

The Cannon Falls City Council met in a regular session on Tuesday, November 13, 2018, at 6:30 p.m. in the City Council Chambers. Present were Mayor Robby Robinson and Council Members Morris Mattson, Cedar Abadie, Bill Duncan, Ken Carpenter, John Althoff, and Derek Lundell. Also present were Lanell Endres, Interim City Administrator; Dave Maroney, Community Development Director; Jeffrey McCormick, Police Chief; Mike Althoff, Fire Chief / Public Works Director; Nicole Miller, Library Director; Greg Anderson, City Engineer; and David Kendall, City Attorney with Campbell Knutson.

- Call to Order Mayor Robinson called the City Council meeting to order at 6:30 p.m.
- Roll Call Roll call was conducted. All members were present.
- Pledge of Allegiance Mayor Robinson led in the recitation of the Pledge of Allegiance.
- Approval of Agenda A motion was made by Council Member Duncan, seconded by Council Member Carpenter and unanimously carried, to approve the Agenda.
- Public Input Babe O’Gorman, Cannon Falls, referenced past discussion of a campaign sign that was pulled from his property. He noted that Mayor Robinson indicated that he would look into this but that this matter has not been resolved. Mayor Robinson stated he did not feel there was a problem.
- Mr. O’Gorman also disputed a claim by the Editor of the *Beacon* that he had made a libelous statement.
- Kyle Paulson, Cannon Falls Area Chamber of Commerce President, thanked everyone who participated in the Trick or Treat Trot, noting that it was a great success. She reminded everyone of the Deck the Falls event on Saturday, November 24, with a parade at 5:00 p.m. followed by lighting of the tree and holiday drawings. She thanked the donors and sponsors for their financial assistance toward this event.
- Public Hearing:  
Resolution 2391,  
Certifying Unpaid  
Utility Charges to be  
Collected with Taxes Interim City Administrator Endres provided background information regarding the public hearing for certification of unpaid utility charges. She noted that when utility bills remain delinquent, the charges are assessed to property taxes for collection in 2019. She noted that a Public Hearing would be conducted to provide an opportunity for citizens to speak to this issue.
- Mayor Robinson opened the Public Hearing at 6:38 p.m.
- No one came forward to speak during the Public Hearing for this item.

Mayor Robinson closed the Public Hearing at 6:39 p.m.

A motion was made by Council Member Mattson, seconded by Council Member Carpenter and unanimously carried, to adopt Resolution 2391, certifying unpaid utility charges to be collected with taxes. It was noted that the amount of delinquent charges has decreased compared with last quarter.

Public Hearing:  
Resolution 2396,  
Adopting  
Assessments for 2018  
Street Improvements

Interim Administrator Endres commented that notices were sent to impacted property owners with regard to proposed assessments for the 2018 East Side II street improvement project. She noted that a Public Hearing would be conducted to provide an opportunity for property owners to comment with regard to the proposed assessments.

City Engineer Anderson provided background information and a project update. He reviewed the project areas and the improvements that were completed. He noted that a full walk-through of the project would be done in the spring and that the City will work with the contractor through the two-year warranty period.

Engineer Anderson reviewed the assessment calculation process. He noted that the assessments were calculated on a per-unit basis. He commented that the proposed assessments were less than originally estimated. He discussed cemetery and alley assessments.

Mayor Robinson opened the Public Hearing for this item at 6:46 p.m.

Kyle Rapp, 615 N. Oak Street, Cannon Falls, expressed concerns about an assessment of \$1,013 for a parcel of land adjacent to his property that is owned by the City of Cannon Falls. He stated that he was granted an easement in 1996 to cross the lot to get to his property, as long as he maintained the road. He stated that he should not be assessed, as he has no property that abuts the project area.

Council Member Duncan asked Attorney David Kendall for his opinion regarding this concern.

Attorney Kendall stated that a property that does not directly abut a public improvement can still be assessed if that property benefits from the improvement.

Attorney Kendall stated that if the City owned the lot, the City has to look to its policy. He noted that if the Council and City Engineer felt

that there was benefit to Mr. Rapp's property from this project, it could still be assessed, even if it didn't directly about the improvement.

