

Ely City Council Regular Meeting Minutes, August 20, 2013

1. CALL TO ORDER:

The Ely City Council Regular Meeting was called to order by Mayor Petersen at 5:30 pm on August 20, 2013 at the Ely City Hall.

2. ROLL CALL:

Present: Council members Debeltz, Kess, Nikkola, Omerza, Polyner, Sheddy and Mayor Petersen (7)
Absent: None

3. APPROVAL OF MINUTES:

Debeltz/Nikkola moved to approve minutes from August 6, 2013 regular meeting. Motion carried unanimously.

4. ADDITIONS OR OMISSIONS TO AGENDA:

- A. Addition: 7.A. – Ely High School Student Council
- B. Addition: 9.B.i. – 1st Assistant Fire Chief position
- C. Addition: 13.F. – E-Cigarettes and Synthetic Drugs
- D. Addition: 13.G. – Resolution 2013-027

Debeltz/Nikkola moved to approve the additions A-D. Motion carried unanimously.

5. MAYOR'S REPORT

Mayor Petersen congratulated WELY for being awarded the MN Twins John Gordon Award on Saturday, August 17, 2013, during the MN Twins Affiliate Day celebration at the Ford Center near Target Field. This honor is awarded annually to the Twins radio affiliate station that demonstrates the best of Twins Territory in their commitment as advocates of the Minnesota Twins in their community.

The Mayor also extended a Thank You to all those responsible for the big success of the last two August events in Ely which included the State VFW Baseball Tournament and the Boundary Waters Blues Festival (held in Winton).

6. CONSENT AGENDA:

A. Nikkola/Debeltz motioned to waive readings in entirety of all ordinances and resolutions on tonight's agenda. Motion carried unanimously.

7. REQUESTS TO APPEAR:

The Ely High School Student Council requested permission from the Council to host a homecoming parade on September 27th.

Debeltz/Nikkola moved approval of the Homecoming Parade on September 27th at 4:30pm pending approval from the Police Chief. Parade will start at the bus garage on Stukel Way, proceed down Harvey St turning right on 2nd Ave to then turn right on Sheridan St and then turning right on 7th Ave back to the school. The Police Chief did give his approval at the meeting. Motion carried unanimously.

8. COMMITTEE REPORTS:

- A. Council member Omerza presented her report on the 2013 CGMC Summer Conference. She also stated that the League of MN Cities is in the process of updating their website which will allow easier accessibility for users of Smartphones and Tablets.

Omerza/Debeltz moved to approve sending the Township of Fall Lake a "Thank You" note for their generous donation of \$1000 to the upkeep of the Whiteside Park playground. Motion carried unanimously.

Kess/Debeltz moved approval to send Council member Polyner to the Preserve Minnesota 2013-Historic Preservation Conference in Lanesboro, MN from September 12-13, 2013. The conference fee is \$100. Motion carried unanimously.

Polyner/Debeltz moved approval to send letter requesting the use of the Ely Chamber of Commerce logo as the City of Ely's official logo as well. In discussion, Council member Kess felt the City should have a separate logo. Nikkola's concern was the clarity of the logo after being stenciled onto City vehicles and water tower. Omerza clarified that this motion is not adopting the logo, it is just asking permission for use of the logo if the City does choose it for their own. Motion carried unanimously.

Council member Sheddy stated HRA is finalizing the revision of the Director's Job Description.

Council member Nikkola stated that the ER meeting for this Thursday has been cancelled. Also, there is a Budget meeting tomorrow morning at 10:00am.

Council member Kess stated that the Airport Commission is still working on updating the Airport Hangar leases.

Council member Debeltz stated the Cemetery Committee meeting was cancelled due to lack of member attendance.

Council member Omerza stated that the TAB meeting for this Thursday has been cancelled.

9. DEPARTMENTAL REPORTS:

A. Clerk-Treasurer stated that the City of Ely is scheduled to present their TIF Legislation to the St. Louis County Board on September 3, 2013 at 9:00am at the County Courthouse in Duluth. The ISD 696 School Board did give support by Resolution for this Legislation. The Mayor and Clerk/Treasurer will attend this event.

B. Fire Chief Erchull presented the revised job description for the 1st Assistant Fire Chief position. **Debeltz/Sheddy moved to approve for the Fire Department to post internally for the 1st Assistant Fire Chief position. Motion carried unanimously.**

Fire Chief also stated that the 5 new firefighters have completed their training. There will be a scheduled house burn training in the near future. Also, they responded on a call in Morse Township and everyone worked well together.

C. Library Director stated that the summer reading program is now over. The two winners were Gabriel Pointer and Trevor Mattson.

D. Police Chief:

- i. Chief Lahtonen reported that as of August 14, 2013, 58 letters & 12 citations were written for grass and public nuisance
- ii. Minnesota Chiefs of Police Scholarship Committee awarded the MN Chiefs of Police Foundation Law Enforcement Scholarship to Samantha Jo Perry for \$750. Ms. Perry worked this summer for the City of Ely Police Department as the Civil Enforcement Officer under the Vermilion College Work Study Program.
- iii. Correspondence from National Guard Bureau to Chief Lahtonen regarding Officer Hawley and his service to the Air National Guard Nuclear Security program.

