

**Minutes and Proceedings of the City
Council of the City of Emily in the
County of Crow Wing, State of Minnesota
Including accounts audited by said Council**

July 14, 2009

The Emily City Council met for a regular meeting on Tuesday, July 14, 2009, in the Council Chambers and was called to order by Mayor George Pepek at 6:00 PM. Councilmember Gerhart Hanson, Daniel Barrett, Russ Gustafson, and Bob Swanson were present. Also present was Jeff Ledin of S.E.H., Rebecca Kurtz of Ehlers, and City Clerk, Patricia Kestner.

COUNCILMEMBER BARRETT MADE A MOTION TO APPROVE THE AGENDA AS PRESENTED. COUNCILMEMBER GUSTAFSON SECONDED. MOTION CARRIED.

COUNCILMEMBER SWANSON MADE A MOTION TO APPROVE THE CONSENT AGENDA WHICH INCLUDED THE MINUTES FROM THE JUNE 9, 2009 REGULAR COUNCIL MEETING; THE FINANCIAL REPORT FROM JUNE, 2009, GENERAL SAVINGS \$342,138.55, SPECIAL SAVINGS \$288,391.87, INVESTMENTS \$430,537.45, TOTAL \$1,061,067.87; PAYMENT OF CITY BILLS: \$153,939.14 WITH TRANSFER OF FUNDS GENERAL SAVINGS \$60,000.00 AND SPECIAL SAVINGS \$26,602.50 (\$5,000.00 SEWER, \$2,050.00 RECYCLING, \$19,552.50 ROADS) TO CHECKING. COUNCILMEMBER HANSON SECONDED. MOTION CARRIED.

Dave Engstrom of the Minnesota Association of Small Cities addressed the Council. MAOSC is a lobby for Minnesota Cities with a population of less than 5,000. Mr. Engstrom discussed the cuts that Governor Pawlenty signed which included the loss of Local Government Aid, which the City lost for 2009, and the Market Value Homestead Credit. This will impact both 2009 and the 2010 budget as the amounts lost are over \$20,000.00 each year.

FIRE: Chief Moritz reported there were no calls for the month and 23 of the 24 fire fighters were at the June 2009 meeting.

1ST RESPONSE: Chief Marianne Guentzel requested food money for the 1st Responders who volunteered to work at Emily Day. **COUNCILMEMBER GUSTAFSON MADE THE MOTION TO APPROVE A CHECK IN THE AMOUNT OF \$60.00 TO BE MADE OUT TO MARIANN GUENTZEL FOR THE PURCHASE OF FOOD FOR THE 1ST RESPONDERS AT EMILY DAY. COUNCILMEMBER HANSON SECONDED AND MOTION CARRIED.**

POLICE: Mayor Pepek read the report prepared by Chief Bernhjelm who was unable to attend the meeting. The Crow Wing County Board voted to select the state ARMER 800 MHz system to replace the current public safety radio system.

ROADS: Jeff Ledin reported the Road Committee met before the Council meeting. Discussion included the Blue Lake Road Bridge repairs which are estimated to be \$60,000.00 and the drainage at the ball field will be corrected to be away from the bleachers. Excavated material will be used to fill around the Emily Dam. If the Capital Improvement Plan is continued in 2010, the bond could include the amount for the bridge repair.

PUBLIC FORUM: Public Forum included Joe Russell, who is requesting a legal opinion from the City Attorney regarding the Cooperative Mineral Resources and the committee set to discuss the manganese mining project. Mr. Russell's question: Is it appropriate, ethically and legally, that members of the Emily City Council and the Planning and Zoning Commission are participating members of a committee set up by the potential applicant for official action required by the City of Emily government agencies, i.e. changes in the city ordinances and or provisional use permits? Mr. Russell's letter will be sent to the City Attorney. Donald Dee presented a letter from the DNR and was informed that it is in the hands of the attorney. Connie Knowlen, Alex Sutton and LaVonne Theising spoke regarding the no parking signs posted on the curve of South Bay Drive and a camping permit for a Recreational Vehicle at Ruth Lake Resort. The City will look into moving the signs.