Council Member Duncan questioned if the lot in question was being assessed. City Engineer Anderson expressed agreement with the City Attorney's opinion. He stated his opinion that Mr. Rapp's property benefited from the mill and overlay improvements.

Council Member Mattson provided the example of assessments for townhome units that use the road. Engineer Anderson provided additional information.

Council Member Abadie described the easement as property rights that would be transferred to a future property owner. She commented that the easement area does about the project area. Mr. Rapp noted that other people have access to the easement property and that he was not asked about the improvements. Mayor Robinson expressed agreement that others use this property.

Council Member Duncan asked Attorney Kendall whether a permanent easement was considered quasi-property ownership. Attorney Kendall stated that the easement was a property right in Mr. Rapp's favor. He added that if Mr. Rapp's property derives benefit from this project, it can be assessed if the Council so chooses.

Mr. Rapp reiterated his opposition to the assessment. He expressed concerns about run-off onto his property due to the harder surface.

Shawn Carpenter, representing St. Pius V, expressed concerns with regard to the proposed assessment for the St. Pius Cemetery property. He stated his opinion that the church not be assessed for four parcels, as the cemetery cannot be split into parcels.

Engineer Anderson further discussed the assessment calculation process.

Attorney Kendall referenced MN Statute 307.09 in this regard and stated that the Council does not have a lot of latitude or discretion in this situation. Council Abadie stated that, according to Minnesota law, the City was prohibited from assessing St. Pius for the cemetery property.

Mr. Carpenter asked about the cost of the mill and overlay project and the assessment formula. Engineer Anderson provided additional information about the project, adding that the final cost was less than

the estimate.

Andrew Althoff, 402 Oak Street, Cannon Falls, introduced himself as representing the Oak Street Condo Association, consisting of 402, 404, 406, and 408 Oak Street North. He expressed concerns regarding the proposed assessments of \$5,698 for each unit. He stated that these units were not part of the full reconstruction portion of the project and requested an adjustment in the assessments.

Engineer Anderson reiterated that if water or sewer and street work was completed, including alley work, properties were assigned a full reconstruct assessment.

Council Member Abadie requested clarification of the improvements and the assessment process. Engineer Anderson provided additional information.

Brenda Voshalike, 408 N. Oak Street, Cannon Falls, expressed concerns that curb and gutter work was not completed. She and Mr. Althoff commented that there are four units on two lots. Engineer Anderson reviewed the improvements that were completed along Oak Street in this area. Council Member Duncan asked what type of adjustment was being requested. Mr. Althoff and Ms. Voshalike commented that their units should not be assessed for a full reconstruct, as this was not done. Ms. Voshalike stated her understanding that alley work has been done in other areas and not assessed. Public Works Director Althoff discussed ongoing alley projects and indicated that these properties were not being assessed.

Council Member Abadie indicated her understanding that Mr. Althoff was arguing for a lesser total amount, of which the owners of the four units would still agree to pay 80%. Mr. Althoff agreed with that statement.

Jill Ekstrom, 514 State Street, Cannon Falls, expressed concerns with regard to her assessment. She discussed the improvements that were made.

Ms. Ekstrom also noted that class 5 was not applied to her driveway, as it was to other driveways. City Engineer Anderson stated they will review the gravel in her driveway and will add gravel by the mailbox. He reviewed the improvements that were completed.

Lyle Wilson, representing the Cannon Falls Cemetery Association, discussed an area that was never platted on the original City Map.

He noted that this parcel was being assessed \$1,039. He argued that this area was an easement granted in 1986. He noted that the cemetery access was off of Highway 19 and that this was not a church-owned cemetery.

Ron Mehrkens, 520 N. First Street, Cannon Falls, indicated an initial assessment of \$4,230, which included street, sidewalk, storm sewer, sanitary sewer, water main, and service line improvements. He noted that all of this was not needed and that they ended up with a new road and curb and gutter, with a final assessment of \$4,011. He requested that the assessment be lowered, as all of the work was not needed.

