

The Cannon Falls City Council met in a regular session on Tuesday, October 20, 2020, at 6:30 p.m. in the City Council Chambers. Present were Mayor John Althoff and Council Members Morris Mattson, Bill Duncan, Derek Lundell, Matt Montgomery, and Steve Gesme; Council Member Mary Jill Bringgold was absent. Also present were Neil Jensen, City Administrator; Jeffrey McCormick, Police Chief (remotely); Laura Qualey, Community and Economic Business Specialist; Nicole Miller, Library Director (remotely); Joe Berg, Police Lieutenant; Sara Peer, City Clerk; Greg Isakson, Goodhue County Engineer; and David Kendall, City Attorney (remotely).

- Call to Order Mayor Althoff called the City Council meeting to order at 6:30 p.m.
- Roll Call Roll call was conducted. Council Member Bringgold was absent.
- Pledge of Allegiance Mayor Althoff led the recitation of the Pledge of Allegiance.
- Approval of Agenda A motion was made by Council Member Duncan, seconded by Council Member Gesme and unanimously carried, to approve the Agenda.
- Consent Agenda
- A. Just and Correct Claims – Accounting Period Ending October 13, 2020
 - B. Meeting Minutes for October 6, 2020, City Council Meeting
 - C. Appoint John Christensen to Planning and Zoning Commission
 - D. Appoint Corina Ficzeri to Library Board
 - E. Second Reading and Adoption of Ordinance 370, an Ordinance Establishing a Police Commission
 - F. Second Reading and Adoption of Ordinance 371, an Ordinance Establishing a Cable Commission
 - G. Second Reading and Adoption of Ordinance 372, an Ordinance Establishing a Finance Committee
 - H. Second Reading and Adoption of Ordinance 373, an Ordinance Establishing a Public Works Commission
 - I. Approve the Resignation of a Police Officer
 - ~~J. Body Worn Camera Audit Results~~
This item was pulled by Council Member Duncan
 - K. Repair Damage to the Announcer Box at John Burch Park

A motion was made by Council Member Gesme, seconded by Council Member Montgomery and unanimously carried, to approve the Consent Agenda, minus item J.

Council Business:
2021 Liquor License
Reduction

City Administrator Jensen noted that in 2020 a 25% decrease had been approved for on-sale liquor license fees. He stated that these are the establishments where the State had mandated 50% capacity. He noted that off-sale liquor establishments are doing fine, but the on-

sale establishments are struggling. He stated that other cities are approving a 50% reduction in on-sale liquor license fees for 2021. Administrator Jensen stated that staff will be working on the 2021 fee schedule over the next month. He reported that information was presented to the Finance Committee, which recommended approving a 50% reduction for on-sale license fees for 2021. He provided details regarding the fees, adding that adjustments would need to be made to the final budget and levy to account for the decreased revenue.

A motion was made by Council Member Montgomery, seconded by Council Member Mattson and unanimously carried, to approve a 50% liquor license fee decrease in 2021 for businesses impacted by the State mandated capacity level of 50%.

Council Member Gesme commented that these are not the only businesses that are struggling at this time.

Third Street Bridge
Engineering
Agreement and
Goodhue County
Agreement

Administrator Jensen provided background information regarding this project. He stated that he has invited Greg Isakson, Goodhue County Engineer, to explain the agreements that will need to be signed in order for the project to move forward. He noted that there is a \$10,000 engineering fee that the City will be required to pay and also some abutment approach work in the amount of \$10,000, for a total of \$20,000.

Goodhue County Engineer Isakson stated that he has been working on this project for about three years. He detailed the process thus far and funding sources for this project. He noted that the City owns the bridge and the County is responsible to administer this project for the City, as the City does not have a direct relationship with the State. He reiterated the funding that the City would be responsible for toward this project. He stated that there is a possibility of some change orders once the work begins. He noted that the County needs to have the authority to authorize change orders, adding that there is no intention to make any changes unless required by State statute or required for the structural integrity of the bridge. He provided details of the financing that has been approved toward the project.

County Engineer Isakson reviewed the two agreements for which City Council action is required:

- 1) Agreement with SRF Consulting Group.
County Engineer Isakson stated that the original cost estimate for the design work was \$294,988, which he felt was high. He stated that this was discussed with the State representatives who have worked on similar historic bridges, and they have indicated that this is a reasonable estimate for this type of work, noting that this is not a typical bridge project. County Engineer Isakson noted that there are motor vehicle sales taxes to cover the entire cost, and there is enough Federal and State money set aside to cover the initial bid price for the project. He recommended that the City sign this agreement and provided rationale for this opinion.
- 2) Agreement between Goodhue County and the City of Cannon Falls.
County Engineer Isakson referenced language from an agreement for township bridges. He noted that the contract with SRF is with the City, but the funding will come through the County since the motor vehicle sales tax revenue comes to the County from the State. He stated that County technicians will set the survey benchmarks that the contractor can use to move forward with the process. He reiterated that the \$10,000 expense that the City will be responsible for pertains to design and consulting fees, along with another \$10,000 toward bridge approach costs. He recommended that the City Council approve this agreement with the County. He provided details with regard to funding that may be available for any additional costs resulting from change orders. He explained the process that will ensue if this agreement is signed by the City.

