

Minutes of the regular Proctor City Council meeting held on April 16, 2018 in the Community Center Council Chambers.

Deputy Mayor Gary Nowak called the meeting to order at 5:59 p.m.

MEMBERS PRESENT: Deputy Mayor Gary Nowak, Councilors Troy DeWall, Jake Benson, and Jim Schwarzbauer.

MEMBERS ABSENT: Mayor Larson

OTHERS PRESENT: City Attorney John Bray, Administrator Mark Casey, Confidential Administrative Assistant Robin Hansen, Fire Chief Kerry Helquist, Building Inspector Jay Boysen, Officer Tim Redfield, Midway Township Supervisor Jim Aird, Chad Ward, Nick Greenwood, Nikki Swanson, Eric Bingaman, Travis White, Alisa White, Kathy Hannan and Ian Swanson.

APPROVAL OF THE MINUTES: April 2, 2018 City Council Meeting Minutes

Benson would like the April 2, 2018 Meeting Minutes, New Business 6Q. amended to show that Gary Nowak was continuing his conversation in this paragraph after the line where he stated, "Russell Habermann organizes the citywide cleanup and I hope that it is going to happen again."

Motion by Schwarzbauer, seconded by Benson and carried (4-0): To approve the April 2, 2018 City Council Meeting Minutes with the correction.

APPROVAL OF THE AGENDA:

Motion by Benson, seconded by Schwarzbauer and carried (4-0): To approve the April 16, 2018 City Council Agenda.

COMMENTS AND SUGGESTIONS FROM CITIZENS PRESENT:

Proctor resident Nick Greenwood gave an update to the council stating that his property taxes are paid in full, and part of the reason the property taxes had not been paid was due to the cost of fixing the bar. He also said he will be shutting down the DeRailed Bar the first part of June through most of July to finalize the parking lot, work inside of the bar and ceilings.

Greenwood said there was an article last week in the Tribune where his property taxes were brought up by our Mayor who said that was the reason why Greenwood has issues with the City. Greenwood proceeded to say from the first time his property taxes were brought up at a meeting, he went through all the meeting minutes and did not see any mention of his property taxes in the minutes other than in December. Greenwood then said he believed Nowak was there and asked

him if so, Nowak agreed he was there. For this reason, Greenwood said the timeline and what the Mayors reported to the Tribune was incorrect.

Nick shared his disappointment that he has not heard from the Council or Mayor for two months regarding an incident that happened with Nowak at the DeRailed Bar. He does not forgive or excuse Nowak and feels he should consult Attorney Bray regarding the next closest step, a lawsuit.

Greenwood closed by saying, “Proctor is a great town and the people are so supportive, things are great, owning a business has not been so great in Proctor. Due to the things that have transpired over the last couple of months, with nothing being addressed I will finish the last couple of fundraisers at the DeRailed Bar and then plan on closing.”

There were no more comments or suggestions from the citizens present.

***APPROVAL OF THE CONSENT AGENDA** (one Council motion can accept all items listed under this agenda, plus Council can pull any individual items out of this consent agenda and discuss/act on item separately – thus leaving others to be approved via consent agenda action) – **bold print denotes need for Council action.**

Motion by Nowak, seconded by DeWall and carried (4-0): To approve the Consent Agenda.

***1. COMMUNICATIONS**

- A. Annexation of Certain Real Property to the City of Proctor from Midway Township
Bray stated the decision was in the City’s favor. The parties will have 30 days from the decision to petition the Supreme Court to review. The Supreme Court is not obligated to review the case decided by the Minnesota Court of Appeals. If the Supreme Court elects not to review this decision, it’s done.
- B. City LGA Under Current Law vs. H. F. 3830 (*Bill to be heard in the House Property Tax and Local Government Finance Division*)

2. PLANNING AND ZONING DEPARTMENT MATTER

Casey stated there are no Planning and Zoning matters at this time. They will be taking up some issues regarding a few storage facilities, and some ordinance with regard to banners and signs.

***3. CLERK ADVISES COUNCIL**

- A. Government Fund Payroll Period Ended 04/01/18
- B. Liquor Fund Payroll Period Ended 04/01/18

Schwarzbauer asked the Council that before they move on to *Committee Reports* he would like to request an updated list of committees; along with a list of all committee applicants. He also

reminded everyone that it is getting more difficult to have some of the meetings because it is hard to get a quorum, and that Liquor Control is going to be the most challenging to get a quorum, as it must have all three people present. Nowak shared that Bill Blackwood handed out an application for the Liquor Control Committee.

