

**MINUTES OF THE REGULAR MEETING
OF THE ZIMMERMAN CITY COUNCIL
MONDAY, SEPTEMBER 9, 2013**

CALL TO ORDER

The regular meeting of the Zimmerman City Council was called to order at 7:00 p.m. at City Hall by Mayor Earenfight, followed by the Pledge of Allegiance.

ROLL CALL

Present: Mayor Earenfight, Council Members Brisbin, Clough, Laney and Mathison. Also present were City Administrator Piasecki, Clerk/Treasurer Tillmann, and Public Works Director Horvath.

AGENDA APPROVAL

Laney/Clough unanimous to approve the agenda as presented.

APPROVAL OF MINUTES

Brisbin/Mathison unanimous to approve the meeting minutes of the August 19, 2013 Regular Meeting as presented.

CONSENT AGENDA

Brisbin/Clough unanimous to approve the consent agenda as follows:

- a. Approve the payment of claims (check #35432 - #35473) in the amount of \$28,437.85, and electronic payments (e-check #926 - #931) in the amount of \$52,972.09 as presented.
- b. Accept the Building Permit Summary Report for August, 2013 as presented.
- c. Accept Invoice #159123 authorizing payment to Bolton & Menk in the amount of \$28,606.75 (ck #35475), for Project Management Services related to the 2013 Street Improvement Project, for the month of July 2013, as recommended by staff.
- d. Accept Invoice #159206 authorizing payment to Bolton & Menk in the amount of \$879.50 (ck #35475), for Project Management Services related to the 2013 Street Improvement Project, for the month of July 2013, as recommended by staff.
- e. Adopt **RESOLUTION #13-09-01**, authorizing payment to C & L Contracting, Inc., in the amount of \$157,644.89 (ck #35476), for Construction Services related to the 2013 Street Improvement Project, through August, 2013, as recommended by staff.
- f. Accept Invoice #3502456, approving payment to Hawkins, Inc., in the amount of \$6,477.57 (ck #35477), for bulk chemicals to be used at the Wastewater Treatment Plant as identified, with funds to be paid from the SBR Budget in the Sewer Fund, as indicated by the Public Works Director.
- g. Approve the license applications Wruck Excavating, Inc., 15096 – 102nd Street SE, Becker, MN 55308, for a Sewer and Water Installers license, for the period of September 9 – December 31, 2013, as requested.
- h. Adopt **RESOLUTION #13-09-02**, approving an amendment to the On-Sale liquor license renewals for The Whistling Pickle, to include the rear parking lot as part of the approved premise for the establishment located at 12606 Fremont Avenue, as requested.
- i. Approve an event permit application for Thundering Wild Zebra Run 1Mile/5K Run to be held on September 28, 2013, as requested by the Zimmerman Schools Physical Education Departments, 25959 - 4th Street West, with staging at the Westwood Elementary School, and approve the closing of certain roads, identified on the map provided, for the duration of the event.
- j. Approve the permit application for a public parade to be held on Wednesday, September 11, 2013, as requested by the Zimmerman High School Quarterback Club, 25900 4th Street West, with staging at Zimmerman Elementary School, ending at the City Park, and approve the closing of certain roads, identified on the map provided, for the duration of the parade, and approve the use of the City Park for bonfire and other Homecoming related activities from 7 – 9 p.m. on Wednesday, September 11, 2013.

OPEN FORUM

There was no one present to address the Council during Open Forum.

SNOWMOBILE TRAIL MAINTENANCE

John Kastner, 13040 – 9th Avenue S, Zimmerman, was present to address the Council on behalf of the Elk Lake Easy Riders Snowmobile Association. In 2013, Council approved an amendment to the snowmobile trail and City Ordinance to allow snowmobile access from the trail junction at 136th Street (CR 46) and CSAH 4 to Zimmerman Bar & Grill located at 13100 Fremont Avenue, with the stipulation that there be an annual evaluation of the trail use in case there are public safety concerns. The Snowmobile Association would like to continue the use of the extension in 2014 and would like to start performing trail maintenance. Kastner asked Council to allow the extension and trail maintenance in anticipation of the 2013-14 snow season.

Brisbin/Clough unanimous to approve the extension of the snowmobile trail from the junction of 136th Street (CR 46) and CSAH 4 to the property located at 13100 Fremont Avenue pending confirmation from the Sherburne County Sheriff's Department of any public safety concerns, and allow the Elk Lake Easy Riders to perform trail maintenance within trail extension area.

FIRE DEPARTMENT REPORT

Fire Chief Ryan Maloney presented the Fire Department report for the month of August, 2013. The Department responded to 5 medical assists, 2 gas leaks, 1 carbon monoxide alarm, 1 grass fire, a hazardous material spill, a vehicle fire and provided mutual aid for 2 house residential house fires. Chief Maloney reported that on Thursday, September 5, there was a significant gas leak in town and several businesses were evacuated. The Department was assisted by Elk River Fire and the Zimmerman Public Works Department. Centerpoint Energy will be conducting a thorough investigation into the cause of the incident.

The Fire Department will be holding a Car Seat Clinic at the Zimmerman Fire Station on Saturday, September 21st, in cooperation with Sherburne County Health and Human Services. The Department's Honor Guard has been invited to participate in the Fallen Firefighter's Memorial events at the Minnesota State Capital on Sunday, September 29th.

