responsibilities of the City in relation to the roadway prior to
145 making decisions regarding the petition.

146 City Attorney Knaak advised that the city has no liability for the condition of the road. Council is able to use
147 their discretion to not maintain the road and if that is the decision, the city should declare the road minimum
148 maintenance.

149 Mayor Bend commented that the use of the road will increase as the Afton Historical Society begins
150 maintenance and restoration of the cemetery, so perhaps the city becomes one of the parcels in the agreement that
151 the residents already have for road maintenance.

152
153 **Motion/Second: Bend/Nelson. To direct staff to prepare the necessary resolution to declare and sign
154 Cemetery Road as a minimum maintenance road and to direct staff to develop an agreement with all parcel
155 owners for maintenance. Motion carried 5-0-0.**

156
157 **Motion/Second: Bend/Richter. Except to the extent of the previous motion, to DENY the petition before the
158 Council to have the City take over responsibility for the upgrade and maintenance of Upper 34th Street.
159 Motion carried 5-0-0.**

160

161 Administrator Moose indicated that another Public Comment Card had been turned in after the public comment
162 period. Council agreed to hear the comment.

163
164 Bob DeMaster, 15252 Afton Hills Drive, commented that Afton Hills Drive up to the loop does not have shoulders
165 and that the road sides are very dangerous, as the ravine drops straight down from the edge of the road where the
166 pavement is eroding.

- 167
168 4. 2016 Street Improvement Projects – Administrator Moose reported that the Public Works Committee,
169 working with the City Engineer and Tri-County, has identified a list of priority street improvement needs for 2016.
170 a. Repairs to Afton Hills Drive from Stagecoach Trail to the Afton Hills Drive loop by either: a large
171 patch with a skid loader at a cost of \$11,000; or, a 1 inch overlay at a cost of \$50,000.
172 b. Partial replacement of culvert on 30th Street: \$38,000.
173 c. Crack Filling (see map) within the budgeted amount of \$75,000 for crack filling and seal coating.
174 d. Seal coating on Pateley Bridge and 32nd Street within the budgeted amount of \$75,000 for crack
175 filling and seal coating.
176 e. Reclamation of the full 2 miles of 15th Street: \$550,000.
177 f. Replace six culverts on 15th Street in conjunction with the reclamation project: \$45,182.
178 g. Replace and extend culvert to widen a substandard portion of 15th Street: \$8,600.

179 Moose explained that the 15th Street reclamation project would require the use of the current balance of \$489,000
180 in the Street Improvement Fund and approximately \$100,000 of the \$200,000 Street Improvement levy for 2016.
181 The current funding plan for the Downtown Improvement Projects includes using the \$489,000 in the Street
182 Improvement Fund to provide cash flow for the downtown project. Todd Hubmer of WSB had recommended that a
183 decision regarding the use of the Street Improvement Fund balance be delayed until the City has more information
184 about other funding sources, and ideally until after the City receives bids for the downtown project which will
185 significantly clarify the project costs.

186
187 **Motion/Second: Nelson/Palmquist. To authorize crack fill and seal coating projects as indicated in items (c)
188 and (d) above from the 2016 Street Improvement Projects list. Motion carried 5-0-0.**

189
190 **Motion/Second: Richter/Ross. To authorize the 1” overlay for \$50,000, as indicated in item (a) above, and to
191 approve stabilizing the culvert in the area of repair. Aye-Richter, Ross; Nay-Nelson, Palmquist, Bend.
192 Motion failed 2-3-0.**

193
194 **Motion/Second: Bend/Palmquist. To table items (a) and (b) from the 2016 Street Improvement Projects list
195 above to the June 21 City Council meeting, as the city will have legislative funding information by then and
196 will have a better idea of available funds for road maintenance needs. Aye-Nelson, Palmquist, Bend; Nay-
197 Richter, Ross. Motion carried 3-2-0.**

198
199 **Motion/Second: Palmquist/Nelson. To table items (e), (f) and (g) from the 2016 Street Improvement Projects
200 list above to the June 21 City Council meeting, as the city will have legislative funding information by then
201 and will have a better idea of available funds for road maintenance needs. Aye-Nelson, Palmquist, Bend;
202 Nay- Richter, Ross. Motion carried 3-2-0.**

203
204 5. Expanded Use of Planning Consultant – Administrator Moose explained that last year Council
205 authorized the use of a planning consultant to review all major subdivisions in order to assist the City Administrator
206 with workload and to provide necessary expertise. Recently staff has used a planning consultant to assist with the
207 review of some minor subdivisions to ensure all issues were identified and addressed. Moose asked Council to
208 consider that, depending on workload and complexity, staff could be authorized to use a planning consultant to
209 review or assist with the review of land use applications other than major subdivisions, including minor
210 subdivisions, variances and conditional use permits. He indicated the consultant’s fees could be passed through to
211 the applicant, and would be covered by the escrow deposit received with the application.

