

**Council Minutes - October 1, 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, Omerza, Callen, Campbell, and Mayor Novak  
ABSENT: None
3. APPROVAL OF MINUTES:  
**Debeltz/Callen moved to approve the minutes from the September 17, 2019 Public Hearing and the September 17, 2019 Regular Council Meeting. Motion Carried Unanimously.**
4. ADDITIONS OR OMISSIONS TO AGENDA:
  - A. Addition 11.F. Partial Payment Estimate No. 1 for the West End Redevelopment District, Phase 1 project for \$43,444.45 to Utility Systems of America, Inc.
  - B. Addition 13. D. Disclosure of Conflicts of Interest- Kim Eldevik Residential Rehab Loan
  - C. Additions 13. F. Updated Resolution 2019-035 and Exhibit A – Assessment Roll for Resolution 2019-035
  - D. Additions 13.G. Transfer the Tobacco License from Blomberg and Sons, Inc to Range Cooperatives, Inc.**Additions A-D added without objection.**
5. MAYOR’S REPORT  
The RAMS Board of Directors and the Range Mayors group met earlier today with Congressman Stauber.
6. CONSENT AGENDA:
  - A. Motion to waive readings in entirety of all ordinances and resolutions on tonight’s agenda  
**Debeltz/Campbell moved to approve the consent agenda item A. Motion Carried Unanimously.**
7. REQUESTS TO APPEAR: None
8. COMMITTEE REPORTS:
  - A. Standing/Special  
Planning and Zoning Commission  
Recommendation from the Planning and Zoning Commission to approve the Re-zoning of Central Avenue Business Park parcels to (M) Light Industrial with no change to the existing CUP previously granted and to direct the city attorney to proceed on the re-zone.  
Matter of Information- Attorney Klun will work on the ordinance process.  
  
Tree Board: Minutes included in the Council Packet  
  
Heritage Preservation Commission  
**Campbell/Callen moved to approve the recommendation from the HPC to request authorization from the Council to submit a grant request to the Minnesota Historical Society to fund the next phase of the Retaining Wall Repair. Motion Carried Unanimously.**

**Campbell/Debeltz moved to approve Resolution 2019-033 Resolution Authorizing the City of Ely to Make Application to and Accept Funds from the MN Historical Society Legacy Grant Program. Roll Called: Council Member A.Forsman- Yes, Kess-Yes, Debeltz-Yes, Omerza-Yes, Callen-Yes, Campbell – Yes, and Mayor Novak-Yes. Motion Carried Unanimously.**

Ely Utilities Commission: Minutes included in the Council Packet

9. DEPARTMENTAL REPORTS:

A. Clerk-Treasurer

i. Approve the EUC Consent Agenda from September 25, 2019

1. Approved MRWA operator training in St. Cloud and Silver Bay on October 30<sup>th</sup> and September 30-October 2.
2. Approved tie to grid solar application for customer
3. Approved purchase of valves from Core and Main for WTP in the amount of \$30,740.93
4. Approved NEMMPA dues for 2019 in the amount of \$2,000
5. Approved payment of EUC Bills List for August in the amount of \$373,029.73.

**A.Forsman/Callen moved to approve the EUC Consent Agenda from September 25, 2019 items 1-5. Motion Carried Unanimously.**

ii. **Debeltz/Campbell moved to approve Resolution 2019-034 Resolution Authorizing the City of Ely to Make Application to and Accept Funds from IRRRB Residential Redevelopment Grant Program. Roll Called: Council Member A.Forsman- Yes, Kess-Yes, Debeltz-Yes, Omerza-Yes, Callen-Yes, Campbell – Yes, and Mayor Novak-Yes. Motion Carried Unanimously**

B. Fire Chief

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

E. City Attorney

i. **Debeltz/Callen moved to approve the note and mortgage for the Residential Rehab Loan for Drew Trippler to get the sewer line to code per POS Sewer Ordinance for 211 W Chapman St for \$9000.00. Motion Carried Unanimously.**

ii. **Debeltz/Campbell moved to approve the note and mortgage for the Commercial Rehab Loan for Sarah Burger to replace roof at 48 E Sheridan St for \$10,000. Motion Carried Unanimously.**

iii. **Debeltz/Callen moved to approve the Mortgage Satisfaction for Ann M Loscheider for the mortgage recorded on September 25, 2018 as Document No. 01341394. Motion Carried Unanimously.**

iv. Sanitation

Attorney Klun discussed the memo regarding the G Men Contract Renewal Negotiations. The original direction she received on this issue was: “contact the vendor’s attorney to see if the vendor is willing to renegotiate the license agreement to allow for other commercial vendors to become licensed to service those that need service when the current licensee can’t perform the service.”

Attorney Klun indicated she understood the motion as to have weekend pickup; currently in the contract the vendor does not have to provide weekend pickup.

