

**APPROVED MINUTES
OF THE WORK SESSION
CITY OF EAST GRAND FORKS
TUESDAY, MARCH 12, 2024 – 5:00 PM**

CALL TO ORDER:

The Work Session of the East Grand Forks City Council for Tuesday, March 12, 2024 was called to order by Council President Olstad at 5:00 P.M.

CALL OF ROLL:

On a Call of Roll the following members of the East Grand Forks City Council were present: Mayor Steve Gander, Council President Mark Olstad, Council Vice-President Tim Riopelle, Council Members Clarence Vetter, Ben Pokrzywinski, Dale Helms, Brian Larson, and Karen Peterson.

Staff Present: Karla Anderson, Finance Director; Ron Galstad, City Attorney; Charlotte Helgeson, Library Director; Reid Huttunen, City Administrator; Jeremy King, Parks and Recreation Superintendent; and Keith Mykleseth, Water and Light General Manager.

DETERMINATION OF A QUORUM:

The Council President Determined a Quorum was present.

1. 2024 Gate City Bank Home Improvement Program – Brittney Clinton & Becky Mindeman

Mr. Huttunen reviewed what the program was, how the home value this year could be up to \$400,000, and invited Ms. Becky Mindeman to speak. Ms. Mindeman introduced herself and the staff that was with her who was the lending team for the East Grand Forks program. She stated the program was to help revitalize neighborhoods at a low interest rate, \$2 million was allocated for this program, and they were grateful for the partnership with the city. She asked if there were any questions. Council Vice-President Riopelle asked if the funds could be used towards improvement of an HVAC system. Ms. Mindeman said it could. There were no other questions.

2. Review & Consider BNSF Construction Maintenance & Crossing Closure Agreements – Reid Huttunen

Mr. Huttunen explained three agreements had been included in the packet, two were crossing agreements for Central Avenue and 2nd Avenue NE, both included requirements for construction and additional requirements for the crossing as long as there was a crossing, and it passed the indemnity, or any injury related to the crossing to the City for the life of the crossing. He stated there was an attorney general opinion that a City would not be allowed to indemnify another entity for its own negligence, the railroad has been able to set agreements as they see fit, and if the City wanted to continue with the quiet zone the agreements will need to be signed. He added if there was a court proceeding, they would be able to use the attorney general's opinion at that time.

Mr. Huttunen said there was also a closure agreement for 3rd Street, it required a vacation of the crossing, and previously vacations of streets have been done by resolution. He said they did not hold a public

hearing back in 2020 so to keep things moving forward they would post the notice to hold a public hearing for the proposed closure of 3rd Street NW crossing at the April 2nd meeting which would be followed by the adoption of the resolution, approval of agreements, and awarding of the bid which still fell into the 60 days because it was good until April 7th. He asked Mr. Galstad for comments. Mr. Galstad said Mr. Huttunen had been on top of the items for this project, the project had been going on for about four years, many questions had been asked back in October, and after review it was found there was no public hearing. He stated they needed to give notice of the public hearing and if the resolution for the closure was adopted it would be recorded at the Recorder's office. Mr. Galstad said the railroad had asked for an ordinance, but staff will be asking to see if the resolution could work.

Mr. Galstad explained they had reviewed the contracts, they were one-sided, and everything was becoming the City's responsibility. He stated the City was protected to a certain extent, but he wanted to make sure the City was aware of the future liability for the items needed and continued maintenance for the quiet zone. He used an example of an accident, how the City would have coverage up to \$2 million or \$3 million, and the City could be responsible for anything over and above that amount based on the language included in the agreements. He added it was his due diligence to inform the Council what the possibilities were and at some point, they might need to argue how it violated the Attorney General's opinion and Minnesota State Statute. He said again it was his responsibility to make sure the Council was informed before they make a decision, how the railroad told the City quiet zones were not safe for them which was why they did not install them. He asked for questions. Mayor Gander said if it was unreasonable for the City to take on all the liability into the future, they should exhaust every possibility to have a change made in the agreement. He added the Council was not willing to jeopardize the safety of residents and there were other factors to consider such as the decibels of the train horn. He stated the crossings would not be less safe because federal regulations guided how the crossings could be done safely so there would not be a crossing that would be less safe than it currently was. Mr. Galstad said the railroad was taking a position and they were contributing to the closure of 3rd Street NW because it made that intersection safer.

Council member Larson asked about an email where BNSF use an example of if something was damaged by a private citizen, they would go after the citizen, and if they did not get anywhere, they would come after the City. Mr. Galstad said they owned the property, if there was damage to the property, they would go after the individual, and if they did not have insurance, they would go after the City for the damage. He added the City could add an insurance policy to cover the signals, the City would have limited liability, and the City could need to cover anything that was not covered by insurance. He added that Mr. Huttunen had already exhausted every measure possible regarding this issue so they would need to accept the risk or not. Council member Larson asked for a summarization of the attorney general's opinion. Mr. Galstad said the City could not accept the indemnification of the railroad if it was over and above anything that was reasonable so it was his opinion that the agreement would violate the attorney general opinion. Mr. Huttunen stated the design and all the safety measures for the quiet zone had been reviewed by BNSF and needed their stamp of approval, they approve the closure of 3rd Street because it was no longer a crossing, but all of the safety features that had been added at the other two locations improved safety at both crossings. He added if a vehicle caused an accident, the auto insurance would cover a certain amount, and BNSF would expect the City to cover any remaining amount. He said they will try to exhaust every measure with BNSF but it seems all other cities that have tried have ended with the same result.

This item will be brought forward to a future meeting.

3. Discussion on City Council & Mayor Pay Rates – Reid Huttunen

Mr. Huttunen said this was a follow up from the previous discussion, the last time the salary was changed was 2008, he included rates back to 2000, and reminded the Council the Charter did allow for the Council to approve a change through the budget process or by resolution. He stated if they wanted it to go to a vote of the people, the charter would have to be amended and voted on by the citizens before changes could be made. There were no questions.

ADJOURN:

A MOTION WAS MADE BY COUNCIL MEMBER LARSON, SECONDED BY COUNCIL MEMBER RIOPELLE, TO ADJOURN THE MARCH 12, 2024 WORK SESSION OF THE EAST GRAND FORKS, MINNESOTA CITY COUNCIL AT 5:28 P.M.

Voting Aye: Riopelle, Helms, Olstad, Larson, Peterson, Vetter, and Pokrzywinski.

Voting Nay: None.

Megan Nelson, City Clerk