

August 3, 2020

The Burlington City Council held their regular meeting August 3, 2020. Present were Jeanine Kabanuk, Jesse Cannon, Rod Kremer, Sherry Skees, Zach Walker, Lynn Brooks, Jayden Casavnt, Steve Schwandt, Patrick Samson, Keith Crabb, Tony Pasterz & Morgan Glines.

Walker moved to approve July 2020 minutes, Skees second, motion carried.

Kremer moved to approve payroll and bills, Walker second, motion carried.

Pam Evans made a personal appearance about the cannon that was being shot off July 4th stating that it knocks things off the walls and is very loud and scares her. There is no ordinance against it. Keith will look up and give Morgan a description of the type of signal cannon. Skees motioned to have Glines look into our ordinances about cannons and write up a legal opinion, Cannon second, motion carried.

Cannon asked about the petition process to get something on the ballot. It needs to be up to the citizens as a whole. Glines submitted the opinion to the city.

Cannon asked Chief Crabb when we talked about it 4 years ago what conclusion did? We come up with, Chief Crabb did not think was ever a conclusion.

Raises were addressed for Lynn Brooks, Dawn Griffis, Jayden Casavant & Steve Schwandt. This raise was to have been discussed at their 6-month probationary period. A \$.50 an hour increase is to be given retroactive to 6 months after hire. Walker motioned raises as discussed, Skees second, motion carried.

7:30 Cannon moved to adjourn into Executive session for Attorney consultation regarding pending litigation. Kremer second, motion carried.

7:45 Kremer moved to resume regular council meeting, Skees second, motion carried.

Fire department used 500 gallons of water.

Engineer's Report: MREFPP Phase BU-1, clearing and grub started, contractor is requesting that start auger and jack utilities under CP rail in coming weeks. Still waiting on Contractor to submit detailed schedule.

FIMA FIRM Maps: Official appeals period has started. State will not release a tentative effective date due to an anticipated Minot appeal.

GENERATOR GRANT: October 2018, we applied for a generator grant through Ward County Emergency Management. It has been awarded through HMGP. Project will provide an emergency generator for city hall, the treatment plant, and the high service pumps. City will need to budget approximately \$10,000 for design services (Prairie Engineering).

BENNO BUILDING PERMIT: The property is located in Zone X- Protected by levee. Will be in the floodplain on the new maps. If regulated by the County, it would fall within the Floodplain Management Area regulated to the 2011 event plus 1 foot. Samson has requested direction from Dionne (State Floodplain Manager).

SCHLOESSER BUILDING PERMIT: In June, Mr. Schloesser submitted a building permit application for a property located in the floodplain along the Des Lacs River. At the property, the floodplain elevation is 1587.0. From the information provided, it appears that the structure is a lateral addition and the floodplain ordinance applies to the addition only. An elevation permit was submitted for the proposed addition (dated December 5, 2017) that notes the floodplain elevation of 1587, a structure lowest floor (basement) of 1580.3 and the main floor elevation of 1588.2. Based on the information available, the floor elevation of the addition is assumed to be 1588.2 or 1.2 feet above the 100-year BFE. In 2016 the City of Burlington revised the ordinance to require all new construction or substantial improvement of residential structures to have the lowest floor elevated to 3 feet above the BFE. Based on this information, the addition is not in compliance with the City of Burlington's Flood-Protection Requirements

(Zoning chapter 18-2606).

OPTIONS:

NOTIFY the property owner that the structure is out of compliance and correction is required to conform with the City Ordinance. Specifically, the lowest floor (including basement) of the addition is required to be 3 feet above the Base Flood Elevation.

NOTIFY the property owner that an application for a variance is required. the variance will need to be based on a hardship, and must show good and sufficient cause and. The Property Owner will be required to provide good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship: and a determination that granting the variance will not result in increased flooding heights, additional threats to public safety, create nuisances, cause fraud or victimization of public, or conflict with existing local laws or ordinances.

NOTE that since this structure is already under construction, it is recommended that legal counsel be involved. The main structure basement is below BFE. The Main floor is 1.2 feet above BFE. The Federal requirement is at or above the BFE. The State requirement is 1 foot above the BFE. The Local requirement is 3 feet above the BFE. If there is a crawl space, flood openings are required. If there is a basement it would need to be filled.

SCHLOESSER FLOODPLAIN FILL

Following the July 13, 2020 Ward County Water Resource meeting, Samson completed a site visit to review the progress of the Schloesser property and to determine the work necessary to bring the property into conformance. The following documents his observations of before and after of the work completed to date.

August of 2019, the City was made aware of a drainage complaint filed with the State Engineers Office and ongoing evaluation by the ACOE. The complaint filed was fill placed in and adjacent to the Des Lacs River at the subject property. The fill placed is located in a mapped floodplain and subject to local, state and federal floodplain ordinances and regulations. Specifically, if a flood insurance study has been completed and mapped a floodplain without a designated floodway has been established, no fill may be placed if it results in a measurable rise in the base flood elevation. To date, an engineering study evaluating the impact of the fill on the base flood elevation has not been submitted. A cease and desist order has been issued by the City of Burlington for the placement of fill or adding of material to the Des Lacs River.

IN December of 2019, The Ward County Water Resource Board issued a "Notice to remove obstruction and right to hearing" to Mr. Schloesser after a drainage complaint was received. The Notice required the removal of fill material placed along the west bank of the Des Lacs River channel. Work has been completed along the west bank to remove material and the WCWRB is currently assessing the work completed to verify if compliance has been achieved or if additional removal is required.