Attorney Klun negotiated with the attorney for G Men and negotiated the following terms:

G-men propose a renewal of its current contract with the following amendments. All other terms and conditions remain.

1. Section(3)term(8)

- a. Schedule of Collection: All collection must be performed not before 6:00am during the contract year. Contractor may request that the City grant a variance to these normal hours of operations when special or unforeseen incidents occur. For residential customers, pick-ups shall be made for each area district or neighborhood not less than once (1) per week. For commercial customers, pick-ups shall be available 6 days per week, excluding holidays per Section 9 and Sundays.

2. Section(15)

a. COMPLAINTS:

- i. The Contractor shall maintain and adequately staff a Customer Service Department call center to handle customer calls and complaints throughout the Term of the Contract. Contractor’s call center shall use a computerized customer database that shall be updated by the Contractor’s employees. The Contractor shall make reasonable accommodations to all requests or complaints.
- ii. In addition, customer complaints or service requests may be directed towards the City of Ely’s Sanitation Committee. In the event a written request or complaint is brought to the City’s Sanitation Committee, the Contractor shall be noticed and shall respond to the City and the complainant in writing within 15 days of its receipt with its reasonable accommodations.
- iii. Per its standard practice, the Contractor shall keep a written record of all customer interactions. Such recordings shall be available for the City’s review for the purpose of investigations G-men compliance with the Contract.

3. Appendix C shall include the following rate schedule:

The standard 2-yard commercial rate is \$13.79/yd. Saturday pickup shall include a \$50.00 surcharge due to labor and equipment costs.

Attorney Klun stated that the vendor has few customers that require Saturday pickup so that is why there is a \$50 surcharge. The cost for the vendor is \$350 for Saturday pickup, the reason for the cost is an employee working on a Saturday has a 4 hour minimum per the union agreement and the cost of putting a truck into service. Attorney Klun indicated that the proposal back from the vendor was to include a \$50.00 surcharge for Saturday pickup.

Attorney Klun stated that she needs direction from the Council as to the next steps. If the council does not agree to these terms as of November 1<sup>st</sup> the waste disposal would be an open system. The council would have to establish licensing requirements, currently our licensing requirements are done on a contractual basis with the vendor through its contract. If the contract is not agreed upon by November 1<sup>st</sup> we would need to get licensing in place.

**Debeltz/Omerza moved to accept the above proposal as presented.**

Kess stated that there was a range of options that are available. Kess would like to decline this proposal and discuss other options.

A.Forsman stated that we directed Attorney Klun to work with G-men to try to extend the contract. A.Forsman stated that he feels what the city was requesting was not received and was negotiated to the contract holder's benefit, ignoring our request. A.Forsman would like to reject this proposal and re-negotiate to be able to move forward

Omerza indicated the rates are controlled right now, if we separate the contracts the rates will go up. As a city we work hard to keep the rates down, whether it is property taxes, EUC, etc., we are in control right now with the waste disposal rates. As of November 1<sup>st</sup> we do not have anything in place for licensing. We do not have any formal complaints, we need to be responsible to our taxpayers, and we need to move forward with this proposal.

A.Forsman stated that the contract should not extend out to 15 years. It seems like the current provider has not intended to work with this council to address the issues that have been brought forward. Currently the commercial rates are not in the contract, so those rates can fluctuate.

Kess indicated that about a month ago he had made a motion to separate the commercial and residential contracts, but he withdrew the motion on the basis of contract negotiations. There are several options out there that we need to discuss; one is have two licenses for residential and commercial.

Debeltz indicated that the only complaint he heard was that the garbage was not picked up on the weekends, the current proposal would settle these concerns.

Omerza indicated that people have been complaining about moving the recycle center, if we don't get this settled our resident's option will be to bring their garbage to the transfer station.

A.Forsman stated that the length of the contract is not being addresses in the current proposal.

Mayor Novak indicated that current the length of the contract would be what is in the current contract (3) -5 year renewable terms.

Callen stated he agrees with A.Forsman and Kess, he would like to give the residents and business owners options with only allowing two licensed contractors within the City.

Mayor Novak indicated that the past contract was voted on unanimously. We need to think about the best interest of the tax payers. What will the cost for trash pickup be?

Novak stated that we had a good deal going on here. If we set it up so a second provider can pick up refuse, the provider will need to have the same specifications for equipment as the current hauler. Mayor Novak indicated he is supporting this motion with the best interest of the citizens of Ely in mind. The citizens of Ely seem to be happy with the service they are provided for trash pickup.

Omerza indicated that we had a hearing on this and most of the comments were positive about the current provider. This is going to cost the citizens of Ely more money and it is taking up a lot of time of staff. How are we going to go through the licensing process?