Schwarzbauer is interesting in finding a process to add Liquor Control on the extending committee of the City Council or having two city councilors and the Chief of Police. He is for recommendations and thoughts to move forward.

Schwarzbauer then asked Attorney Bray if there was an ability in midseason to be able to move toward Liquor Control or any other committee. Bray stated it could be done, but it would be part of an ordinance change that would need to be brought forth by City Council. Schwarzbauer asked to discuss the ordinance change at the next City Council Meeting. Casey stated there would be a verbiage change and depending how Council would like it, then pass the first reading, the next council meeting, then post in the paper and go from there.

4. COMMITTEE REPORTS

- A. Proctor Police Civil Service Commission Meeting Minutes, February 5, 2018
- B. Proctor Area Chamber of Commerce, Board of Directors Meeting Minutes, March 7, 2018

Schwarzbauer had questions on the following items:

1. *New Business 1. APEX*, - Was it true that a business is interested in building a \$1.5 million business in Proctor? Casey stated nothing has been brought to PEDDA, but the Chairperson was to reach out to the person who made the comment. Benson stated it was brought up at the Chamber Meeting in March and in April the Minutes were approved.
2. *New Business 3. Proctor Lions looking for help* - What type of help is needed by the Lions? From his previous experience working on events there is always a need for help.
3. *Old Business 4. Fill This Space* - Which business is likely to close in one year? Councilor Benson stated he was at the meeting, but that it is not his place to divulge that information. The business was not mentioned in the minutes because no one wants to expedite anybody's demise.
4. *Old Business 5. Fireworks* – That becomes a question because of Tourism, and he feels it helps Chamber businesses more than a part of Tourism.
5. *Old Business 6. Minnesota Design Team* – See NB 1. – This one has to do with Minnesota Design Team that relates back to APEX and the conversation that took place.

The Council discussed that they receive the Chamber Meeting Minutes sporadically

and that there is no website for the posting of their meeting minutes. An invitation is being extended to Chamber President, Kyle to come to a City Council Meeting to answer some of their questions.

C. Proctor Economic Development Authority Meeting Minutes, March 13, 2018

D. Proctor Tourism Committee *Unapproved* Special Meeting Minutes, April 3, 2018

Nowak stated there are a couple of items noted in black as action items. Schwarzbauer said it was material information that was given to them at the Tourism Meeting when presented and Tourism approved the requests. Casey to acquire the paperwork from Sally Hedtke for the next council meeting.

E. Parks and Recreation Committee *Unapproved* Meeting Minutes

Nowak stated the committee is requesting the City Council approve an annual fee of \$1,000 to organizations for use of the City softball fields; which is the girls softball and is the yearly fee the City pays for a piece of the fields.

Motion by Nowak, seconded by DeWall for discussion.

Discussion: Benson how many games per year? Nowak 6-12 depending on the weather. Benson, so this is for girls softball and not others? Nowak, they are the ones who use the majority of the fields. Benson, I don't know that it is appropriate to say this is for girls softball, 6-12 for \$1,000 – I think there needs to be more structure to it so everybody gets treated equally. Nowak suggested to move to the next council meeting and have Jesse Annala draw something up.

***5. UNFINISHED BUSINESS**

***A. SRO**

6. NEW BUSINESS

A. Resolution of the Bond Sale for the Almac & 6th Project

Resolution #15-18. Resolution of the City of Proctor, Minnesota, Approving A Notice Of Sale For The Issuance of \$3,260,000 General Obligation Improvement Bonds, Series 2018A.

Paul Steinman of Springstead Incorporated said the Resolution is to establish a sale date for a borrowing for the Almac Tree Project and 6th Street Project. The total proposed borrowing is in the amount of \$3,260,000. A rating conference will take place in a couple of weeks and the sale will occur on May 21, 2018 at 11am. Paul will bring the bids to the City Council Meeting taking place that evening at 6pm.