E. City Attorney

i. **Debeltz/Nikkola moved to approve the Second Reading of Ordinance 279, 2nd Series amending the City Code, Sections 2.59 & 2.62 related to Cemetery Committee and Projects, Land, Streets and Infrastructure Committee. Roll called: Debeltz-yes, Kess-yes, Nikkola-yes, Omerza-yes, Polyner-yes, Sheddy-yes and Mayor Petersen-yes. Motion carried unanimously.**

ii. Reed Road

iii. Police Commission

Debeltz/Kess moved approval to close the meeting at the end for two reasons: 1. Reed Road litigation strategy; 2. Allegation Hearing to discuss preliminary consideration of allegations against an employee. Motion carried unanimously.

F. City Engineer

10. COMMUNICATIONS: None

11. CLAIMS FOR PAYMENT:

- A. City and EUC claims for August 20, 2013 - \$489,808.73
- B. 2014 CGMC dues assessment - \$5,515.00
- C. TKDA – Project 14900 – 2011 CIP Project - \$916.37 – Tabled due to ongoing dispute of the invoice. **Nikkola/Debeltz moved approval of claims for payment A-C. Nikkola/Debeltz approved to amend the motion to include only A & B since C will be tabled until dispute with the invoice is resolved. Motion carried unanimously.**

12. OLD BUSINESS: None

13. NEW BUSINESS:

- A. **Debeltz/Nikkola moved to approve Mayor and Clerk/Treasurer to sign Notice of Award for the Chapman St Alleys project #13-727 to Utility Systems of America for their bid of \$427,677.00. Work scheduled to begin this fall. Motion carried unanimously.**
- B. **Nikkola/Debeltz moved to approve Mayor and Clerk/Treasurer to sign JPJ Engineering Change Order No. 1 for the Chapman St Alleys 8th to 10th Ave project #13-727 which decreases the contract amount by \$39,475.00. Motion carried unanimously.**
- C. **Nikkola/Omerza moved to approve posting externally for Meter Reader position. Motion carried unanimously.**
- D. **Omerza/Nikkola moved approval to accept Tom Baudek’s retirement. Motion carried unanimously.**
Kess/Nikkola moved to approve sending Tom Baudek a letter of Thank You for his years of service. Motion carried unanimously.
- E. **Debeltz/Nikkola moved to approve posting internally for Equipment Operator III job position. Motion carried unanimously.**
- F. **Omerza/Nikkola moved approval for Attorney Klun to look up policies for E-Cigarettes and Synthetic Drugs that would directly affect the City of Ely. Motion carried unanimously.**

- G. N
ikkola/Debeltz moved to approve Resolution #2013-027 approving and authorizing the execution of amendment no.1 to loan agreement. BE IT RESOLVED, by the governing body (the “City Council”) of the City of Ely, St. Louis County, Minnesota (the “Issuer”), as follows: **Section 1. Recitals.** The City Council makes the following recitals of fact, based solely on information provided by Ely-Bloomenson Community Hospital and Nursing Home Corporation, a Minnesota nonprofit corporation (the “Borrower”). **A.** The Borrower is the owner of hospital and nursing home facilities located at 328 West Conan Street, Ely, Minnesota. **B.** The Issuer issued and delivered, pursuant to a resolution adopted on October 7, 2008 (the “Resolution”), its Health Care Facilities Revenue Note, Series 2008A (Ely-Bloomenson Community Hospital and Nursing Home Corporation Project) (the “Series A Note”), in the principal amount of \$9,260,000, and its Health Care Facilities Revenue Note, Series 2008B (Ely-Bloomenson Community Hospital and Nursing Home Corporation Project) in the principal amount of \$5,380,000 (the “Series B Note,” and together with the Series A Note, the “Notes”), under and pursuant to Minnesota Statutes, Sections 469.152 through 469.165, as amended. **C.** The proceeds of the Notes were used by the Borrower for the: (a) renovation of approximately 6,776 square feet of existing administrative space for the relocation and enhancement of the Physical Therapy/Wellness program; (b) construction of approximately 2,029 square feet of public circulation space; (c) remodeling and renovation of approximately 28,000 square feet of the existing facility for upgrades including the following areas: Ambulance/Emergency garage, Emergency Department, Lab, Imaging and in-patient hospital areas; (d) remodeling of the existing clinic leased by The Duluth Clinic, Ltd., to increase services, create pre-rooming patient areas and provider office space; (e) miscellaneous remodeling projects in the Administrative and Nursing Home areas and other areas of the Borrower’s facilities; (f) acquisition of furniture, fixtures and equipment; and (g) costs associated with the issuance of the Notes. **D.** The Issuer loaned the proceeds of the