Staff is going to have to figure out how to go about it. Omerza indicated that the council is the one that sets policy and we are having staff set this policy to try to figure out how to do something that we already have had a responsible business in charge.

A.Forsman indicated that if we would have addressed this issue back when it was brought forward it wouldn't need to be rushed through now. If we would have created the committee that the statutes requires in the first place, rather than come around and say we need to make this request and get this over with, we would not be in this spot. To rush through this now and not finish this it would be a mistake.

Mayor Novak stated that Forsman is the one that made the original motion; it did not come from sanitation committee. Mayor Novak indicated that if A.Forsman was that interested, he would have continued to bring this up and come up with alternative ideas. We did not hear anything on this for an extended period of time? Mayor Novak indicated he is disappointed, that no one took an initiative on this. Who was going to take charge of this issue? We directed Attorney Klun to negotiate to get weekend coverage and she has brought that forward.

Debeltz asked what is going to happen if people have to bring their trash to the transfer station. What happens to the people that cannot bring their garbage out to the transfer station? We are going to have garbage all over town. The only complaint we have had is from one business owner that wanted service on the weekend and that is in the current proposal.

Kess said that he objects to the sky is falling type of approach. If you look at the surrounding communities, Winton, Town of Morse, their garbage gets picked up on a regular basis and they do not have contracts. We have never had a discussion on what the options are; even though he has brought it up multiple times.

Mayor Novak stated that he felt like the person that originally brought up the motion should take the lead on the matter, not expect someone else to do it.

A.Forsman said there was a sanitation meeting that discussed what could be changed in the contract, and there were some recommendations from that meeting that were brought to the council, and the council put forth to just move forward with weekend pickup.

Campbell asked for clarification since it is apparent that there is a great deal of discussion on the residential pickup. Is this agreement only for the Commercial Contract? We are not talking about residential contract right?

Attorney Klun indicated that we are talking about them both. Anything that is demo, or over 8 yards is an open system, anything that is less than 8 yards would follow under this contract which is residential and commercial.

Campbell asked so voting yes means that this is acceptable, that service will continue as is, with added weekend service for commercial

Attorney Klun stated that voting yes would be a continuation of the current contract with the three amendments on the memo from Attorney Klun.

Omerza stated that the other communities around us can go without organized pick up because they are under a certain population. We are obligated to have organized collection because of the size of our town.

A.Forsman stated that as population over 1000 we could create a license agreement and allow an open system under that licensing agreement. .

**Kess/Omerza moved to call the question. Motion Carried Unanimously.**

Current motion on the table is:

**Debeltz/Omerza moved to accept the above proposal as presented from the memo from Attorney Klun dated 10/01/2019. Motion Failed 3-4 with A.Forsman, Kess, Callen, and Campbell voting No.**

Attorney Klun asked for direction, options include per council discussion, a counter offer could be formed, direct for licensing requirements relative to commercial, keep residential as is in the current contract, open system with licensing requirements. Attorney Klun indicated that she needs direction from the council.

**A.Forsman/Kess moved to direct the City Attorney to draft licensing requirements for both residential and commercial haulers based on current state, county requirements, and the appropriate requirements per the current contract.**

Attorney Klun indicated that she would like a Special Meeting scheduled since these licensing requirements require an ordinance change, which means at least 2 meeting to move forward with an ordinance change and agreement on the licensing requirements.

**Motion Carried 4-3 with Debeltz, Omerza and Mayor Novak voting No.**

Debeltz asked if someone could contact the current contractor to make sure we have garbage pick-up after November 1<sup>st</sup>.

Mayor Novak stated we can ask for an extension to the current contract.

**Debeltz/Omerza moved to have the City Attorney ask the current contractor to extend the current contract till June 30, 2020. Motion Carried Unanimously.**

F. City Engineer

10. COMMUNICATIONS: Matter of Information

- A. Correspondence from the Washington Elementary PTO
- B. Notice of Vacancy Community Development Block Grant (CDBG) Citizen Advisory Committee

11. CLAIMS FOR PAYMENT:

- A. City and EUC claims for October 1, 2019 – \$105,113.60
- B. Louis Leustek & Sons Inc Invoice #14726 for crushing recycled asphalt for \$67,042.50.
- C. Ely Community Resource 4<sup>th</sup> Quarter payment of \$5125.
- D. Pay Request #7 for the Trail Improvements and Vermilion River Bridge Construction Project for \$162,478.97 to George Bougalis and Sons
- E. Pay Request #3 for the West Camp, Pattison Street East Improvements for \$220,899.23 to Utility Systems of America, Inc.
- F. Partial Payment Estimate No. 1 for the West End Redevelopment District, Phase 1 project for \$43,444.45 to Utility Systems of America, Inc.

