

**CITY OF HENDRUM**  
**Regular Council Meeting Minutes**

October 14, 2019

**CALL TO ORDER**

Following the public hearing and adjournment of the Hendrum EDA meeting, Mayor Johannsen called to order the regular meeting of the City of Hendrum Council at 7:46 pm on October 14, 2019 in the board room of the Professional Building located at 308 Main Street East in Hendrum, Minnesota. The Pledge of Allegiance was recited.

**ROLL CALL**

The following council members were present: Curt Johannsen, Michael Smart, and Paul Baukol.

The following city personnel were present: Keri Plemmons, Clerk-Treasurer.

The following members of the public were present: John Cicmil, Lisa Shorey, Dustin Anderson, Diane Nelson and Heather Luoma.

**CITIZEN'S FORUM**

Mr. Cicmil approached the Council concerning an outstanding city utility bill left unpaid by the previous occupants of the property located at 424 Gordon Street East. He asserts that he is not responsible for the unpaid utilities because he did not own the property during the time that the utilities were supplied and stated that since the City did not turn off the utilities for non-payment that assessing his property is illegal.

**CONSENT AGENDA**

- a) 2019-09-16 Regular Council Meeting Minutes
- b) 2019-09 Maintenance Logs
- c) MPCA Notice of intent to adopt rules – Water Quality Standards
- d) Thank you from the Mavis Storsved family

*MOTION: M. Smart moved; seconded by P. Baukol to approve the listed consent agenda items.*

*BAUKOL: aye; JEFFERY: absent; JOHANNSEN: aye; MAGNELL: absent; SMART: aye. MOTION PASSED.*

**APPROVAL OF AGENDA**

- a) Add to New Business: C. Donation
- b) Add to New Business: D. John Cicmil Request

*MOTION: P. Baukol moved; seconded by M. Smart to approve the agenda with the listed additions.*

*BAUKOL: aye; JEFFERY: absent; JOHANNSEN: aye; MAGNELL: absent; SMART: aye. MOTION PASSED.*

## **PUBLIC HEARING**

A public hearing to consider public commentary on the intention to adopt an amendment to Section 2.3 of the City of Hendrum, Minnesota, Floodplain Ordinance No. 78, was opened at 8:00 pm. The amendment will incorporate the revision by the Federal Emergency Management Agency (FEMA) to the Flood Insurance Rate Map (FIRM) panels in the Hendrum levee areas. The FIRM panels are to become effective December 20, 2019.

**1. Diane Nelson: Why is Hendrum in the floodplain now when we were not in it before?**

Technology has improved since 1994, which was the last time the area was studied by FEMA. Light Detection and Ranging (LIDAR) uses light in the form of a pulsed laser to measure variable distances to the Earth which allows for a much more accurate measurement of elevation. Due to the increased accuracy of elevation measurement and the increased number of flooding events in our area, FEMA's study has concluded that all of the land located within the municipal boundaries of the City of Hendrum is in the floodplain.

**2. Diane Nelson: How will this affect people who do not have a mortgage?** Only property owners in the City of Hendrum who have mortgaged their property through a bank will be required by their lenders to purchase flood insurance. However, if you do not have a mortgage and would like to purchase flood insurance at the lower rate, it is advisable to purchase this insurance at a minimum of thirty (30) days before the FIRM panels become effective to receive the low risk rate.

**3. Paul Baukol: If you were to purchase flood insurance at the low risk rate and after December 20th you put your house up for sale, is that policy transferable? Or would the purchaser have to pay the higher risk rate?** The flood insurance policy would need to be purchased by the new homeowner at the time that they purchased the property. If the property sold within the first year of the newly mapped area, it may be possible to get the newly mapped rate, but not the low risk rate.

**4. Diane Nelson: Will the property owners who are required to purchase flood insurance be able to drop the insurance once the dike becomes certified?** Yes.