Paul discussed the bonds, assessments and project costs. Benson asked if “street cost”

includes lighting? Paul responded yes, and, also includes curb and gutter. Benson then asked about trees and Paul stated trees are not included in the project. Matt Bolf of SEH stated the committee made up of council and city staff decided not to add trees to the project, as they could be added at any time. Benson stated he would have been more comfortable approving the Bond sale had he known that the trees were included. He wished Russell Habermann would have been at the meeting to discuss the beautification of these major projects. Benson continued to say that the residents of 6th Street had spoken of the importance of curb appeal. Casey explained, “The committee was put together by Council which included himself, the mayor, Mr. LaLonde, Ms. Crown, and Matt Bolf. Some of the discussion that ensued was that between the curb and actual sidewalk was only a few feet, and the existing trees that are in there were actually causing an issue to some of the sidewalks and curbs. The design is to have the sidewalk butt up to the curb which was a suggestion from the Street Department to make it easier to plow. If there is anything in the right-of-way it will not be replaced due to the curb and sidewalk.”

Discussion ensued about the project costs and the LRIP Grant. Kathy Hannan inquired about the style of lighting and Matt Bolf stated it will be a residential look, LED fixture which can be seen on Market Street and St. Luke’s Clinic in Hermantown.

Benson shared that the Beautification Committee will be meeting tomorrow and will be discussing lighting and trees.

Motion by DeWall and seconded by Benson: To approve the Resolution of the City of Proctor, Minnesota, Approving A Notice Of Sale For The Issuance of \$3,260,000 General Obligation Improvement Bonds, Series 2018A.

Nowak opened for discussion.

Schwarzbauer stated he will not be making any motions pertaining to this or seconds, but will be voting on, and we had this discussion before. It is understood that Schwarzbauer will be voting when it comes to assessments, and/or opposing an assessment.

The Council voted and carried (3-1, Schwarzbauer abstained): To approve the Resolution of the City of Proctor, Minnesota, Approving A Notice Of Sale For The Issuance of \$3,260,000 General Obligation Improvement Bonds, Series 2018A.

B. Boundary Avenue Sanitary Sewer Replacement

Casey stated “We have identified a portion of our sanitary sewer on Boundary Avenue, between 5th and 6th Streets is in failing condition. Being the fact that the county will be

doing some work on Boundary Avenue this year it may be in the City's best interest at this time to repair that portion of the sewer inflow infiltration. The Street Foreman is in support of this. The project cost is estimated at \$61,257.60, the engineering firm that the City uses has indicated that it maybe, less due to the fact that the company will be performing the function for the City. This will require a modification to the agreement that the City has with St. Louis County for Boundary Avenue. The funds would come from the Sanitary Sewer Fund.”

Matt Bolf explained that everything from 5th south is new, including a new manhole and from 6th north. This is just a small portion of 300 feet of old clay sewer that has been having maintenance issues.

Motion by Benson, seconded by DeWall and carried (4-0): To approve the Boundary Avenue Sanitary Sewer Replacement at an estimated at \$61,257.60.

C. Renewal Application for Optional Liquor 2AM License

Casey explained that the City Clerk is required to sign and date the application which has not been done in the past. He believes these applications should also go before the Liquor Control and to the Council for approval, as we want to establish that the establishment has been in good standing and this one has been.

Nowak stated Liquor Control had a meeting today and approved it and he also spoken with Police Chief Gaidis last Friday to see if there were and problems and there are not.

Motion by Nowak, seconded by Benson and carried (4-0): To approve the renewal application for Optional Liquor 2AM License for the Keyboard Lounge.

D. Summer Parks & Recreation Applicant

Nowak stated this application was for Angie Peterson who has worked the Summer Parks and Recreation for the past several years. DeWall assumed this is just for information as this was approved last year by the Street Foreman and City Administrator to hire up to two seasonal and part-time employees. Nowak said it was put on the Agenda so there were no questions. DeWall explained the application does not need to be reapproved.

Benson wanted to know how many people applied? Nowak said, just Angie. Benson asked if there were there any interviews? Nowak said permission was given to Mr. LaLonde, head of the Street Department, to hire two people. Benson then asked, who was on the hiring committee? Nowak said Council gave Mr. LaLonde permission to hire. Nowak said he is head of the Street Department and that Angie was technically laid off after the season and brought back.

E. Police Department Garage Door Repair Bids

1. AJK Door Services \$1,435.00
2. Phil's Garage Door Service \$2,426.38

Casey stated in talking with the Police Chief and sergeant they are satisfied with AJK Services and their methodology for their bid.