PLANNING & ZONING: COUNCILMEMBER BARRETT MADE THE MOTION TO APPROVE THE REZONING OF STARRY ACRES BASED ON THE FOLLOWING NINE FINDINGS OF FACT:

1. THE SUBJECT PROPERTY IS CURRENTLY ZONED FOREST RESIDENTIAL.
2. THE PROPOSED LOTS WOULD ALL MEET THE MINIMUM LOT WIDTH REQUIREMENT IN THE RURAL PRESERVATION ZONE.
3. THE PROPOSED LOTS, WITH COMMON OPEN SPACE, WOULD ALL MEET THE MINIMUM BUILDABLE LOT AREA IN THE RURAL PRESERVATION ZONE.
4. THE REZONING OF THE PROPERTY FROM FOREST RESIDENTIAL TO RURAL PRESERVATION WOULD BE IN CONFORMANCE WITH THE CITY OF EMILY COMPREHENSIVE PLAN.
5. THE PROPOSED REZONING IS CONSISTENT WITH THE FUTURE LAND USE MAP.
6. THE PROPOSED REZONING IS KEEPING WITH THE PURPOSE AND INTENT OF THE ORDINANCE AS IT WILL BE PRESERVING SENSITIVE AREAS, UNIQUE RESOURCES AND NON-DEVELOPABLE PROPERTY.
7. THE PROPOSED REZONING IS COMPATIBLE WITH THE SURROUNDING PROPERTIES AS THEY ARE ZONED RURAL PRESERVATION, FOREST RESIDENTIAL AND SHORELINE RESIDENTIAL.
8. ALL LOT, USE, AND DENSITY REQUIREMENTS ARE MAINTAINED WITH THE PROPOSED REZONING APPLICANT IS PROPOSING.
9. SEWAGE DISPOSAL AND WATER PROVISIONS WOULD BE COMPLIANT ON EACH NEWLY CREATED PARCEL.

COUNCILMEMBER HANSON SECONDED AND MOTION CARRIED.

COUNCILMEMBER HANSON MADE THE MOTION TO WAIVE THE REZONING FEE IN THE AMOUNT OF \$300.00 DUE TO AN ERROR IN THE CITY'S ZONING MAP CAUSED BY THE CONSTRUCTION OF PINE SHADOWS ROAD. COUNCILMEMBER BARRETT SECONDED AND MOTION CARRIED. The park dedication fee will be part of the final plat conditions.

COUNCILMEMBER GUSTAFSON MADE THE MOTION TO APPROVE JAN MOSMAN AS AN ALTERNATE PLANNING & ZONING COMMISSIONER. COUNCILMEMBER BARRETT SECONDED AND MOTION CARRIED.

WASTEWATER: Russ Gustafson reported committee members are needed.

SCHOOL: Russ Gustafson reported the Friends of Education will be the sponsor for one year.

CITY HALL: George Pepek reported that he is still checking on costs of dual fuel heating.

CEMETERY: Bob Swanson reported there were three lots sold and four burials, William Sullivan, Howard Lambert, Joseph Ratcliff, and Michael Wilder.

PERSONNEL: No report.

PARKS: The report was read by Mayor Pepek. Nothing new at this time.

EDA: No report.

ATTORNEY: No report.

UNFINISHED BUSINESS: COUNCILMEMBER BARRETT MADE THE MOTION TO APPROVE THE LAND USE ORDINANCE, NO. 906, ADDING THE ZONING VIOLATION ORDINANCE AND FEE SCHEDULE. COUNCILMEMBER GUSTAFSON SECONDED AND MOTION CARRIED.

Rebecca Kurtz of Ehlers presented the three options the Council sub-committee drafted for Randy and Nancy Moritz regarding the Tax Increment Financing District No. 1-2:

Option 1: Terminate the contract and discontinue the TIF District due to default of the current contract.

Option 2: Continue under the terms of the Original Contract which would require the Developer to become compliant regarding the age requirements.