Council Member Gesme asked about bridge rehabilitation projects in terms of typical cost overruns. County Engineer Isakson stated that this is always an unknown. He noted that this bridge is important to the State, citing an agreement between MnDOT and the Minnesota Historical Society. He stated his understanding that the MnDOT will do its best to help cover any additional costs.

Mayor Althoff asked about the construction schedule. County Engineer Isakson stated that the project is scheduled to begin in March of 2021, noting that this is subject to change.

A motion was made by Council Member Gesme, seconded by Council Member Duncan and unanimously carried, to approve the Third Street Bridge project agreement with SRF Consulting Group.

A motion was made by Council Member Duncan, seconded by Council Member Montgomery and unanimously carried, to approve a Third Street Bridge project agreement with Goodhue County.

Body Worn Camera
Audit Results

Council Member Duncan commented that Council Members have received various emails over the last couple of weeks regarding this issue. He expressed concerns about the reliability of the audit. He stated his understanding that this was not conducted by an independent auditor but was conducted by Onsite, a consultant to the City. He referenced past Council discussion, at which time new body cameras and a separate server had been put on hold, noting public opposition. He expressed concerns that this proposal is moving forward again. He suggested not accepting the audit results and scheduling a Public Hearing to discuss whether body cameras are even necessary in a small town like Cannon Falls. He stated his opinion that the proposed Police Department budget for 2021 is already too large.

Council Member Mattson asked whether a Public Hearing was conducted regarding this policy in the past. Council Member Duncan noted that the record seems to indicate that something was approved in December 2016 and public input was invited during that meeting, but the public was not allowed time to consider this matter. Council Member Mattson requested clarification of Council Member Duncan's recommendation. Council Member Duncan reiterated that he recommends against accepting the audit results and suggests scheduling a Public Hearing on the body camera issue, with the Council then deciding whether body cameras are necessary for a small town and whether the amount of money that is being proposed should be spent for a separate server and new body cameras.

Council Member Montgomery requested clarification of whether the audit was a legally independent audit.

City Attorney Kendall stated his opinion that the mere fact that the audit was conducted by a consultant does not indicate that it was not an independent audit. He noted that the Police Department could not perform the audit, adding that an audit conducted by an in-house IT department would not constitute an independent audit. He stated his opinion that an audit conducted by the City's outside IT consultant would be acceptable, unless there is evidence that the audit was not independent.

Mayor Althoff commented that, while the audit may have been independent, it was conducted by Onsite, which will be selling body camera software to the City.

Police Chief McCormick noted that the Police Department body camera policy was approved in December 2016 by the City Council after requesting public input during a City Council meeting.

Chief McCormick stated no public input was offered, adding that the public did have access to the policy language prior to the meeting. He noted that the Police Department followed all of the recommendations provided by the League of Minnesota Cities at that time in terms of adopting this policy.

Chief McCormick disputed the statement about Onsite selling body camera software to the City. He noted that the body cameras that are being proposed are from WatchGuard. He stated that the only involvement Onsite had in this process was helping to determine the amount of storage capacity that would be required. He noted that the only component that was recommended by the audit findings was that the Police Department consider utilizing a separate server to manage the body camera video. He stated that Onsite is the City's IT consultant, with access to make sure it is managed correctly. Chief McCormick stated that the State statute is specific on what needs to be looked at for the audit. He noted that the findings of the audit were that the Police Department was in compliance. He expressed his opinion that the audit results should be accepted, with the discussion moving on to other questions, such as whether body cameras are necessary for a city the size of Cannon Falls, and whether a new system should be considered versus a management system for the current cameras.

Council Member Mattson inquired regarding Chief McCormick's reference to 17 cameras. Chief McCormick noted they are required to report the number of cameras that are owned and maintained by the Police Department. He noted that if one of them is broken, even if the batteries are bad, they may still need to use it. Chief McCormick stated that 12 of the 17 cameras owned by the Police Department are fully functional at this time.

Mayor Althoff noted that the Council needs to review the audit and determine whether the Police Department is in compliance. Chief McCormick stated that the vendor for the audit has provided findings and recommendations, with the Cannon Falls Police Department

being found to be in compliance with the directives of State Statute 13.825. He reviewed the requirement to conduct a compliance audit every two years.

Council Member Gesme asked City Attorney Kendall for his opinion regarding the audit results.

City Attorney Kendall outlined the options for Council action:

- 1) The Council may accept the audit results.
- 2) If the Council determines that there is not compliance with the applicable law, the Council may order an additional independent audit.
- 1) The Council may find that there is a pattern of substantial noncompliance with the statute, and if that finding is made, then the Council could order suspension of the body camera program. He noted that this would have to be done after a subsequent Public Hearing because the public and the Council need to have the ability to review and comment on the proposed suspension of the body camera program. He noted that this could not be done during this meeting, as the public would need to be given notice and be provided with an opportunity to comment on the proposed suspension of the program.