212 Palmquist felt it would be okay to use city expenses to cover additional review by a consultant. He felt it would
213 be unfair to the applicants, however, to pass through the expenses of another review to their escrow.

214 Richter commented that the City Administrator was hired to be the City's Zoning Administrator and Council
215 agreed to huge increases in the salary in redefining the job duties and qualifications of the City Administrator
216 position by including the Zoning Administrator duties. He felt the Council meeting was not the correct venue nor
217 the way a restructuring of job duties should be handled.

218 Bend commented that the City Administrator/Zoning Administrator, because of other concerns or a lack of
219 experience, has led him to conclude the city is not getting the results the Planning Commission or City Council
220 needs to act on applications. He felt this costs the city time and it costs the applicant time and perhaps money,
221 which he felt is a concern.

222
223 **Motion/Second: Palmquist/Ross. To approve that the City/Zoning Administrator may use discretion in using**
224 **the services of a planning consultant for the review of minor subdivisions and other land use applications in**
225 **addition to major subdivision applications up to a maximum of \$3,000 per year. Motion carried 4-1-0**
226 **(Richter).**

227
228 6. Washington County Assessment Services Renewal Agreement – Resolution 2016-22 – Administrator
229 Moore reviewed that the City currently has a five year agreement with Washington County for assessment services
230 that expires in July 2016. The County provided a new agreement that reflects the current service arrangement but
231 replaces the current five year fixed term agreement with a rolling agreement that remains in force unless terminated
232 by either party with a six month written notice of its intent to terminate the agreement. The City Attorney has
233 reviewed the agreement and has no concerns.

234
235 **Motion/Second: Richter/Palmquist. To authorize renewing the agreement with Washington County for**
236 **assessment services with the new rolling renewal clause, as set out in Resolution 2016-22. ROLL CALL: All**
237 **Ayes. Motion carried 5-0-0.**

238
239 7. Furnace and Air Conditioner for Upper Level of City Hall – Administrator Moore reported that the
240 furnace and air conditioner that serve the second floor of City Hall appear to be original to the building, which was
241 built in 1982. The furnace had periodic problems this past winter, and is not expected to last through another
242 winter. The air conditioner is functioning well, but is also very old. While the relatively new furnace and air
243 conditioner that serve the main level of City Hall have sufficient capacity to serve the upper level, the existing duct
244 work is not set up to enable them to adequately serve the second floor. The ductwork is located under the concrete
245 floor, so would be very expensive to redesign. Moore explained that staff met with representatives from Lakeland
246 Heating and Air Conditioning and from CenterPoint Energy. Both indicated it would not be worth the money to try
247 to redesign the existing system to serve both levels. Both also indicated it would be very difficult or impossible to
248 properly vent a high efficiency furnace in the location of the existing upper level furnace, so both recommended an
249 80% efficient furnace. Both provided proposals for replacing the existing furnace and for replacing the existing air
250 conditioner. The CenterPoint Energy proposal has a lower cost which included a "pre-season promo" discount of
251 available rebates. However, staff recommended accepting the proposal of Lakeland Heating and Air Conditioning
252 at a cost of \$3,100 for the furnace and \$3,300 for the air conditioner, to be funded from the Buildings and Land
253 Capital Fund, which has a balance of \$81,748. The \$6,400 will be reduced by a rebate of \$100 for the furnace and
254 \$450 for the air conditioner.

255 Council discussed whether the city should replace the air conditional if it is still working.

256
257 **Motion/Second: Bend/Nelson. To approve the proposal from Lakeland Heating and Air Conditioning for the**
258 **replacement of the furnace and air conditioner serving the upper level of City Hall at a cost not to exceed**
259 **\$6,400. Motion carried 4-1-0 (Palmquist).**

260
261 8. Appointment to Planning Commission – Administrator Moore indicated the city received two
262 applications for one vacancy on the Planning Commission. The two candidates, Roger Bowman and Marc
263 Porupsky, were introduced to Council at Council's May 16 Work Session.

264 Council members commented that both applicants were great. Porupsky reportedly withdrew his application,
265 stating he was still interested in volunteering, but that Bowman be given this opportunity. Porupsky's application
266 will be kept on file.

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Motion/Second: Nelson/Richter. To appoint Roger Bowman to the Planning Commission. Motion carried 5-0-0.