Option 3: Amend the contract with the terms outlined by the City Council:

- Rental units will be occupied by residents age 50 and older or by handicap adult residents age 18 or older. (The Contract currently requires the units be occupied by residents age 55 or older.)
- If the Amended Contract is accepted, it cannot be renegotiated prior to the end of the term of the Contract and TIF District.
- The term will not exceed 16 years of tax increment financing. (The Contract currently allows the term of the tax increment assistance to be a maximum of 26 years.)

- The maximum tax increment pledged will be lesser of 16 years of tax increment or 90% of the available tax increment to an amount not to exceed \$140,000. (The Contract currently allows the term of the tax increment assistance to be the lesser of 26 years of \$140,000.)
- The project needs to be brought into compliance with the amended Contract at the time the Amended Contract is signed.

Randy Moritz stated none of the options are workable. Ms. Kurtz reported the attorney from Kennedy and Graven stated the in-floor heat was not an eligible expense for the TIF District. The Council will allow the Moritz to develop an option and present it to the Council.

COUNCILMEMBER BARRETT MADE THE MOTION TO APPROVE THE 2008 AUDIT AS PRESENTED BY MATHIAS C. JUSTIN, LTD. COUNCILMEMBER GUSTAFSON SECONDED AND MOTION CARRIED.

COUNCILMEMBER HANSON MADE THE MOTION TO APPROVE PAYMENT FOR THE AUDIT TO MATHIAS C. JUSTIN, LTD. IN THE AMOUNT OF \$9,700 AS BUDGETED. COUNCILMEMBER SWANSON SECONDED AND MOTION CARRIED.

COUNCILMEMBER BARRETT MADE THE MOTION TO ACCEPT THE LETTER OF RESIGNATION FROM 1ST RESPONDER LISA SCHWEITZER. COUNCILMEMBER SWANSON SECONDED AND MOTION CARRIED. The Mayor thanked Lisa for her service.

The Council requested the LMC suggested policies be placed under unfinished business for next month. The Employee Right To Know will be looked at before the next meeting.

COUNCILMEMBER BARRETT MADE THE MOTION TO APPROVE CITY ATTORNEY STEVE QUALLEY LOOK INTO FINANCIAL OPTIONS FOR THE MANGANESE MINING REVENUE. COUNCILMEMBER HANSON SECONDED. VOTE TAKEN WITH HANSON, BARRETT, AND SWANSON AYE AND GUSTAFSON VOTED NAY. MOTION CARRIED.

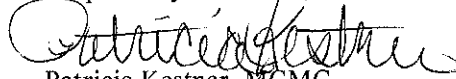
COUNCILMEMBER GUSTAFSON MADE THE MOTION TO APPROVE FIREMEN RELIEF ASSOCIATION AUDIT, SCHEDULES I AND II WITH A 2010 CITY CONTRIBUTION OF \$11,291.00. COUNCILMEMBER HANSON SECONDED. VOTE TAKEN WITH HANSON, GUSTAFSON, SWANSON AYE AND BARRETT ABSTAINED DUE TO BEING A FIREFIGHTER. MOTION CARRIED.

COUNCILMEMBER HANSON MADE THE MOTION TO APPROVE SENDING ALL THREE MAINTENANCE WORKERS TO THE LMC SAFETY PROGRAM IN GRAND RAPIDS ON AUGUST 25, 2009 AT THE COST OF \$45.00 AND REIMBURSE MILEAGE OR USE CITY TRUCK. COUNCILMEMBER GUSTAFSON SECONDED AND MOTION CARRIED.

COUNCILMEMBER SWANSON MADE THE MOTION TO APPROVE SENDING TWO MEMBERS, EITHER OF THE COUNCIL OR THE PLANNING & ZONING COMMISSIONERS, TO CROW WING COUNTY GEOLOGIC ATLAS WORKSHOP & TOUR ON JULY 22, 2009 AT A COST OF \$10.00 EACH. COUNCILMEMBER HANSON SECONDED AND MOTION CARRIED.

Meeting adjourned at 8:15 P.M.

Respectfully submitted,



Patricia Kestner, MCMC
City Clerk