

Owatonna City Council Minutes

Council President Schultz called the regular session of the Owatonna City Council to order on Tuesday, February 7, 2023, at 7:00 p.m. in Council Chambers at City Hall. Present were Council Members Raney, Svenby, Voss, Dotson, Burbank, and Schultz; Mayor Kuntz; Assistant City Engineer Murphy; Parks, Recreation & Facilities Director Tuma; City Attorney Walbran; City Administrator Busse, and Administrative Specialist Clawson. Council Member Boeke was unable to attend.

Agenda

Following the Pledge of Allegiance, Council President Schultz welcomed everyone to the meeting. Council Member Svenby made a motion to approve the agenda as presented, Council Member Dotson seconded the motion, all members present voted aye for approval.

Consent Agenda Items

Council President Schultz explained council members review the Consent Agenda items prior to the meeting for approval in one motion. Consent Agenda items for this meeting include:

- Minutes – Council Meeting – January 17, 2023
- Minutes - Planning Commission Meeting - January 10, 2023
- Minutes - Library Board Meeting - January 17, 2023
- Minutes - EDA Meeting - January 18, 2023
- Minutes - HRA Board Meeting - January 23, 2023
- Building & Inspections Monthly Reports - January 2023
- Temporary Liquor Permit - April 22, 2023 - St Mary's School
- Retail Fireworks Permit - Fleet Farm
- Exempt Permit - Minnesota Pheasants Inc - Raffle at VFW - April 1, 2023
- Resolution 16-23 Authorize Contract for Purchases - Fame Awards
- 26th Street Lift Station Panel Design Agreement – Advanced Engineering and Environmental Services, LLC

Council Member Voss made a motion to approve these Consent Agenda items, Council Member Burbank seconded the motion. Council Member Voss commented he will recuse from voting as one item is for purchased from his business, Fame Awards. With no additional comments, all members voting, voted aye for approval.

Finance Report

Council Vice President Raney recapped payments made more than \$20,000 for this period. Bills presented for payment totaled \$2,259,433.58. Council Member Burbank made a motion to approve payment of all bills, Council Member Voss seconded the motion, all members present voted aye for approval.

Ordinance 23-03: Establish Chapter 121 – Sale of Cannabinoid Products and Ordinance 23-04: Amend Chapter 35, Fees & Charges for Sale of Cannabinoid Products

City Attorney Walbran presented the first reading of proposed Ordinance 23-03 to establish Chapter 121, Sale of Cannabinoid Products in the 2015 Code of City Ordinances. Council considered this ordinance during their last meeting but tabled action with request for additional information. State Legislature is currently debating House File 100 (HF100) which broadly covers the regulation of marijuana, including "lower potency edible products" which are similar to, but not exactly the same as the edible cannabinoid product allowed since the summer of 2022. HF 100

provides for the licensing of lower potency edible products, and regulations governing retail operations.

The proposed state legislation preempts local control by cities in many respects. A City can't prohibit the establishment of a cannabis business licensed under the law; but can adopt reasonable restrictions on time, place, and manner of the operation of a cannabis business. If State Legislature adopts its bill, some provisions of our ordinance would be preempted, and others likely amended. It is anticipated that the 2023 Legislature will adopt further regulations for the retail sale of edibles.

Attorney Walbran explained changes made to the proposed ordinance since the last Council Meeting include:

- A sentence duplicated in error was deleted.
- Prohibited sales, restriction deleted.
- Added a provision requiring product must be in locked cabinet and visible for purchase.
- Annual license fee amount was changed to \$1,000. Chief Mundale provided information on anticipated compliance cost and this amount would be comparable with other city license fees, the City's annual On-Sale Liquor License is \$3,000/year.
- Recommend if the first reading of this proposed ordinance is approved, the second/final reading should be heard after the legislative session ends in May.

