

Council Minutes - February 5, 2019
Regular Meeting Ely City Council – City Hall, Council Chambers

1. CALL TO ORDER: Mayor Novak called the Regular Council Meeting to order at 5:30pm.
2. PRESENT: Council members A.Forsman, Kess, Debeltz, Callen, Campbell, and Mayor Novak
ABSENT: Council member Omerza
3. APPROVAL OF MINUTES:
Debeltz/Callen moved to approve the minutes from EUC Rates Public Hearing on January 15, 2019, Kapsch Gardens Vacation Public Hearing on January 15, 2019, Lockhart Street Vacation Public Hearing on January 15, 2019, January 15, 2019 Regular Meeting, and Special Council Meeting with Town of Morse on January 23, 2019. Motion Carried 6-0-1 with Omerza Absent.
4. ADDITIONS OR OMISSIONS TO AGENDA:
A. Additions 13.E. EEDA Position Appointment
Item A was added without objection.
5. MAYOR’S REPORT
A. Selection of Legal Publication
Mayor Novak stated that the City of Ely needs to follow the State Statutes and Ely Charter. The Ely Charter states that the bid should go to the lowest responsible bidder. Mayor Novak stated that both bids are somewhat flawed and we need to do more of an investigation. Mayor Novak suggested to reconsider the vote of the legal newspaper and to have the city attorney complete an investigation and assign a task group to go through the materials.

B. CGMC Recap of St. Paul Visit
Mayor Novak and Council member Omerza were in St Paul last week for the CGMC Legislative Action Day; they visited with legislatures and walked through all the offices of the legislatures. Governor Walz spoke at a luncheon with the group.
6. CONSENT AGENDA:
A. Motion to waive readings in entirety of all ordinances and resolutions on tonight’s agenda
B. Approve Staff and Council to attend the 2019 Safety & Loss Control Workshops
Debeltz/Campbell moved to approve the consent agenda items A and B. Motion Carried 6-0-1 with Omerza Absent.
7. REQUESTS TO APPEAR:
A. Nick Wognum – request to reconsider the awarding of the city legals
Nick Wognum – 235 E Boundary St- General Manager at the Ely Echo
Wognum stated that the known office of issue for the Ely Echo is at 15 E Chapman St. The Ely Echo pay’s commercial property taxes, whereas the competition has a residential address listed as their office of issue. The Ely Echo supports many organizations, benefits, and teams in town every year because people know where to find them, at 15 E Chapman St. Wognum stated that the competitions office of issue is a residential address, a house. Wognum indicated that every year a legal newspaper has to file with the Secretary of State stating that they sent in there US Postal Service paperwork, stating who you are, who you mail to, how many papers go to each place within the county or outside of the county and pay a \$25 fee to the Secretary of State. Wognum stated he looked through the list of legal publications on the

Secretary of State website and the Ely Timberjay was not listed as a legal publication. In the statutes it states that a legal newspaper must have at least 400 paying subscribers, the Echo has a lot more subscribers than that. Wognum thanked the people for stopping in and supporting the Echo office which is open 5 days a week. Wognum requested that the council rescind the legal publication motion and award the legal publication to the Ely Echo.

8. COMMITTEE REPORTS:

A. Standing/Special

Projects Committee

Callen/A.Forsman moved to approve the recommendation from the Projects Committee to support the grant applications for the Mountain Bike trail construction at Hidden Valley. Motion Carried 6-0-1 with Omerza Absent.

Callen/Debeltz moved to approve the recommendation from Projects Committee to advertise for the construction of a cemetery kiosk again. Motion Carried 6-0-1 with Omerza Absent.

Ely Utilities Commission – Minutes included in the packet

Telecommunications Advisory Board Meeting – Minutes included in the packet

Employee Relations Committee

Debeltz/Campbell moved to approve the recommendation from the Employee Relations Committee to post externally for the Water/Wastewater Operator IV position. Motion Carried 6-0-1 with Omerza Absent.

Debeltz/Callen moved to approve the recommendation from the Employee Relations Committee to award the position of infrastructure foreman to Steve Bartel and to post for Infrastructure Worker position internally and externally if no one posts internally. Motion Carried 6-0-1 with Omerza Absent.

Langowski stated that 4 applicants were interviewed last week for the Assistant Building Engineer/Equipment Operator Position, an Employee Relations meeting will be held next week for a recommendation for the position.