Motion by DeWall to approve for discussion purposes, seconded by Benson. DeWall stated there is a substantial difference in pricing. Schwarzbauer said there is not enough information in the description of the bid to answer why such a difference in pricing.

Officer Redfield stated AJK Services can complete the services either tomorrow or Wednesday.

The Council voted and carried (4-0): To approve the AJK Door Services bid for \$1,435.00.

F. 121 5th Street CONCERN

Fire Chief Kerry Helquist spoke of the fire at 117 5th Street (*photos were provided*). When he arrived at the scene the neighboring garage at 121 5th Street was also on fire. While trying to save the structure at 121 5th Street he found that it was not possible due to the amount of content stored in the garage. Helquist stated he, Chief of Police Gaidis and Building Inspector Jay Boysen are all in agreement that the structure is unsafe, and full of pigeon feces which is a health hazard to everyone in the area. In their opinion something needs to be done. The owner of the 3 properties is deceased and the properties are in the estate process of the son and daughter. There was no occupancy in 117 5th Street, and uncertain of the occupancy status of 121 5th Street.

City Administrator Casey stated there had been conversation in early 2017 with the property owner regarding actual ownership and also two letters sent by Planning and Zoning regarding the property. Nothing was done to the property and no response to the letters.

Attorney Bray would like to see a motion from City Council directing the Fire and Police Departments to work with him and if the property does constitute a public health hazard then they will take immediate action to take the building down after giving the proper notice to the owner. If it is something that requires immediate action the City does have the statutory authority to do so.

Motion by Nowak: To approve the Police and Fire Departments to work with Attorney Bray on the matter of 121 5th Street health and safety concerns.

Bray stated he currently does not see the property listed in probate and he suspects that the property has been passed to another owner in the event of the owners death.

DeWall seconded the motion for discussion. Building Official Jay Boysen said Planning and Zoning had been on this property matter for over a year. It is an unsafe, hazardous structure with a collapsed roof. His recommendation to City Council is to make a motion to have Attorney Bray send the homeowner a letter stating they have 30 days to tear the garage down and remove it, or the City will do it at the owner's expense.

DeWall stated he has no further discussion.

The Council voted, and all were in favor (4-0): To direct the Fire and Police Departments to work with the City Attorney to immediately take the 121 5th Street building down due to health and safety issues under the advice of Building Inspector, Jay Boysen.

Fire Chief Helquist made a recommendation to the Council to purchase some fake owls that move in the wind to keep the pigeons away from the Mallet; thus saving on water to rid the mess.

MEMBERS CONCERNS:

Schwarzbauer said the 125th Anniversary of the City of Proctor is next year, and that the Historical Society Board of Trustees met last Tuesday with all willing to participate. He then mentioned that he had previously spoken with the Duluth News Tribune regarding issues pertaining to Proctor, and how he thinks about the Council, things that appeared in the paper, about a business owner who stated he will be closing his business, and how there was no response from the Council. It confounds him as to how to bring the people together as a community. Schwarzbauer referenced an article from the 1950's and some of the things that had happened in Proctor. In closing he distributed documents he had prepared as a combination of things that is merely a suggestion, of how he perceives they could begin the process of celebrating the 125th as a community.

Nowak reminded everyone that the Local Board of Appeals meeting was taking place at 10 a.m. this next morning and that he will be attending. DeWall stated he will be there, Benson said he will make every effort to be there and Schwarzbauer said he will not be there due to a prior commitment.

Benson

1. Naloxone / Narcan (*8-page summary included*)

Benson made a motion to authorize designated personnel to give direction to request in-

formation about training and the use of Narcan. Schwarzbauer seconded. Benson's reason for bringing this item forth is because Narcan is a life saver, helps law enforcement if they need to go into a vehicle and bare skins comes into contact with Fentanyl which is an opiate, it could be lethal. He is not asking to equip first responders, police, fire department with Narcan, only to authorize personnel to give direction on how to implement it if we choose to. Benson received a news release that Governor Dayton urges action on opiates to save lives.