Council Member Raney questioned why wait, the retailers should be required to obtain a license authorizing sales and restrictions of cannabinoid products. Attorney Walbran commented current retailers are subject to legislation effective last July which includes no sales to individuals under the age of 21 and no packaging subject to juveniles.

Attorney Walbran explained it would be confusing if the City's ordinance became effective now and then required to be redone within a few months if the pending state legislation is approved. Approving the first reading of this proposed ordinance will serve as a notice to the local retailers that the City has begun a license process to implement if the state does not approve one during this legislative session.

Council Member Dotson commented he would prefer to wait until the state session has completed.

Council Member Voss commented after reviewing the information sent by Chief Mundale, it seems it would be costly to pursue litigation against an underage user and questioned what penalty they would/could be assessed?

City Attorney Walbran believes this would be a simple misdemeanor with a \$1,000 penalty; but the proposed city ordinance is to authorize the sale and restrictions of cannabinoid products for local retailers but not the end user.

Council Member Dotson made a motion to table action on the proposed cannabinoid ordinances until after the current legislative session is over, Council Member Dotson seconded the motion. The motion failed with a roll call vote; voting aye were Dotson and Voss, voting no were: Svenby, Burbank, Raney, and Schultz.

Council Member Svenby made a motion to approve the first reading of Proposed Ordinance 23-03 to Establish Chapter 121 in the City's Code of Ordinance regarding the Sale of Cannabinoid Products, Council Member Raney seconded the motion. With a roll call vote, voting aye were Svenby, Voss, Burbank, Boeke, Raney, and Schultz; voting no was Dotson, the motion carried.

Council Member Svenby made a motion to approve the first reading of Proposed Ordinance 23-04 to Amend Chapter 35, Fees and Charges of the 2015 City Code of Ordinance to include a license annual fee of \$1,000 for retail sales of cannabinoid products. Council Member Raney seconded the motion. With a roll call vote, voting aye were Svenby, Voss, Burbank, Boeke, Raney and Schultz; voting no was Dotson, the motion carried.

Council Member Svenby made a motion to table second readings of these proposed ordinances until June 6, 2023; the first Council Meeting after the end of the current legislative session. Council Member Raney seconded the motion, with all members present voting, the motion was approved 5 to 1, Council Member Dotson cast the no vote.

Resolution 17-23 Approve Report and Set Hearing Date – 2023 Street and Utility Project

Assistant City Engineer Murphy requested approval of Resolution 17-23 approving the Feasibility report for the 2023 Street and Utility Project and setting a date for the Preliminary Assessment Public Hearing. The project proposed included reconstruction of:

McKinley Street SW—Oak Avenue S to Lilac Avenue SW
Butternut Avenue SW—McKinley Street SW to Riverview Place SW
Riverview Place SW—Butternut Avenue SW to East cul-de-sac
School Street E - Main Street to Partridge Avenue E

with an estimated cost of \$3,160,491.63. This cost greatly exceeds what was anticipated and planned for in the Capital Improvement Plan (CIP) so to mitigate the risk of over expenditures, staff recommends improvement to McKinley Street SW be removed from this project to reduce the estimated project cost to \$1,416,539. The total cost to be assessed is currently estimated at \$1,914,498 with approximately 64 property owners which would be reduced to \$903,310 with 31 properties if McKinley Street SW removed from the project.

Council Member Raney commented he understands the financial need to remove McKinley from this project and hopes this street will be a priority for reconstruction in 2024. Murphy responded this street would be on the short list and should be a priority for completion in 2024.

Council Member Dotson made a motion to approve Resolution 17-23 setting a public hearing for the improvements proposed on Butternut Avenue SW, Riverview Place SW, and School Street E. Date of the Preliminary Assessment Public Hearing for these proposed improvements will be Tuesday, March 7, 2023, in Council Chambers. Council Member Raney seconded the motion, all members present voted aye for approval.