**5. Diane Nelson: When will the dike be certified?** The process to certify the dike has been started and estimates by FEMA state that the process can take a year or so to be finalized. All property owners in the City of Hendrum will be notified once the City knows that the levee has been certified.

**6. Diane Nelson: Is it possible for the levee to become decertified in the future?** The levee will remain certified as long as the levee meets the requirements set by FEMA. Therefore it is

possible to lose certification if there are significant changes to the requirements set by FEMA in the future, however it seems unlikely that would happen anytime soon.

- 7. Diane Nelson: How do you find out your property's elevation?** The elevation that applies to the flood insurance requirements concerns the lowest floor (including basement) of the structure. Elevation Certificates must be prepared and certified by a Licensed Land Surveyor, Registered Professional Engineer or Registered Architect who is authorized by state law to certify elevation information.
  
- 8. Diane Nelson: What is Hendrum's elevation?** The City of Hendrum's base elevation ranges between 872.8 to 873.6.

There was no written commentary submitted. The public hearing was closed at 8:33 pm.

#### **REPORTS OF OFFICERS AND DEPARTMENT HEADS**

- A. PUBLIC WORKS:** Minnesota Rural Water will be here by the end of the week to assist with hydrant repairs. Maintenance Superintendent Sundblad submitted a vacation request for November 9<sup>th</sup> through November 17<sup>th</sup>.

*MOTION: P. Baukol* moved; seconded by *M. Smart* to approve Mr. Sundblad's vacation from November 9<sup>th</sup> through November 17<sup>th</sup>.

BAUKOL: *aye*; JEFFERY: *absent*; JOHANNSEN: *aye*; MAGNELL: *absent*; SMART: *aye*. *MOTION PASSED.*

- B. CLERK-TREASURER:**

- a) The September financial report and October claims list totaling \$17,949.38 was presented for approval.

*MOTION: P. Baukol* moved; seconded by *M. Smart* to approve the September financial report and pay the claims in the amount of \$17,949.38.

BAUKOL: *aye*; JEFFERY: *absent*; JOHANNSEN: *aye*; MAGNELL: *absent*; SMART: *aye*. *MOTION PASSED.*

- C. MAYOR:** No report.

- D. FIRE DEPARTMENT:** The Hendrum Fire Departments will be assisting the Holland-Swenson Legion Post #434 of Hendrum by serving the meal for the Veteran's Day Supper taking place on Monday, November 11<sup>th</sup> from 5:00 pm to 7:00 pm at the Hendrum Civic Center. Santa Days has been scheduled to take place on Saturday, December 14<sup>th</sup>.

#### **UNFINISHED BUSINESS**

- A. City Ordinance Violations:** Open violation files were reviewed. One new ordinance violation was discussed. Clerk-Treasurer Plemmons was instructed to send a parking and ordinance violation notice to the property owner.

*MOTION: M. Smart* moved; seconded by *P. Baukol* to send a parking notice and an ordinance violation notice concerning an inoperable vehicle to the property owner at 263 Herbert Street South.

BAUKOL: *aye*; JEFFERY: *absent*; JOHANNSEN: *aye*; MAGNELL: *absent*; SMART: *aye*. *MOTION PASSED*.

The meeting was closed at 8:51 pm.

*MOTION: M. Smart* moved; seconded by *P. Baukol* to close the meeting at 8:51 pm as permitted by MN Stat. 13D.05, subd. 3(b), for reasons of attorney client privilege, to discuss the ongoing matter of City of Hendrum v. BJM Land Inc. and Mitchell Farms, Inc.

BAUKOL: *aye*; JEFFERY: *absent*; JOHANNSEN: *aye*; MAGNELL: *absent*; SMART: *aye*. *MOTION PASSED*.

The meeting was opened at 9:17 pm.

*MOTION: P. Baukol* moved; seconded by *M. Smart* to open the meeting at 9:17 pm.

BAUKOL: *aye*; JEFFERY: *absent*; JOHANNSEN: *aye*; MAGNELL: *absent*; SMART: *aye*. *MOTION PASSED*.