Maloney thanked the many local businesses and residents that supported the Fire Department over the weekend at their annual Open House and Dance. The event was a success, with over 600 people attending the dance in the evening.

Council accepted the Fire Department Report for August, 2013 by unanimous consensus as presented.

FINANCE REPORT

Sales Tax Audit Report

Tillmann reported that earlier this year, the City was contacted by the MN Department of Revenue (DOR) and subsequently scheduled for a sales tax audit for the period of October 2009 through March, 2013. The report identified sales and purchases that should have been included on quarterly sales and use tax returns remitted to the State of Minnesota and were not, primarily in the areas of commercial water sales, commercial water connection charges and park rental fees.

Staff questioned a number of the comments in the final report and worked through the City's Audit firm, Abdo, Eick and Meyers, to dispute several of the findings and appeal the ruling. Because of Abdo's involvement, the DOR reduced the penalties and fines by over \$5,000 to a current amount due of \$17,568.44.

Council expressed their displeasure with staff and audit firm regarding the findings in the report. Staff advised that some of the findings were the result of law changes that staff was not aware of. The DOR does not have a good mechanism in place to disseminate information. Member Clough suggested staff work more closely with the City Attorney and Audit staff when new legislation is passed so these mistakes can be avoided in the future.

Administrator Piasecki responded that staff has already made corrections in many of the areas identified by the DOR in the final sales tax audit report.

Mathison/Laney unanimous to approve payment to the MN Department of Revenue in the amount of \$17,568.44 (ck #35478) per the final tax order of the 2013 MN Sales Tax Audit, on file in the Clerk/Treasurer's Office.

2014 Budget Process

Tillmann reported that the preliminary budget and levy must be certified to Sherburne County by September 15, 2013. Council reviewed the budget at a workshop on August 26 and no changes have been made since the workshop. Staff recommends Council approve the preliminary budget and levy as presented, allowing for review in greater detail over the months of October, November, and December before final certification in December, 2013.

RESOLUTION #13-09-03 **Brisbin/Clough unanimous to adopt RESOLUTION #13-09-03 approving the proposed Preliminary General Fund Levy for taxes collectible in 2014 as follows: General Fund: \$1,140,573; Debt Service: \$69,000; Capital Expenditures: \$37,163, for a total levy amount of \$1,246,736 upon taxable property in the City of Zimmerman.**

RESOLUTION #13-09-04 **Clough/Brisbin unanimous to adopt RESOLUTION #13-09-04, approving the proposed 2014 Preliminary General Fund Budget as presented.**

RESOLUTION #13-09-05 **Brisbin/Laney unanimous to adopt RESOLUTION #13-09-05, setting the public comment meeting for the 2014 General Fund operational budget and levy for Monday, December 2, 2013, at 7:00 p.m., or as soon as possible thereafter, pursuant to MS 275.065, subd 1 and 3.**

ADMINISTRATOR'S REPORT

Modification of Loan Terms – Note

The City loaned \$97,500 to the EDA in 2007 so the EDA could offer a Business Development Loan to the developers of the grocery store. Once the loan payment is received by the EDA, it is repaid back to city twice per year. In June of this year, we modified the terms of developer's loan; however, the terms for the EDA note to the City were not changed. In essence, the EDA is repaying the City faster than the developer is repaying the EDA, which takes away EDA funds that could be used for other redevelopment projects. Staff is requesting a modification to the terms of the EDA loan from the City so the two payment schedules match.

Mathison/Clough to approve a modification to the terms for the \$97,500 loan to the Zimmerman Economic Development Authority (EDA), reducing the EDA's semi-annual payments to \$3,000 and extending the term through May 1, 2018, as recommended by staff and the financial consultant. Roll call on the motion: Brisbin, aye; Clough, aye; Earenfight, aye; Laney, naye; Mathison, aye. Motion carried.

MAYOR/COUNCIL ITEMS

Consider Request for Attorney General's Opinion from Sherburne County HRA

At the August 19th meeting, **Wendy Kowalski, 26412 Lake Avenue, Zimmerman**, appeared before the Council during Open Forum and requested Council acquire a copy of the Attorney General's opinion cited by Sherburne County Attorney Kathleen Heaney at the August 5, 2013 meeting. Members Laney and Clough requested the ability to act on the request at this meeting. Mayor Earenfight stated that he doesn't believe the City should get

involved in the matter and that Ms. Kowalski should make a Data Practices Request directly to the County Attorney's Office. Member Clough stated he would like to see a copy if it's available.

Clough/Laney to request a copy of the Attorney General's opinion regarding the formation of the Sherburne County Housing and Redevelopment Authority from the Sherburne County Attorney's Office. Roll call on the motion: Brisbin, aye; Clough, aye; Earenfight: naye; Laney: aye; Mathison: naye. Motion carried.

Mayor Earenfight noted the following upcoming events and activities:

- Farmer's Market – Tuesdays 3 – 6:30 p.m. – City Park
- Zimmerman Crazy Daze and Ladies On The Loose – Saturday, September 14
- Passing the Bread Food Distribution – 8 – 10 a.m.; Saturday, September 28

Before adjourning, Mayor Earenfight asked for a moment of silence in honor of US Military Personnel.

Brisbin/Laney unanimous to adjourn the meeting at 7:40 p.m. Motion carried.

Approved this 7th day of October, 2013.

s/s Kary Tillmann, Clerk/Treasurer

Approved 10/07/2013