The City Council of Elk Horn met in regular session Monday, October 2nd, 2023, at 6:00 PM with the following members present: Mayor Hansen, Councilmen Fredericksen, D. Petersen, Hogberg, and K. Petersen. Absent Teegerstrom

The Guests in attendance were City Attorney Clint Fichter, Clerk Chelsee Jacobsen, Jerry Evans, Jeff Nelson, Jerry Hoffman, Steve Turner, Nancy & Terry Wilson, Jean Hinners, Dave Sturm, Chad Juelsgaard, Rick Sloth, Marie Nelson, Paulette Madson, and Johnny Weilenman.

Mayor Hansen called the meeting to order at 6:06 PM.

D. Petersen moved, seconded by Hogberg, to approve the agenda as presented. Ayes 4, motion carried.

Hogberg moved, seconded by K. Petersen to approve September 6th and September 18th meeting minutes. Ayes 4, motion carried.

D. Petersen moved, seconded by Fredericksen, to open the public hearing for Park Street Improvements.

Dave Strum presented the plans, specifications, and form of contract. Hogberg moved, seconded by D. Petersen, to close the public hearing. Ayes 4, motion carried. Hogberg moved, seconded by Fredericksen to approve Resolution 10-2023.1 – Approving Plans, Specifications and Form of contract. Ayes 4, motion carried. Dave presented the construction bids from 4 companies. D. Petersen moved, seconded by K. Petersen to approve Resolution 10-2023.2 – Making award of contract to United Construction in the amount of $158,575.60 for Park Street Improvements. Ayes 4, motion carried.

Fredericksen moved, seconded by K. Petersen to approve METC, MidAmerican Energy, Wex Fuel, On the Clock LLC, Verizon, Capitol One, SCSB ACH Fee, and Nishnabotna Valley to be paid online monthly. Ayes 4, motion carried. Hogberg moved, seconded by D. Petersen to approve Chelsee to attend MPI / IMFOA training. Ayes 4, motion carried.

Demo (Phase 1) has been completed of the pool house project. D. Petersen moved, seconded by Hogberg to approve Supplemental Agreement for Additional Services #1 to Snyder & Associates for $6,750.00 for additional work completed due to the Pool House Rebid project. Ayes 4, motion carried.

Fire/Rescue: Jerry Hoffman stated there is a staffing issue and he is Interim Fire Chief due to resignations of members of the department. Jerry would like the council to help with retaining members. Jean Hinners stated she would like to provide help with driving the ambulance when needed as she used to be an EMT. K. Petersen stated the Ford is out of the station being fixed currently. Jean would like to see somebody go to the school to potentially recruit. Chad Juelsgaard asked, “Why are we going through this and have no fire department members or rescue members.” Chelsee stated she has stepped down from the fire department & rescue for personal reasons. D. Petersen stated it’s not mandatory to force people to be on the fire department, it is strictly volunteer. Jerry Hoffman stated he would like to work through this to retain past members and new members. Anyone that would be willing to join the department please contact Jerry Hoffman.

Paulette Madson presented the updated 28E agreement for library services with Kimballton. K. Petersen moved, seconded by Hogberg to approve the 28E agreement. Ayes 4, motion carried.

Terry & Nancy Wilson presented a nuisance abatement they received regarding a dog that was ordered to be removed from city limits in January 2023 due to attacking another dog in two different instances but brought back into town recently. Section 4-1-5 Animal Nuisances: It shall be unlawful for any person to permit an animal under such person’s control or within such person’s custody to commit a nuisance. An Animal shall be considered a nuisance if it (C) causes a disturbance by attacking or interferes with persons or other domestic animals.