A special meeting will need to be called to enforce the order for judgement of the nuisance conditions at 361 Rice St S and to discuss the ongoing matter of City of Hendrum v. BJM Land Inc. and Mitchell Farms, Inc. Notice of the special meeting will be posted no later than three days prior to the meeting date when notification is provided to the City Clerk either by the Mayor or two Councilmembers.

- B. MnDOT Hwy 75 Reconstruction Project:** Topics of discussion included Highway 75 is open through Hendrum, storm sewer catch basin, curb, sidewalk, stamped concrete, street lights, public water fill sinkhole, and if the project is completed enough to submit levee certification information to FEMA.
- C. City Street Paving Project:** The city engineer will be available to review the streets by the end of November and will come up with a proposal to present to the public sometime this winter.
- D. Wellhead Protection:** No update.
- E. City Pickup:** A 2015 Chevrolet Silverado 1500 work truck for sale in Watertown, SD, was discussed. No action was taken.
- F. Flood Ordinance Amendment:** Notification of a public hearing to be held on October 14, 2019, at 8:00 pm, concerning an ordinance amending Section 2.3 of the City of Hendrum, Minnesota, Floodplain Ordinance No. 78, to incorporate the revision by the Federal Emergency Management Agency (FEMA) to the Flood Insurance Rate Map (FIRM) panels in the Hendrum levee areas to become effective December 20, 2019, was posted, published in the official city newspaper, and letters were mailed to all affected property owners. The scheduled public hearing was opened at 8:00 pm and received public commentary. The council concluded that it was in the best interest of the city to amend Ordinance No. 78.

*MOTION: M. Smart* moved; seconded by *P. Baukol* to adopt Ordinance No. 82, an ordinance amending Section 2.3 of the City of Hendrum, Minnesota Floodplain Ordinance No. 78 to be in full force and effect from and after December 20, 2019, or date of its passage and publication according to law,

whichever occurs later. By the following vote the ordinance was duly adopted and on file at the City Clerk's office.

BAUKOL: *aye*; JEFFERY: *absent*; JOHANNSEN: *aye*; MAGNELL: *absent*; SMART: *aye*. *MOTION PASSED*.

- G. Fence Permit Application:** Correspondence was received from the property owners regarding holding off on submitting a site plan submission request from the City in regards to the installation of an unpermitted fence. Clerk-Treasurer Plemmons was instructed to send the supporting documents to the city attorney to further address the non-compliance situation.

*MOTION:* *P. Baukol* moved; seconded by *M. Smart* to send the unpermitted fence violation located at 316 Main Street East to the city attorney for further action.

BAUKOL: *aye*; JEFFERY: *absent*; JOHANNSEN: *aye*; MAGNELL: *absent*; SMART: *aye*. *MOTION PASSED*.

- H. Snow Removal:** Options were discussed. No action was taken.

- I. Boulevard Trees:** The boulevard trees in front of 356 Rice Street were inspected. The two Ash Trees are showing signs of dying off. At this time the only approved program to utilize public funds for tree removal is for diseased Elm Trees. Approval was granted by the council to the property owner to remove the two Ash Trees on the boulevard in front of 356 Rice Street South at the property owner's expense on the condition of supplying a copy of the Certificate of Liability Insurance from whoever will be cutting down and removing the trees to the City Clerk's office.

*MOTION:* *M. Smart* moved; seconded by *P. Baukol* to authorize Dan Hart to remove the two Ash Trees on the boulevard in front of 356 Rice Street South provided that proof of liability insurance is submitted to the City Clerk's office from whoever will be cutting down and removing the trees prior to removal.

BAUKOL: *aye*; JEFFERY: *absent*; JOHANNSEN: *aye*; MAGNELL: *absent*; SMART: *aye*. *MOTION PASSED*.

## **NEW BUSINESS**

- A. Seasonal Help:** There is an identified need to have an on-call employee during the winter season for snow removal and other miscellaneous tasks when the Maintenance Superintendent is on vacation or otherwise unavailable.