Tobacco License – DS Store LLC dba Owatonna Fuel & Food

City Administrator Busse requested approval of the Retail Tobacco License Application received from Deepak Subedi. His company DS Store LLC will do business as Owatonna Fuel & Food at 401 N Cedar Avenue which they recently purchased. Approval is dependent on background verification of the new owner, which was completed and Chief Mundale has no objection to the

issuance of this Tobacco License. This license will be effective immediately for the remainder of the current license period to expire December 31, 2023. Council Member Raney commented after reviewing the information received from Chief Mundale for anticipated compliance costs of cannabinoid product sales, he would like similar information for Tobacco License compliance costs to review if our current cost of an annual Tobacco License is sufficient. Council Member Burbank made a motion to approve this Tobacco License, Council Member Svenby seconded the motion, all members voted aye in approval.

Council President Schultz commented there will be general discussion of the three remaining agenda items, all items are in regard to the Council Chambers Renovation Project. Action will be taken on each item separately following the discussion. Park & Rec and Facilities Director Tuma commented Theresa McCormick, Consultant with CRW Architecture is present to answer questions.

The first item is Change Order #1 for the agreement with Ebert, Inc. There are three items on this change order:

- 1) The large projector screen was moved to a separate contractor agreement so removing from contract with Ebert, Inc.
- 2) Removed proposed ceiling tile in the IT Room
- 3) Upgrade the tile in the restroom so tile would be similar to the tile used last year in the new bathroom at the library.

Change Order #1 will reduce the contract with Ebert, Inc. by \$17,282.

The second item is Change Order #2 for professional services. The additional services are in two areas; addressing the additional architectural work to address the State Historic Preservation Commission (SHPO) and bidding through commissioning of the Information and technology equipment serving the council chamber space. Design of the Information Technology Systems for the City Council Chamber was included in the initial fee. The scope of the specification, coordination of bidding, and final equipment commissioning was not understood to be a part of that scope. Change Order #2 includes:

- 1) \$5,000 For the final SHPO review of the design, the team and City staff spent more than three (3) months and significant time accommodating the SHPO requests for information and design modifications. T
- 2) \$13,300 bid review of qualified AV contractor, AV construction phase support services, and AV Commissioning with AV contractor on site post construction to assure AV/IT is performing to the set standards with the results we want, and staff are trained.

Change Order #2 will increase CRW architecture + design group's contract by \$18,300 for professional services for a total of \$112,650.

The third item is an agreement with Advanced Audio & Lighting for Council Chambers audio and visual (AV) work and the temporary technology setup in the Library. AV upgrades are incorporated into the construction documents, but it was determined for best results to manage the AV equipment selection (new and reuse) and install would be best managed through a vendor who specializes in this work. This approach delivers the work, warranty, and training directly to the city. In addition to the Council Chamber AV work, a temporary location is needed to host the public meetings of City Council, Commissions and Boards. The City Library's Gainey Room is reserved for these meetings and a temporary AV system is needed to support these meetings. It was

determined the most cost effective and timely approach to coordinate the transition was to use the same AV company for the Council Chamber and the temporary library location using rental equipment. The agreement with AAL includes the following:

1. Technology equipment and installation as stated in their bid.
2. Temporary AV equipment setup in the Library during Council Chambers construction.
3. Large, motorized screen (Change Order #1 reflects this change).

The quote/proposal for the AV project received from Advanced Audio & Lighting was \$157,300.00.

Tuma commented there are some additional items are still needed for this renovation project: update to the PEG Channel, furniture, and door access.

Council Member Svenby commented the project was to provide accessibility for all residents and requests the doors to the restrooms be automated for ease of accessibility. Teresa McCormick, Architecture Consultant commented the current plan includes automated doors at the building's three entrances. The doors on the restrooms are push/pull but no latch and do meet ADA Compliance requirements. Updating the plan to add two automated doors, would add approximately \$10,000 to costs. Council Member Svenby requested this change be made, Tuma commented this would be discussed with the Building Task Force and McCormick commented she would request a proposal from Ebert, Inc.