**Debeltz/Callen moved to approve the Claims for Payment items A-F. Motion Carried Unanimously.**

12. OLD BUSINESS: None

13. NEW BUSINESS:

**A. Debeltz/Omerza moved to approve Resolution 2019-032 Resolution of the City of Ely, City Council for the CDBG application for the James Street Reconstruction Project. Roll Called: Council Member A.Forsman- Yes, Kess-Yes, Debeltz-Yes, Omerza-Yes, Callen-Yes, Campbell – Yes, and Mayor Novak-Yes. Motion Carried Unanimously**

**B. Debeltz/Campbell moved to approve the CDBG Pre Application for the James Street Reconstruction Project. Motion Carried Unanimously.**

- C. Maintenance of Private Property Appeal for 106 E Harvey St  
Building Official Whitney indicated that he sent a Notice of Maintenance of Private Property for 106 E Harvey Street and received an appeal notice from the property owner, Paul Kess. Whitney stated that an inspection report is included in the packet for the property. Whitney indicated that the next step according to the City Code is to schedule a hearing.

**Debeltz/A.Forsman moved to cancel the study session on October 29, 2019 and have the hearing on 106 E Harvey St at 6:30pm on October 29, 2019. Motion Carried Unanimously.**

- D. Callen/Omerza moved to approve the Residential Rehab Loan for Kim Eldevik to replace doors, insulate mud room/back entry way and to get the sewer line to code per POS Sewer Ordinance for 6 W Conan St. for \$10,000.00 pending proper paperwork, and fees and to direct Attorney Klun to work with the applicant and to proceed with the loan processing and to sign the Disclosure of Conflicts of Interest for the Kim Eldevik Residential Rehab Loan.

Attorney Klun indicated that Kim Eldevik is a legal assistant at Klun Law Firm; she provided a disclosure of conflicts of interest for the loan.

**Motion Carried Unanimously.**

- E. Debeltz/Omerza moved to approve Monica and Tim Cunningham requesting to purchase parcel 030-0030-04030 and parcel 030-0030-03850 for \$8000 and to vacate the undeveloped portion of Park Avenue that dissects the three properties per letter dated September 25, 2019.

Langowski indicated that this has been going on since 2012; the property is the old Lakeside Beverage Building on the way down to Semer's Beach. The current owner has been utilizing city property. In 2016 they had another potential buyer and the property was appraised at that time. Langowski stated that this is a fair offer. The vacation of Park Avenue would be charged to the owners. The prospective buyers are planning on moving their business to this property.

Kess asked what kind of impact vacating Park Avenue would have for the access of the City Property in that area.

Langowski stated that the alleyway and Chandler Street across from Lake Avenue would still be maintained. The properties would have to be re-platted. This will be a great solution to the issues that have been going on with this property; the new owners would clean up the property.

A.Forsman indicated that the potential buyer is his current employer, and his sister and brother-in-law, but he does not personally benefit from this.

A.Forsman indicated that they do have a signed purchase agreement with the owner.

A.Forsman indicated that the motion should be broken down into two parts, one to move the sale of land to projects and to move the vacation to Planning and Zoning.

**Debeltz/Omerza moved to bring the sale of city land to Monica and Tim Cunningham, parcel 030-0030-04030 and parcel 030-0030-03850 for \$8000 to the projects committee and to bring the vacation of the undeveloped portion of Park Avenue that dissects the three properties per letter dated September 25, 2019 to Planning and Zoning. Motion Carried Unanimously.**

**F. Omerza/Callen moved to approve the Updated Resolution 2019-035 Resolution making levy and assessment against taxable properties for delinquent water, sewer, and electric accounts. Addition- Updated Resolution 2019-035 and Exhibit A – Assessment Roll for Resolution 2019-035. Roll Called: Council Member A.Forsman- Yes, Kess-Yes, Debeltz-Yes, Omerza-Yes, Callen-Yes, Campbell – Yes, and Mayor Novak-Yes. Motion Carried Unanimously**

**G. Debeltz/Omerza moved to approve the transfer the City of Ely Tobacco License from Blomberg and Sons, Inc to Range Cooperatives, Inc. Motion Carried Unanimously.**

14. OPEN FORUM

John Esse asked each of the Council Members that voted No to the Sanitation Contract why they voted No.

Campbell stated that she has looked at the contract and questioned the contract; she was not on the council when that contract was approved. She indicated that she has had constituents come to her with concerns, and she feels that it should be separated from residential and commercial.

Callen indicated that a lot of people have come to him that are unhappy with residential pickup and he has heard from more business owners that would like the option of having another provider. Callen stated he would like to see two providers for commercial and residential.

Kess indicated that he has been clear on his reasons for voting No.

A.Forsman indicated that the contract term should be a limited; the current contract handcuffs future councils with the terms.

15. ADJOURN

Mayor Novak adjourned the meeting at 7:05pm without objection.

Casey Velcheff  
Deputy Clerk