*MOTION:* *M. Smart* moved; seconded by *P. Baukol* to advertise for on-call seasonal help for snow removal and other miscellaneous tasks for two weeks in the official newspaper and posted on the bulletin boards and that applications are to be turned into the City Clerk's office no later than 5:00 pm on November 12<sup>th</sup>.

BAUKOL: *aye*; JEFFERY: *absent*; JOHANNSEN: *aye*; MAGNELL: *absent*; SMART: *aye*. *MOTION PASSED*.

- B. Tax-forfeited Properties:** The City of Hendrum has been notified by Norman County that three properties located within the city have been forfeited to the State of Minnesota for nonpayment of property taxes. The County is requesting a decision by the City to choose to approve of the classification and sale of the parcels at public auction, request a conveyance

to the city for public use, or request purchase prior to the public sale for blight removal. The Hendrum EDA reviewed the properties and recommend purchasing two properties for blight removal and authorizing the third property to be sold at public auction.

*MOTION: P. Baukol* moved; seconded by *M. Smart* to adopt Resolution No. 2019-19 regarding the tax forfeited properties. On the following roll call vote the resolution was duly adopted and on file at the City Clerk's office.

BAUKOL: *aye*; JEFFERY: *absent*; JOHANNSEN: *aye*; MAGNELL: *absent*; SMART: *aye*. *MOTION PASSED.*

- C. Donation:** A donation was offered by the Hendrum Firemen's Relief Association to contribute four thousand four hundred dollars for the purchase of an enclosed trailer for the fire department. The City Council was appreciative of the donors' intent and found it appropriate to accept the offered donation which shall be used for the purpose intended as allowed by law.

*MOTION: P. Baukol* moved; seconded by *M. Smart* to adopt Resolution No. 2019-18: Resolution Accepting Donations. By the following roll call vote the resolution was duly adopted and on file at the City Clerk's office.

BAUKOL: *aye*; JEFFERY: *absent*; JOHANNSEN: *aye*; MAGNELL: *absent*; SMART: *aye*. *MOTION PASSED.*

- D. John Cicmil Request:** According to the Norman County Recorder's Office records, a State Deed was recorded to Lisa Shorey on November 5, 2018 and then a Quit Claim Deed to John Cicmil was filed on February 19, 2019. A Quit Claim Deed conveys the title without any reservations including any encumbrances. All a Quit Claim Deed truly accomplishes is that the grantor is giving up any claim to the title (whether or not they lawfully have the right to convey the premises). There is no warranty with a Quit Claim Deed. As such, unpaid city utilities act as a lien (encumbrance) on the property. The City of Hendrum Ordinance regulating water and sewer services states that "The owner shall be liable for water supplied or sewer service provided to the owner's property, whether the owner is occupying the property or not, and any charges unpaid shall be a lien upon the property as authorized by MN Stat. 444.075." Therefore, as discussed by the council, the unpaid utility charges are still the property owner's responsibility regardless of who was occupying the premises. Had the conveyance been accomplished with a Warranty Deed, research would have been done to ensure among other things that the premises were free from all encumbrances and if there were unpaid liens the title holder (grantor) would be required to pay them off before conveying the property.

*MOTION: M. Smart* moved; seconded by *P. Baukol* to deny Mr. Cicmil's request to remove the unpaid utility charges from his property at 424 Gordon Street East.

BAUKOL: *aye*; JEFFERY: *absent*; JOHANNSEN: *aye*; MAGNELL: *absent*; SMART: *aye*. *MOTION PASSED.*

## **ADJOURNMENT**

*P. Baukol* moved; seconded by *M. Smart* to adjourn the meeting at 10:29 pm. The next regular council meeting will be at 7:00 pm on November 18, 2019, in the board room of the Professional Building located at 308 Main Street East in Hendrum, Minnesota.

Minutes submitted by: Keri Plemmons, Clerk-Treasurer