Fire Chief Helquist researched Narcan and also spoke with Police Chief Gaidis. Helquist explained, "Our medical director Jonathon Shultz, ER doctor at St. Luke's Hospital would need to say we could do it first of all, then 14-18 hours of training at approximately \$75 per hour. You cannot purchase a few packages of Narcan, it must be purchased in bulk at about \$100 a piece and has a shelf-life of one year." Per Helquist's conversation with a few Gold Cross Ambulance paramedics and its Director, Lisa Vogel, once Narcan is administered the overdosing people on heroin become very violent, and there are many documented cases where first responders have been injured. Helquist went on to say, "There have been two known cases of heroin users in Proctor over the last three years. I am not against pursuing the use of Narcan, but there is more to this issue. It is not in the Fire Departments budget to send 21 people to training. Locally the following has Narcan: all of the State Patrol squads, Gold Cross Ambulance, St. Louis County Deputies, and Hermantown Police Department." Helquist said, "I have never been on any medical call, or car accident that Gold Cross Ambulance has not arrived there in less than one to four minutes later than they arrived. It's a very expensive idea to get involved in, and wasteful if you don't use the inventory."

Benson is not looking for any immediate action, just to authorize as the Fire Chief did to research Narcan and come back with recommendations. He is not sure what the State is going to do and suggests that maybe there will be money available for departments at the end of the legislative session. Benson also shared that other cities the size of Proctor have budgeted approximately \$2,000 per year for this purpose.

DeWall said the motion is just to allow the Fire Chief and Police Chief to further investigate whether it makes sense to invest in Narcan.

The Council voted, and all were in favor (4-0): To allow the Fire Chief and Police Chief to further investigate whether it makes sense to invest in Narcan.

2. Legislative Update

Benson spoke about City Administrator Casey's notice of H. F. 3830 (*Bill to be heard in the House Property Tax and Local Government Finance Division*). Benson stated he went to testify on Wednesday on how local government aid was going to affect Proctor if they were going to merge it with the sales tax, and the numbers were all over the place. Benson heard from another at the meeting that this bill is not going to be allowed to progress.

Benson also reported, "Hermantown asked for local government aid; they do not get any

now. They are looking to get about \$200,000 a year that will be taken from all the other cities that get local government aid, and if that passes it will cost Proctor about \$36 a year for its portion.” Benson continued to say that “Hermantown is looking for a one-time local aid payment of about \$97,000 which will also cost Proctor a few bucks.”

Benson explained, “When you are looking at the 3830, the local government aid and sales tax it goes all over the place from \$227 impact on Proctor to about \$14,000 which would be considerable. Other changes in local government aid has Proctor losing anywhere from \$107 up to to \$220 on one LGA run, and another one has Proctor making about \$1100 or, on a per capita basis about thirty-six cents per person.”

Casey added Benson’s research reflects the LGA through the 2016 year and Proctor had another half percent sales tax increase in 2017 which is not taken into account. Both Casey and Benson agree if the H.F. 3830 does go through the effect would be greater on the LGA to the City of Proctor.

DeWall wants it noted that he would like to see a quarterly report for the next council meeting. Year-to-date, first quarter where we are at budgeted vs. actual by department and he would also like to see the first quarter Liquor Store revenues and expenses. Including the Police, Street and Fire Departments.

DeWall then asked Fire Chief Helquist if he received his quarterly report yet. Helquist responded that he received it, but cannot understand it.

BILLS FOR APPROVAL

General: \$79,802.50

Liquor: 18,439.51 (*Payroll Expenses are not included in this amount*)

Total: \$98,242.01

Motion by Schwarzbauer, seconded by Benson.

Nowak opened for discussion.

DeWall stated “I’m noticing this is the second meeting in a row where the Payroll Expenses are not included in Liquor Bill amount, so that is not the actual bills, and I am curious to why.” Casey stated we are continually looking to get that information to you as it comes available, we should have something very shortly. DeWall expressed that he would like that fixed as he does not feel comfortable approving bills that he does not know what they are, and he is not going to do it again.

The council voted on the bills and carried (3-1, [Benson opposed]): To approve the bills in the amount of \$98,242.01.

Casey asked Benson if he had seconded the motion, and Benson stated yes.

ADJOURNMENT

Motion by DeWall, seconded by Nowak and carried (4-0): To adjourn the City Council Meeting at 7:42 p.m.

Respectfully submitted,

Philip Larson, Mayor

Mark Casey, City Administrator