Notes to the Borrower (the “Loan”) pursuant to a Loan Agreement, dated October 28, 2008 (the “Original Loan Agreement”), between the Issuer and the Borrower. **E.** The rights of the Issuer (other than the Unassigned Issuer’s Rights as defined in the Original Loan Agreement) were assigned to the Lender pursuant to a Pledge Agreement dated October 28, 2008 among the Issuer, the Lender and the Borrower. **F.** Pursuant to the Loan Agreement, the Borrower covenanted, among other things, to repay the Loan by making payments sufficient to pay the principal of, premium, if any, and interest on the Notes when due (as defined in the Loan Agreement) (the “Loan Repayments”). **G.** Repayment of the Loan is further secured by an Amended and Restated Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents (the “Mortgage”), of even date herewith, from the Borrower to the Lender. **H.** The Borrower proposes to transfer certain of its assets to Ely Health and Hospital Foundation (the “Foundation”) and Ely Health and Hospital Fund (the “Fund”), which transfer requires the consent of the Lender. **I.** The Lender has required, as a condition for its consent that the Foundation and the Fund further secure payment of the Notes by their respective Guaranty Agreements dated the date hereof in favor of Lender. **J.** The transactions described above require that the Original Loan Agreement be amended pursuant to Amendment No. 1 to Loan Agreement among the Issuer, the Borrower and the Lender (the “Amendment”). **K.** A draft of the Amendment has been submitted to this City Council and is on file in the office of the Clerk-Treasurer. **Section 3. Approval and Execution of amendment.** **a.** The Amendment is made a part of this Resolution as though fully set forth herein and is approved in substantially the form on file with the City Council. The Mayor and the Clerk-Treasurer are authorized and directed to execute, acknowledge, and deliver the Amendment on behalf of the Issuer with such changes, insertions, and omissions therein as the Issuer’s attorney may hereafter deem appropriate, such execution by the Mayor and Clerk-Treasurer to be conclusive evidence of approval of such documents in accordance with the terms hereof. **b.** The Mayor and the Clerk-Treasurer are authorized and directed to execute and deliver all other documents which may be required under the terms of the Issuer Amendment or by bond counsel and to take such other action as may be required or deemed appropriate for the performance of the duties imposed thereby to carry out the purposes thereof. **c.** The Mayor, Clerk-Treasurer and other officers of the Issuer are authorized to furnish certified copies of this Resolution and all proceedings and records of the Issuer relating to the Notes, and such other affidavits and certificates as may be required to show the facts relating to the Issuer respecting the Notes, as such facts appear from the books and records in the officers’ custody and control or as otherwise known to them; and all such certified copies, certificates, and affidavits, including any heretofore furnished, shall constitute representations of the Issuer as to the truth of all statements contained therein. **d.** If for any reason the Mayor, Clerk-Treasurer or any other officers, employees, or agents of the Issuer authorized to execute certificates, instruments, or other written documents on behalf of the Issuer shall for any reason cease to be an officer, employee, or agent of the Issuer after the execution by such person of any certificate, instrument, or other written document, such fact shall not affect the validity or enforceability of such certificate, instrument, or other written document. **e.** If for any reason the Mayor, Clerk-Treasurer or any other officers, employees, or agents of the Issuer authorized to execute certificates, instruments, or other written documents on behalf of the Issuer shall be unavailable to execute such certificates, instruments, or other written documents for any reason, such certificates, instruments, or other written documents may be executed by a deputy or assistant to such officer, or by such other officer of the Issuer as in the opinion of the Issuer’s attorney is authorized to sign such document and do all things and execute all instruments and documents required to be done or executed by such officers, with full force and effect, which executions or acts shall be valid and binding on the Issuer. **Section 4. Severability.** If any provision of this Resolution shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or paragraphs in this Resolution contained shall not affect the remaining portions of this Resolution or any part thereof. **Section 5. Effective Date.** This Resolution shall take effect and be in force

from and after its approval. **Roll called: Debeltz-yes, Kess-yes, Nikkola-yes, Omerza-yes, Polyner-yes, Sheddy-yes and Mayor Petersen-yes. Motion carried unanimously.**

14. OPEN FORUM

Clerk Langowski stated that the Sheridan St construction is underway. It was noted that there will be no work done during the Harvest Moon Festival.

Nikkola/Debeltz moved to close the meeting at 6:17pm after a 5 minute recess. Motion carried unanimously.

Meeting re-opened at 6:24pm and closed at 6:25pm for Litigation Strategy regarding Reed Road.

Meeting re-opened at 6:35. No action taken.

Meeting closed at 6:45pm for allegations against an employee subject to the boards review.

Meeting re-opened at 8:15pm.

Nikkola/Omerza moved to approve last chance agreement with employee and 3 day unpaid suspension. Motion carried unanimously.

Sheddy/Kess moved to adjourn meeting at 8:17pm. Motion carried unanimously.

Claire Huisman
Deputy Clerk