Park and Recreation Board

Matter of Information: Park and Recreation Meetings will be on the 4th Monday of the month at 6pm

Heritage Preservation Commission – Minutes included in the packet

Housing & Redevelopment Authority – Minutes included in the packet

Events Coordinator Bureau – Minutes included in the packet

Ely Area Ambulance Service – Minutes included in the packet

9. DEPARTMENTAL REPORTS:

A. Clerk-Treasurer

- i. The following items of business were recommended for approval at the regular EUC meeting of Wednesday, January 23, 2019:
 1. Approved an operator attending the Minnesota Rural Water Training.
 2. Approved payment of the MPCA Lab Certification Fee for \$1,800.00.
 3. Approved the purchase of a charging motor for \$3,750.00 plus shipping from Utilities Plus for the WWTF.
 4. Recommended Steven Bartel for the Infrastructure Foreman position.
 5. Approved an operator attending the MPCA Wastewater Operations Conference.
 6. Approved payment of the EUC November, 2018 Bills for \$392,719.69.

Debeltz/Callen moved to approve the EUC Consent Agenda items 1-6. Motion Carried 6-0-1 with Omerza Absent.

ii. Building Maintenance Vehicle

Langowski indicated approval is needed to go out for bids for a new truck for Building Maintenance; the bids would come back to the council for consideration. The current Building Maintenance truck is a 2003 with approximately 160,000 miles and that truck would be passed down to another department.

Debeltz/A.Forsman moved to advertise for bids for a Utility Vehicle. Motion Carried 6-0-1 with Omerza Absent.

Langowski indicated that there has been 13 water freeze ups so far this year as of this afternoon. Langowski requested that residents check their water temperature and if it gets to 38° to start running their water from a faucet the size of a pencil lead. Also several water meters have froze in a cold basements.

B. Fire Chief- Nothing to report

C. Library Director

Library Director Heinrich gave an update of the upcoming events at the library which can be located on the Library Website.

D. Police Chief – Nothing to report

E. City Attorney

- i. **Debeltz/A.Forsman moved to approve the note and mortgage for Ryan and Michale Callen to replace sewer lines in their basement at 110 W Conan St for \$4500.00. Motion Carried 5-0-1-1 with Omerza absent and Callen abstaining.**

ii. Legal Newspaper Information

Attorney Klun indicated she included in the council agenda packet a due diligence inquiry to the Ely Timberjay and information on the Minnesota State Statutes regarding legal publication.

F. City Engineer

10. COMMUNICATIONS: Matter of Information

- A. Correspondence from the Dorothy Molter Museum for their Annual Fundraising Dinner on Friday February 15, 2019
- B. 2018 Passport Sales
- C. Ely Area Ambulance Newsletter
- D. Community Development Block Grant (CDBG) Funding Recommendations

11. CLAIMS FOR PAYMENT:

- A. City and EUC claims for February 5, 2019 – \$380,391.43
- B. Ely Community Resource 1st Quarter Payment of \$5125

Campbell/Debeltz moved to approve the claims for payment items A and B. Motion Carried 6-0-1 with Omerza Absent.

12. OLD BUSINESS:

A. Debeltz/Callen moved to approve the 1st Reading of Ordinance No. 330 2nd Series, An Ordinance of the City of Ely, Minnesota, Adding to the Ely City Code, Chapter 20, Section 20.13.31, Entitles Vacation of Portion of City Owned Property in Kapsch Garden Tracts. Roll Called A.Forsman - Yes, Kess – Yes, Debeltz – Yes, Omerza – Absent, Callen – Yes, Campbell – Yes, and Mayor Novak- Yes. Motion Carried 6-0-1 with Omerza Absent.

B. A.Forsman/Debeltz moved to approve the 1st Reading of Ordinance No. 331 2nd Series, An Ordinance of the City of Ely, Minnesota Adding to the Ely City Code, Chapter 20, Section 20.13.32, Entitled Vacation of a Portion of City Owned Property, Lockhart Street.

Attorney Klun stated that the City is missing an easement that needs to be added for this ordinance; this ordinance will be tabled until we have appropriate legals and appropriate easement added on.

Langowski stated that the property with the easement is property that is west of the Wastewater Treatment Plant that is tax forfeit land which is owned by the state and they want to make sure that this land will continue to have an access to it.

Roll Called A.Forsman - Yes, Kess – Yes, Debeltz – Yes, Omerza – Absent, Callen – Yes, Campbell – Yes, and Mayor Novak- Yes. Motion Carried 6-0-1 with Omerza Absent.

13. NEW BUSINESS:

A. Debeltz/Callen moved to approve Resolution #2019-004 Resolution Supporting the Grant Application to the Minnesota Department of Natural Resources for the Federal Recreation Trail Program. Roll Called A.Forsman - Yes, Kess – Yes, Debeltz – Yes, Omerza – Absent, Callen – Yes, Campbell – Yes, and Mayor Novak- Yes. Motion Carried 6-0-1 with Omerza Absent.

