

Council Minutes - November 17, 2020
Regular Meeting Ely City Council – City Hall, Council Chambers

1. CALL TO ORDER

The regular City Council Meeting on November 17, 2020 was called to order by Mayor Novak at 5:30pm.

2. PRESENT: Council members A.Forsman, Kess, Debeltz, Omerza, Callen via Zoom, Campbell, and Mayor Novak
ABSENT: None

3. APPROVAL OF MINUTES:

Campbell/Debeltz moved to approve the minutes from the November 10, 2020 Regular Council Meeting, and the November 12, 2020 Special Council Meeting. Motion Carried Unanimously.

4. ADDITIONS OR OMISSIONS TO AGENDA:

A. Additions 8.A. Budget Committee
Addition A was added without objection.

5. MAYOR’S REPORT

6. CONSENT AGENDA:

- A. Motion to waive readings in entirety of all ordinances and resolutions on tonight’s agenda
B. Ely Police Chief Chad Houde has successfully completed his 6 month probation as Police Chief.

Omerza/Debeltz moved to approve the consent agenda items A and B. Motion Carried Unanimously.

7. REQUESTS TO APPEAR:

- A. Bernie and Jeanette Palcher – Discuss noise ordinance enforcement.

The Palcher’s presented the following: We are here tonight to request Council’s support for the enforcement of a city of Ely ordinance 10.29. We live in the East Spaulding Development. Our neighbor in close proximity to the west has begun to run a generator that is most likely 7000 watts. It runs continually for several hours on many days. It seems to be on those dark cloudy days when the sun is not shining and therefore the sun is not providing adequate charging energy for his lead acid batteries. The generator is wired to his house. He is making his own inefficient power using fossil fuel. The problem is the noise. It is totally unacceptably loud, not only outside our home, but the noise invades our home. The constant drone of this generator is like a microwave sitting in the middle of the house that never goes off. It is not tolerable. The general prohibition in the noise ordinance of Ely, MN, 10.29 Subd2 A provides that: “No person shall make, or cause to be made, any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any persons, or precludes their enjoyment of property, or affects their property’s value.” This exactly describes how this noise is assaulting us. Besides the endangering of comfort, health, peace and welfare, there is a financial problem. We contacted a local realtor. The realtor confirmed that a neighbor running a noisy generator to create household power, at a close next-door property, means that in a real estate transaction, you must disclose the noise from the generator as a deficit for your property. Your potential to sell your home is likely reduced, as well as the value of your home.

Now, when we purchased land in this subdivision, it was made clear to us by City Clerk Ely Butler, that these lots were developed to be sold at below market rate in order to add more homes in the city of Ely and therefore support utility infrastructure as well as grow the tax base. There is even a term/condition of the lot sale in ordinance #180, Section 1 that describes the build requirement based on installation of utilities. It is clear that this property is not hooked up to the Ely power distribution system. Would this builder have been permitted to purchase these lots if he had disclosed his intent to not hook up and utilize all utilities? Why would anyone supplement their solar power with inefficient and expensive fossil-fuel generator power when they have agreed to hook up to city utilities when they build on this land? The current Minnesota Power web site states that the power they distribute will be generated by 50% renewable means by next year. Why is this Ely resident producing this noise pollution instead of hooking up to Ely utilities with MN Power energy? Now, in no way are we against generators used as backup when the city power is out. That is very acceptable. And of course, there is episodic or temporary noise when you mow the lawn, use a snow blower, use a chain saw to make firewood. That noise is necessary for order in our lives. Self-generation of power is not an acceptable noise in the City of Ely. Public utilities provide very reliable, affordable, and quiet power. Finally, the question: What if everyone ran a generator in the city to create their own household power? Or, even one person on every block was using a generator to make household power. Or, what if the neighbor that lives next to you, was making this annoying and unacceptable noise? While it may be environmentally desirable to have a solar panel, if doing so creates noise pollution to generate inefficient power necessary to provide for basic household needs, one has failed to be the best steward they could for the environment. It is very stressful to have the serenity during any amount of hours of the day impacted by the constant drone of this generator. How many hours, days, months, for the rest of our lives, will we need to endure this aggravation. The prospect of forever living with this noise is a life sentence. This unacceptable noise will continue to devalue our property. Thank you for your consideration and action to resolve this problem.

Mayor Novak indicated that we can look at it through planning and zoning and to look into if the statements about hooking up to utilities was part of the plan for that phase of Spaulding.

Campbell/Kess moved to enforce Ordinance 10.29.

Kess stated that in Section Subd 3 Enforcement it indicates that the Police department shall enforce the provisions of this section.

Mayor Novak stated that if the intent of the council at that time was to build up the utilities we should make that happen.