Engineer Anderson reviewed the improvements that were made to First Street and how the assessments were calculated.

Bev Zimmerman, State Street, Cannon Falls, indicated that she had some of the same concerns as Ms. Ekstrom and the condo association. Engineer Anderson reviewed the improvements that were completed.

Nick King, 412 E. Mill Street, Cannon Falls, indicated that he owns two lots. He noted that he was being assessed more than \$14,000. He stated that his house sits on both lots and requested a reduced assessment. Engineer Anderson indicated that two sets of services were installed, as there could be two buildable lots if something changed.

Attorney Kendall commented that the Council was required to take into account everyone's points and objections about their assessments. He noted that the Council was also required to be as uniform and consistent as possible. He reviewed the assessment appeal process.

Todd Hanson, 205 E. Minnesota Street, Cannon Falls, questioned the amount of the proposed assessment. He noted that in February he received a letter stating that the assessment would be \$4,230. He noted that the most recent assessment amount is \$7,122. Engineer Anderson discussed the cost estimate for the entire project that was included in the February letter.

After everyone who wished to speak with regard to the proposed assessments had been given the opportunity to do so, the hearing was duly closed as 7:35 p.m.

Mayor Robinson stated that some good points were made during the Public Hearing, adding that it was up to the Council to determine how each assessment was handled. He expressed concerns about the private cemetery assessment. Engineer Anderson provided additional information in this regard. Attorney Kendall provided additional information with regard to the State statute pertaining to cemeteries.

Council Member Lundell asked whether the other assessments would be increased if the cemetery assessments are eliminated. Engineer Anderson indicated that the City would absorb the additional cost, unless a new assessment roll was developed.

Council Member Abadie commented that the cost would be allocated among all of the City's taxpayers.

Mr. Rapp commented with regard to the conditions of the City-owned property adjacent to his property.

Council Member Abadie indicated that the Council's duty is to attempt to treat similarly-situated property owners similarly. She commented that ad hoc discounting is going to be a problem, in that the Council should have an articulable reason for an assessment adjustment.

Council Member Lundell questioned whether these situations came up on the West Side projects two to three years ago. Mayor Robinson stated his recollection that fourplexes were assessed at 0.8. Engineer Anderson commented regarding the unique situation presented by the alley improvements.

Council Member Duncan asked whether multi-plex units have been assessed at 0.8 in the past. Engineer Anderson stated that this has been the case with past projects, on the advice of the City Attorney.

Attorney Kendall suggested that the Council make a motion to adopt the assessment roll, with any modifications.

Council Members indicated consensus for no adjustment for the Rapp property.

It was noted that the cemeteries will be removed from the assessment roll.

It was suggested to remove the cost of alley improvements from the assessments for all impacted properties. Council Members

expressed agreement with this approach.

Council Members expressed consensus for no further assessment reduction for the Mehrkens property.

The King property was discussed. Community Development Director Maroney provided additional information. Council Members expressed consensus for assessing the King property as 1.5 parcels.

A motion was made by Council Member Abadie, seconded by Council Member Lundell and unanimously carried, to adopt Resolution 2396, with the following modifications:

- 1) Exclude the two cemetery properties from the assessment roll.
- 2) Recalculate assessments for parcels as listed:
  - 52.140.1180
  - 52.140.1200
  - 52.140.1211
  - 52.140.1320
  - 52.140.1330
  - 52.140.1420
  - 52.140.1440
  - 52.140.2120
  - 52.398.0010
  - 52.398.0020
  - 52.398.0030
  - 52.398.0040

Engineer Anderson and Interim Administrator Endres outlined the assessment payment policy, including an option for deferment.