D. Petersen moved, seconded by K. Petersen to approve The Norse Horse liquor license. Ayes 4, motion carried.

Adam McCall requested an open session prior to the meeting pursuant to Iowa Code 21.5(i) - Attorney Clint Fichter stated there is extreme discord amongst staff members. The Attorney and Council tried to create a work schedule to separate employees. The attorney stated this issue needs to be addressed. The Attorney has discussed the operating arrangements with the employees and determined it has not worked. When speaking with Adam, he does not acknowledge there are any issues and Jeff Nelson and Chelsee Jacobsen feel that there are strong issues within the workplace. The current situation will only get worse and not resolve itself. The Attorney believes that the city would then lose all employees or some. The attorney stated we cannot operate the city effectively with the way things are right now between staff members. The attorney recommends from what he has witnessed that the best course of action to avoid having to rebuild staff would be to terminate Adam McCall. Chad Juelsgaard stated the community has established that because of members bailing on the fire department of their first responder responsibilities. Jerry Hoffman stated this issue has created great trouble with staffing, either we lose a guy in paramedic classes or lose fire fighters, drivers, and an EMT. This whole issue has forced 3 fire fighters to resign from the whole department. The attorney stated the issue started with statements being made online and to people directly that were defamatory and that those statements should be recognized as being a catalyst for the entire issue and Adam does not believe that there was anything wrong done and if the city cannot start there on some level of agreement of what we are trying to solve. The Attorney stated from the employer’s side that we could continue to try to manage the situation there is a possibility that we are being managed into a potential liability situation and that it’s not feasible to get through the issue without losing 1 or all the employees. The attorney asked Adam McCall prior to the meeting if he would be willing to resign in lieu of not having to repay his paramedic contract back and Adam did not respond. Adam had sent the request of the city attorney to his attorney. Mayor Hansen stated this is a no-win situation for everybody. Hogberg stated the compromise that was put into place would be for the employees to work more individually. The attorney stated the city did not punish Adam in any sense of his employment, what they tried to do was create a situation that he could still succeed in his position in the city and the structure could work if everybody would buy into it and the attorney doesn’t believe that is the case currently. The attorney’s discussion with Adam specifically stated, “My wife did nothing wrong and that there was nothing wrong here” and that why should he be forced to do these things. The attorney stated we needed to try to deal with it in some way that is necessary and that anybody in this situation would expect him to cooperate with that and the attorney stated he didn’t get the sense that would happen. Marie Nelson stated she worked in concessions with Chelsee at a football game and numerous people were asking Chelsee about the instances that had happened. Marie has been a witness numerous times to Chelsee not being able to go anywhere without being questioned about the situation even in front of her kids. The attorney doesn’t want to see anybody employed to regress. The attorney wants to create harmony as much as we can to keep people focused on what matters which is the service to the community. Chad Juelsgaard stated that Adam submitted documentation of 3 complaints of personnel matters, Attorney stated those would be discussed in closed session. Chad asked if the complaints would be investigated by the attorney, council, or a 3rd party. The attorney stated that the complaints would be up to the council to act on. D. Petersen stated the council does not want to lose any employees. No further comments were received at this time.

D. Petersen moved seconded by Hogberg to enter closed session pursuant to Iowa Code 21.5(I) at 7:15PM. Ayes 4, motion carried.

K. Petersen moved, seconded by Fredericksen to re-open the public meeting at 7:34 PM. Ayes 4, motion carried.

The attorney presented options on staffing recommendations, Hogberg moved, seconded by D. Petersen to authorize the mayor to offer Adam McCall his resignation in lieu of termination with his paramedic training costs being forgiven by the city, and if Adam fails to accept such resignation in lieu of termination that Adam McCall will be terminated effective October 3rd, 2023. Ayes 4, motion carried.

Hogberg moved, seconded by K. Petersen, to approve the claims register, time sheets and financial report as presented. Ayes 4, motion carried.

Fredericksen moved, seconded by D. Petersen, to adjourn the meeting at 8:00 PM. Ayes 4, motion carried.

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Keli Hansen, Mayor Chelsee Jacobsen, City Clerk