Tuma commented request also received to consider heating the sidewalk on the north side of the building similar to the sidewalks currently around City Hall by the boiler system used to heat the West Hills campus. McCormick commented they reached out to subconsultants for information on ways to power this system and an estimate for this received from Ebert, Inc was \$90,000. Council Member Burbank asked if electric heat would be cheaper, Tuma responded the contractor recommended electrical sidewalk heat not be considered. Council Member Raney requested the Building Task Force also consider this and report back. With no additional comments, Council President Schultz asked for motions for agenda item consideration.

Council Chambers Project Change Order #1 - Ebert, Inc.

Council Member Raney made a motion to approve Change Order #1 for Ebert, Inc. Council Member Burbank seconded the motion, all members voted aye in approval.

Council Chambers Project Change Order #2 – Professional Services

Council Member Svenby made a motion to approve Change order #2 for professional services. Council Member Voss seconded the motion, all members voted aye in approval.

Council Chambers Project Agreement – Advanced Audio & Lighting

Council Member Raney made a motion to approve the agreement with Advanced Audio and Lighting, Council Member Voss seconded the motion, all members voted aye in approval.

Staff Updates

Sean Murphy, Interim Director Public Works commented a new drone video of the Wastewater Treatment Plant (WWTP) project is posted on the City's website. This January video looks similar to the previous one posted in December, but progress is being made. The Fine Screening building has been enclosed and work is being done on the interior. The contractor is currently on schedule and costs coming in as projected. The City has a partnership with Steele

County for the roundabout at the intersection of 18th Street SE and Bixby Road; Steele County is currently in process of the right-of-way acquisitions and will hold a meeting with the property owners to discuss drainage concerns. The Main Street Feasibility Report should be done in a few weeks, this will show what reconstruction or rehabilitation is recommended. Also, staff is organizing public engagement meetings for discussion on the city's East Side Corridor. We haven't incurred any new snow events so staff is out working through neighborhood trying to clear troublesome areas to improve sight lines. During winter months, we have option to cold patch potholes; these patches flex with freeze/thawing conditions but can be done if needed. We want to make our streets as safe as possible so if there is an area needing some attention, please contact our Public Works Office.

Jenna Tuma, Park & Recreation and Government Buildings Director commented next week the 2023 Spring/Summer Activity Guide will be mailed to all 12,000 households within the city and copies will also be available at City Hall. Last year was the first time this publication was mailed and well received. Now, staff will begin preparing the Fall/Winter Guide for distribution at the end of summer. The 2023 Winter Weekend Out was postponed one week because of extremely cold weather, this last weekend at Brooktree Golf Club there were 58 participants for snowshoeing and 194 attended the luminary walk. Council President Schultz commented he has seen many enjoying the new ice rink at Buecksler Park.

Public Comments – none were heard.

Council/Administration Comments and General Information

Council Member Voss thanked City Attorney Walbran for preparing the ordinances regulating the sale of cannabinoid products; he put a lot of time and research into drafting these ordinances.

Council Member Dotson congratulated the Owatonna Pee Wee C Hockey Team for their second-place finish in last weekend's tournament. They worked hard and almost won it.

Mayor Kuntz commented terms of several board/commission members will be expiring this year. Applications will be posted on the city's website later this month. There will be opening on the Airport Commission, Fire Civil Service, Human Rights Commission, Library Board, Owatonna Public Utilities, and the Shade Tree. There may be additional opportunities if current members eligible for reappointments choose to not serve an additional term.

City Administrator Busse next week, we will be holding the 2023 Strategic Planning Sessions with Council, Mayor and Department Directors attending.

Adjournment

At 7:45, Council Member Raney made a motion to adjourn, Council Member Dotson seconded the motion, all members voted aye in approval.

Respectfully Submitted,

Jeanette Clawson, Administrative Specialist