Consent Agenda

- ~~A. Just and Correct Claims — Accounting Period Ending November 8, 2018~~
  - This item was pulled by Council Member Althoff*
- B. Meeting Minutes for October 16, 2018, City Council Meeting
- C. Resolution 2392, Authorizing 2019 City License Renewals
- D. Resolution 2393, Supporting Preservation of Thru-Traffic Route
- E. Approving MOU for Lorentz Meats
- F. Rescue Truck Sale
- ~~G. Surveillance Camera System for Public Works Department~~
  - This item was pulled by Council Member Abadie*
- H. Resolution 2394, Canvass Returns and Declare Election Results from City General Election
- I. Approve Special Assessment Agreements
- J. Resolution 2395, Approving a Cooperative Snow Removal Agreement with MnDOT

#### K. Approve Fire Department Pension Increase

A motion was made by Council Member Carpenter, seconded by Council Member Althoff and unanimously carried, to approve the Consent Agenda, minus Items A and G.

Excessive Hours  
Worked by Exempt  
Employees During  
Storm Event

Police Chief McCormick referenced past discussion regarding excessive hours worked by exempt employees during the September storm event. He reported the City would be eligible for reimbursement under the State program. He noted that he had begun the process of getting information from the State. He asked whether the Council wanted excessive hours worked by exempt employees to be paid out and included in the cost to be reimbursed by the State at 75%, or not included, in which case exempt employees would offset those excessive hours in the upcoming pay cycles to recoup back as much as possible.

Council Member Abadie asked whether the hours would need to be offset prior to the end of the year. Chief McCormick indicated that the policy was not specific in this regard.

Council Member Duncan suggested paying exempt employees for 75% of the overtime costs. Chief McCormick indicated that this would not be an option.

Mayor Robinson expressed agreement with compensating employees for overtime hours worked and seeking reimbursement from the State.

A motion was made by Council Member Abadie, seconded by Council Member Lundell, to compensate employees for overtime hours worked and seek reimbursement from the State. A vote was taken. Council Members Lundell, Carpenter, Althoff, and Abadie voted aye; Council Members Mattson and Duncan voted nay. Four ayes; two nay; motion carried.

Just and Correct  
Claims – Accounting  
Period Ending  
November 8, 2018

Council Member Althoff reported the City has spent about \$80,000 on tree removal and asked how that was coming along. Director Althoff estimated that the contractor work was approximately 80% complete. Chief McCormick noted that a final total would be submitted to the State for reimbursement.

Director Althoff stated that tree work would continue over the winter. He noted a target date of June 1, 2019, for completion of the work. He added that contractor work should be wrapped up by the end of



2018.

Chief McCormick asked whether stump removal and grinding should be contracted or whether the City should consider purchasing equipment to do this, which would cost about \$15,000. He noted that the State would reimburse hourly use of this equipment.

A motion was made by Council Member Mattson, seconded by Council Member Carpenter and unanimously carried, to approve the just and correct claims for accounting period ending November 8, 2018.

Surveillance Camera  
System for Public  
Works

Director Althoff provided background information and rationale for a surveillance camera system for the Public Works Department. He noted that no cameras would be installed inside buildings.

Council Member Abadie spoke in support of the proposed camera system.

Library Director Miller stated that the tech support for their surveillance system has been good. She commented the surveillance cameras at the Library have been very helpful in resolving issues.

A motion was made by Council Member Mattson, seconded by Council Member Carpenter and unanimously carried, to approve a surveillance camera system for Public Works.

Staff Reports

Mayor Robinson asked Engineer Anderson when road signs from the construction project would be removed. Engineer Anderson indicated that he will check on this.

Director Althoff discussed holiday decoration installation in the Downtown area, including new LED lights and a topper for the tree.

Director Miller reported that the Library would be a drop-off location for Toys for Tots, beginning on Thursday, November 15. She discussed upcoming Library programs and activities. She noted that the Library would be closed on Friday, November 23.

Chief McCormick issued a reminder with regard to winter parking restrictions.

Mayor and Council

Council Member Carpenter reported there would be a Park Board meeting on Thursday, November 15.

Mayor Robinson congratulated everyone elected in the general election the previous week.

Adjournment            The meeting was duly adjourned at 8:36 p.m.

Adopted by the City Council of the City of Cannon Falls on the 4<sup>th</sup> day of December, 2018.

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Lyman M. Robinson, Mayor

ATTEST:

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David Maroney, City Administrator