Council Member Montgomery reiterated that what Council Member Gesme was asking for was City Attorney Kendall's recommendation.

City Attorney Kendall noted he has reviewed the audit, stating his opinion that it complies with the statutory requirements. He stated that the only question would be whether the Council lends any credence to the allegations referenced in the email stating that the audit was not independent because the Police Department has influence over the IT consultant.

A motion was made by Council Member Montgomery, seconded by Council Member Gesme, to accept the audit results.

Council Member Duncan expressed his opinion that the Police Department has not been in compliance for two to three years.

City Attorney Kendall noted the audit is required by State statute to occur every two years and stated his understanding that this did not happen. He noted that the matter under discussion pertains to

whether the audit meets all of the requirements outlined in the State statute for what is supposed to be included in an audit. He stated his opinion that this audit meets these requirements. He referenced a separate question of whether this rises to the level of substantial noncompliance by the City.

A roll call vote was requested. Council Members Gesme, Lundell, and Montgomery vote aye; Council Members Duncan and Mattson voted nay. The motion carried by a vote of 3:2.

Reports:
Council Committees/
Commissions

Kyle Paulson, President of the Cannon Falls Area Chamber of Commerce, reported that the Chamber currently has 106 members, up 3 members from last year.

Ms. Paulson discussed the Halloween Trick or Treat Trot event on October 30 from 3:00 to 5:00 p.m. in Downtown Cannon Falls. She reviewed the safety precautions for this event and noted that more volunteers are needed.

Ms. Paulson also provided an update regarding the Deck the Falls event, including a parade, tree lighting, and fireworks. She discussed COVID-19 protocols for this event.

Library Director Miller expressed appreciation for acceptance of the grant money from United Way of Goodhue, Wabasha & Pierce Counties. She noted that the Library has purchased ten additional hotspots. She also expressed appreciation for appointing Ms. Ficzeri to the Library Board. She provided an update regarding upcoming programs.

Council Member Duncan discussed the most recent Finance Committee meeting, noting that the primary topic of discussion related to the farmers market. He noted that an idea brought up by Council Member Bringgold regarding this topic will be presented during the next Council meeting.

Community and Economic Business Specialist Qualey stated that the Goodhue County CARES Act grant program will be ending soon. She provided details regarding the number of applications received, awarded, and pending.

Ms. Qualey reported that ground has been broken for the new CannonBelles facility. She reported that she has had four inquiries regarding the former Cannonball property.

Ms. Qualey stated that the Cannon Roots local foods website (www.cannonroots.com) has launched. She stated that there is \$15,000 remaining in the Blandin grant budget, with plans for this to be allocated by the end of 2020.

Staff

Police Lieutenant Berg reported that the Police Department will not be towing vehicles due to the snow, as the ordinance does not start until November 1, 2020. He stated that Public Works will be working to clear the streets beginning at midnight and has requested that cars be moved off the streets before that time. He encouraged everyone to slow down and drive safely.

Administrator Jensen reported that the bid letting date for the Highway 19 project will be on December 18, 2021, with the project beginning in the spring of 2022. He referenced discussion about the turning ratios for semi-trucks. He suggested more discussion of curb widths and parking relating to this project.

Administrator Jensen provided an update regarding the pool rehabilitation, noting that work has begun on this project.

Administrator Jensen issued a reminder that the next City Council meeting is scheduled on November 5 due to the election.

Administrator Jensen stated that a special meeting to canvass the election results has been scheduled on November 12 at 5:30 p.m.

Mayor and Council

Council Member Lundell encouraged everyone to vote.

Council Member Montgomery welcomed and expressed appreciation to the new Planning and Zoning Commission member, John Christensen, and the new Library Board member, Corina Ficzeri. He commented that it is good to see more people who want to become active in local government.

Council Member Gesme also offered encouragement for everyone to vote.

Mayor Althoff welcomed John Christensen and Corina Ficzeri.

Mayor Althoff stated his understanding that the State Legislature passed a \$1.9 billion bonding bill, with \$6 million earmarked for the dam project at Lake Byllesby.

Mayor Althoff also offered encouragement for everyone to vote.

Mayor Althoff suggested that perhaps something can be done for the flooding along Grove Street this fall.

Public Input

Mayor Althoff reviewed the public input procedure.

Babe O’Gorman, Cannon Falls, commented regarding the body camera issue, stating that there seems to be a lot of confusion. He expressed concerns that the Police Department has not been in compliance with State law and expressed concerns about the audit process. He commented regarding the Police Officer resignation.

Adjournment

A motion was made by Council Member Lundell, seconded by Council Member Lundell and carried unanimously, to adjourn the meeting. The meeting adjourned at 7:41 p.m.

Adopted by the City Council of the City of Cannon Falls on the 5th day of November, 2020.

John O. Althoff, Mayor

ATTEST:

Neil L. Jensen, City Administrator