B. Callen/Campbell moved to approve the Residential Rehab Loan for Brian and Karen Maverick for \$10,000 for 415 E Chapman St to replace all windows pending proper paperwork and fees and to direct Attorney Klun to work with the applicant and to proceed with the loan processing. Motion Carried 6-0-1 with Omerza Absent.

C. Angela Campbell - Resolution One

Campbell/A.Forsman moved to reconsider the vote of the City Council to award the legal publishing to the Ely Timberjay.

A.Forsman stated that a lot of research has gone into this since the last meeting, and a lot of questions have come forward. One of the statutes indicates that a legal publication needs to have 400 annual subscribers and it needs to be listed with the Secretary of State as a legal newspaper.

Campbell stated that she had limited information at the last meeting on legal publishing. Campbell then read through items that were included in the council packet in Attorney Klun's due diligence. Campbell's concern was that the Ely Timberjay's publisher failed to verify that the Ely Timberjay has at least 400 copies regularly delivered to paying subscribers or at least 400 regularly distributed without charge to local residents.

Kess asked Attorney Klun what her legal opinion was.

Attorney Klun stated a qualified newspaper needs to have 400 paying subscribers or you need to give out 400 copies of the newspaper. Attorney Klun stated that at this time she does not have verified circulation.

Mayor Novak stated that we do not have a verified circulation from either party.

Attorney Klun stated that she would like to do more due diligence on this matter to research the Secretary of State posting, verify the circulation, and the known office of issue.

Mayor Novak stated that we need to task the attorney to do more research on this issue.

Debeltz stated that we need to figure out how many papers each paper gives out and task Attorney Klun to do investigate this issue more. Debeltz also mentioned that maybe we need to look at changing the charter on legal publishing for in the future.

Mayor Novak stated he will be contacting the Charter Commission to schedule a meeting.

Campbell asked which was precedent Minnesota Statute or Home Rule Charter

Klun stated that if the statutes and charter conflict the statutes take precedent. The statutes would indicate what a qualified newspaper is. The charter weighs in if there are two qualified newspapers that have offices within Ely. The charter then states that the bid would go to the lowest responsible bidder, other than that we are looking at the statutes to determine application.

Callen indicated that we need more facts and information from legal before we can make our decision.

Kess and A.Forsman asked who our legal newspaper would be until our next council meeting.

Langowski indicated that we could publish in both papers.

Motion Carried 5-1-1 with Mayor Novak voting No and Omerza Absent.

Debeltz/Campbell moved to publish the City of Ely's legal notices in the Ely Echo and the Ely Timberjay until we get the results of the investigation.

Callen stated that he will be voting no to this motion in with the best interest of the taxpayer's money at hand.

Roll Called A.Forsman - Yes, Kess - No, Debeltz - Yes, Omerza - Absent, Callen - No, Campbell - Yes, and Mayor Novak- No. Motion Failed 3-3-1 with Omerza Absent.

D. Angela Campbell – Resolution Two

Kess/Debeltz moved to task Attorney Klun to investigate both bids received for legal publication for 2019 and for the Mayor to form a task group of 3 council members, the Clerk/Treasurer, and Attorney Klun and report back to the council at the next council meeting. Motion Carried 6-0-1 with Omerza Absent.

A.Forsman asked if the League of Minnesota Cities has any information on legal newspaper publications. Attorney Klun stated she will look into it.

E. EEDA Position Appointment

Mayor Novak asked if we wanted to proceed by posting this position.

Kess asked if Campbell was a member of the EEDA.

Mayor Novak stated that currently Campbell is not a member of the EEDA. A member of the EEDA is appointed by the mayor with approval by City Council. Mayor Novak stated that this can be discussed at EEDA next Tuesday.

14. OPEN FORUM

Nick Wognum stated that if a newspaper is not on the Secretary of State list it is not an official newspaper, and any legal public notices would not count.

Ann Koskinen – 9 E Harvey - Responsible in law has only one definition and that is what would count as a responsible bidder. Koskinen stated that the Echo responds to the City of Ely in all manners of its publication, including the posting of city business. Koskinen stated that she walked by the official business address of the Ely Timberjay on Monday and it did not look like they were ready for business and the property is zoned R-1 and it is homesteaded.

Mike Banovetz – 427 E Harvey – Banovetz asked what constitutes as an office? Is a home, an office? Is the area that they actually conduct business in an office? Banovetz questioned whether a home occupation permit qualifies a place as a business. Banovetz also questioned that the home occupation was given after the fact.

15. ADJOURN

Mayor Novak adjourned the meeting at 7:02pm without objection.

Casey Velcheff
Deputy Clerk