9. Ordinance Amendment Correcting Recently Adopted Solar Ordinance – Ordinance 05-2016 – Administrator Moose explained that Ordinance 03-2015, Solar Energy Systems, was adopted in 2015. A recent review of the ordinance found that, while the language of the ordinance allows community solar energy systems and solar farms as conditional uses in the Industrial districts, the ordinance amendment did not reflect this change to Section 12-134, the Use Table. This ordinance amendment adds the community solar energy systems and solar farms as conditional uses in the Industrial districts in Section 12-134, the Use Table.

Motion/Second: Richter/Palmquist. To adopt Ordinance 05-2016 amending the Solar Energy Systems ordinance to add community solar energy systems and solar farms as conditional uses in the Industrial districts in Section 12-134, the Use Table. ROLL CALL: All Ayes. Motion carried 5-0-0.

10. Ordinance Regulating City-Owned Cemeteries – Ordinance 06-2016 – Administrator Moose reviewed that the City Attorney had provided to Council a model ordinance on regulating maintenance and operation of City-owned cemeteries at their April 19, 2016 meeting. Council directed staff to prepare a draft ordinance to the Afton City Code for Council to consider.

Motion/Second: Palmquist/Ross. To adopt Ordinance 06-2016 regulating the use and maintenance of City-owned Cemeteries to be placed into Chapter 16 of the Afton City Code. ROLL CALL: All Ayes. Motion carried 5-0-0.

11. Sale of Replaced Street Signs – Administrator Moose reported that, as the city replaces its street signs to meet the federal retroreflectivity sign requirements, staff have received inquiries regarding the possibility of purchasing the street signs. The City of Stillwater sells their old signs for \$10.00. Signs that are not sold are recycled as scrap metal.

Motion/Second: Bend/Palmquist. To approve the sale of replaced street signs for \$25.00 per sign. Motion carried 5-0-0.

12. Appointment of Summer Intern – Administrator Moose had no recommendation for hiring a summer intern. Mayor Bend advised that he should bring the item back at such time that there is a recommendation.

13. Schedule Work Session – Administrator Moose had several topics for a Work Session to be scheduled for late May or early June.

14. Wedding Venue – Council Member Richter had added this item and commented that the Council had received an email from the city forwarding a letter from the applicants for the wedding venue on Manning Avenue and how they would proceed with their weddings scheduled for 2016. Richter felt an “Administrative Variance” was an inappropriate way for the city to proceed with this issue.

It was noted that the Hoelderles had submitted a signed statement to the city that they will receive no compensation for the use of their property for the six weddings they had scheduled for 2016 and that they will hold no further weddings on their property without first obtaining necessary City approvals.

It was requested that in the future, agreements such as this come before Council for a decision.

D. Committee Reports -

1. Public Works – Richter reported they had several action items on this agenda.
2. Personnel – Ross reported that a recommendation is getting close for the document storage and task management software.

318 3. Parks – Palmquist reported the committee is struggling in bringing the restroom building to City
319 Council; they are considering fundraising but can't proceed if the building isn't going to be a reality.
320 Member absence from meetings has also been a recent issue.

321
322 **Staff was directed to draft an ordinance to have the same attendance requirements for all committees as is**
323 **for the Planning Commission.**

324
325 4. HPC/DR – Moorse reported they are still working on the local designation process for historic
326 buildings. The Commission would like to have more historic properties to consider. Belwin was
327 mentioned.

328 5. Natural Resources and Groundwater – none.

329 6. High Speed Internet – Ross reported that construction for the internet upgrade is coming soon.

330
331 **Staff was directed to draft a resolution to officially disband the committee.**

332
333 **10. COUNCIL, CONSULTANT AND STAFF REPORTS, ANNOUNCEMENTS AND UPDATES**

334 **A.** Ward 1 Council Member Palmquist –none.

335 **B.** Ward 2 Council Member Richter – none.

336 **C.** Ward 3 Council Member Ross – The Afton Branding Committee did a survey monkey that they'd like
337 everyone to take: "What Afton Means to Me.com."

338 **D.** Ward 4 Council Member Nelson – none.

339 **E.** Mayor Bend – none.

340 **F.** City Attorney Knaak – Prosecution Report is on file.

341 **G.** City Administrator Moorse – none.

342
343 **11. ADJOURN –**

344
345 **Motion/Second: Palmquist/Ross. To adjourn the meeting at 10:12 p.m. Motion carried 5-0-0.**

346 Respectfully submitted by:

347
348
349
350 _____
351 Kim Swanson Linner, City Clerk

352
353 **Approved by Council (on June 21, 2016) as (check one): Presented: X Amended:**

354
355
356 **Signed by Mayor Richard Bend _____ Date _____**