Omerza is concerned that we have a property owner that is not following through with what they agreed to when they purchased the property, and that the Palcher's have a neighbor that is bothering them in a neighborhood which was not the original intent of that neighborhood, those lots were plotted at a bit larger size to have more of an outdoor feel. Omerza asked if the police have been called on this issue.

B.Palcher indicated that they have talked to the City Clerk/Treasurer and to the Police Department and they both indicated that there is much they can do. Palcher stated that the noise is extremely irritating to both him and his wife.

A.Forsman stated that he understands what Campbell's intent is with the motion, but he feels it is deeper than just enforcing the ordinance; we need to look at all avenues that we can enforce. We need to look a little deeper into this and figure out what the best solution is for it. A.Forsman indicated that the motion that Campbell brought up is not the first step, we need to look into this further.

Kess/Campbell moved to call the question. Motion Carried 5-2 with A.Forsman and Omerza voting No.

Original motion called to question: **Campbell/Kess moved to enforce Ordinance 10.29. Motion Carried 5-2 with A.Forsman and Omerza voting No.**

Langowski indicated that the property is connected to the utilities. The intent in the ordinance when these properties were sold were to connect to water and sewer, since that was the largest investment made in that area, this property is connected to electric power as well.

There is an electric service that is run to the property.

Campbell indicated that she checked today and there is only water and sewer no electric.

Langowski indicated there is power that is running from the grid to the dwelling, whether or not is it used at this time; it had been used up until earlier this year. Langowski indicated that as of now there is not an electric meter at the property.

Omerza/Debeltz moved to bring this issue to the Utilities Commission. Motion Carried Unanimously.

8. COMMITTEE REPORTS:

A. Standing/Special

Budget Committee

A.Forsman/Kess moved to approve the recommendation from the Budget Committee to allow \$2000 in the 2021 Capital Project Fund Budget for the Tree Board Projects.

A.Forsman indicated that the tree board works hand in hand with out Projects Committee with the projects that we do each year. The projects for 2021 there are not trees in those areas, but there are areas that the Tree Board would like to work on with their budget.

Motion Carried Unanimously.

9. DEPARTMENTAL REPORTS:

A. Clerk-Treasurer

B. Fire Chief

C. Library Director

Library Director Heinrich talked about Library announcements which can be found on the Library website.

D. Police Chief

i. Debeltz/Kess moved to approve the conditional offer to David Wimmer for open patrolman position, pending passing psychological and medical exam. Estimated start date beginning of January. Motion Carried Unanimously.

ii. Kess/Omerza moved to approve the conditional offer to Joseph Olufson for patrolman position created by Officer Borchert resigning. Pending passing psychological and medical exam. Estimated start date would be staggered two weeks from David Wimmer's start date. Motion Carried Unanimously.

E. City Attorney

F. City Engineer

10. COMMUNICATIONS: Matter of Information

- A. Correspondence from ISO, regarding the Building Code Effectiveness Grading Schedule Program.
- B. Ely Bloomenson Community Hospital Annual Meeting Notice
- C. Thank You from Wintergreen Northern Wear for the CARES Act Funding.
- D. Thank You from Studio North for the CARES Act Funding.

11. CLAIMS FOR PAYMENT:

- A. Campbell/A.Forsman moved to approve the City and EUC claims for November 17, 2020 for \$501,188.81. Motion Carried Unanimously**

12. OLD BUSINESS:

- A. Ely Brand Agreement between the City of Ely and Ely Tourism Bureau (Cindy Smyka)
Cindy Smyka gave a presentation on the new brand and City logo.
Omerza/Debeltz moved to approve the Ely Brand Agreement between the City of Ely and Ely Tourism Bureau.
Kess asked if a commercial business wants to use the brand/logo can they?
Smyka indicated that they cannot use it unless they have an agreement with the Tourism Bureau. If the City of Ely wants to purchase T-Shirts for the 4th of July Parade with the logo on it that would be ok since the City has an agreement.
Omerza stated that she is proud that all these entities, the Chamber, Tourism Bureau and City, can all work together on this.
Motion Carried Unanimously.

13. NEW BUSINESS:

- A. Kess/Omerza moved to approve the Ely Area Tourism Bureau Tourism Crisis Marketing Grant with the City of Ely as Fiscal Agent.**
Smyka indicated that the Tourism Bureau is waiting for its 501c 4 status approval from the IRS, but this money would go towards marketing for Ely.
Motion Carried Unanimously.
- B. Omerza/A.Forsman moved to approve the Change Order No. 4 for the West Camp Street, Pattison Street East Improvements Project. Motion Carried Unanimously.**
- C. Omerza/Campbell moved to approve the Final Payment Estimate No. 7 for the West Camp Street, Pattison Street East Improvements Project for \$12,585.00 to Utility Systems of America. Motion Carried Unanimously.**

14. OPEN FORUM

15. ADJOURN

Mayor Novak adjourned the meeting at 6:12pm without objection.

Casey Velcheff
Deputy Clerk