CURRENT: The progress of the work completed is based on photographs taken on October 23, 2019, May 15, 2020, and July 13, 2020. On the west end of the property, the existing rock dam structure has been removed to approximately the centerline of the channel. The existing trees located just downstream of the dam can be used as a reference point for the work in this area and show that no excavation has been completed along the top of bank. Within the channel, it appears that some of the concrete rubble has been removed and that backfill may have been placed. It is unclear if the backfill was placed so that equipment could reach the dam or provide a uniform bank slope.

ACROSS from the bank caving area along the central portion of the Schloesser property, it appears that the concrete rubble and fill material have been removed from the channel. It is unclear on how far back the bank has been excavated and fill material used to shape the bank is visible. Also, the addition of the culvert between the two structures indicates that the top of bank elevation is higher than the grade adjacent to the structures and fill material placed within the floodplain outside of the channel has not been removed.

ALONG the downstream portion of the Schloesser property, it does not appear that any excavation has occurred along the riverbank but rather fill has been placed along the top of bank. Using the trees as a reference point, additional fill material is visible along the base of the trees. Although it does not appear to encroach into the river, it is still a floodplain fill that may impact the flood carrying capacity and is a violation of the City ordinance.

BASED on field observations, efforts have been made to remove material located along the north bank of the Des Lacs River as directed by the Ward County Water Resource District. The rock dam has been removed partially and it appears that the sand bar located in the river channel across from the south bank caving areas has also been removed. At the time of the July site visit, water levels were too high to observe the excavation that may have been completed within the channel and to verify removal to the toe.

IN regard to floodplain fill outside of the river channel, it appears that little work has been completed to remove material and, in fact it arrears that additional material May have been added. to date, a hydraulic model demonstrating no adverse impact (no rise in the BFE) has been submitted. When the presence of the fill material, the movement of excavated material within the floodplain, and no hydraulic model submitted, the property continues to be in violation of the City ordinance.

OBSERVATIONS are based on visual inspections only, a topographic survey correlated to the SWC Lindar is required to accurately verify actual work completed.

NOTE ON EROSION: The City and the Water Resource Board should expect to continue to see erosion complaints along the Des Lacs River. In many cases, this will be a natural occurrence and the river deposits material in one location and attacks embankments in others. An example can be seen in aerial photos. The riverbank along the Engeldinger east property line is meandering in 2006 and almost straight in 20019. The result in the appearance of a los of property to one owner and a gain to another with no man-maid modification.

Jayden is asking for a motion to sell the sander for \$1500, the batwing mower for \$100 (to Kirkelie township) & the F150 truck for \$3000. He also wants approval to have Swanston give him a price for the toolcat. Cannon moved to approve, Kremer second, motion carried.

A Planning Commission Meeting will be set up for Brevik for combining 3 lots and for Larson to divide 1 lot and combine the division with 2 adjoining lots.

Circle Sanitation submitted their 2021 proposal for service renewal which will be visited at next council meeting.

Boppre Law submitted their 2021 proposal for service renewal which will be visited at next council meeting.

Idle Hour Liquor license, Skees motioned to approve, Walker second, motion carried.

Council went over preliminary budget. Keith informed council that if it was possible to replace radios this year before October 10th there would be a savings of approximately \$9000. Lynn will look over 2020 budget and see where we could possibly get the money. Council talked about taking it from savings and replace it in 2021. Walker moved to accept, Cannon second, motion carried.

Cannon moved to approve preliminary budget with the changes discussed, Kremer second, Motion carried.

Building permits:

#873	Rick Schloesser	18 X 24 addition	5320 96 th St NW Burlington	\$250
		Denied- not in conformance with flood plain ordinance		
#877	Darin Benno	20 x 28 cold storage	2830 75 th St NW Minot	\$136
		Tabled- in floodplain, Patrick needs State guidance		
#878	Shawn Schafer	240 sq ft shed & deck	8911 N Project Rd Burlington	\$127

Tabled- in floodplain, Patrick needs State guidance

#879 Ken Fredrick 12 x 16 shed #5 Second Ave Burlington \$91.00
 Kremer moved to deny #873 Rich Schloesser, table #877 Daren Benno pending State guidance,
 table #878 Shawn Schafer pending State guidance and approve #879, Skees second, motion
 carried.

Check #	Payee	Net	Check #	Payee	Net
2083	IRS	3684.66	2096	xcel	2320.39
2084	NDPERS	3649.61	2097	BCBS	4380.00
21609	Acme	30.80	2098-103	Payroll	7,961.84
21610	Burlington Elec	275.00	21625-26	Payroll	2320.26
21611	Computech	138.75	2104	MDU	45.02
21612	Farmers Union Oil	546.03	2105	verendrye elec	545.65
21613	First District Health	50	21627	Boger & Son	6200.00
21614	Gooseneck	85.35	21628	Sign D'zyne	37.5
21615	Home of Economy	148.48	21629-31	Ward County	4640.18
21616	NAPA	98.09	21632	NDLC	200
21617	Share Corp	563.54	21633	Axon Enterprise	1080
21618	Bechtold Paving	2874.00	21634	Knudson, J	10.03
21619	Gaffneys	134.51	21635	MDN	319.20
21620	MDN	58.52	2106	ATT	59.35
21621-22	payroll	2172.94	21636	Prefered controls	162.5
2085-90	payroll	7500.07	21637	Menards	207.19
2091	SRT	676.37	21638	Boppre	4000.00
2092	Midco	95.00	21639	Steen Construction	8,350.00
2093	US Treasury	3104.99	21640	T Ferm Const	500.00
2094	AFLAC	245.35	21641	Circle NS State Water	6,654.70
21623	ND Tax Commissioner	830.00	21642	Comm	11030.04
21624	UNUM life ins	38.73	21643	A1 Evans	150
2095	Minn Pump Works	2545.00	21644	Ackerman-Estvold	752.5
2107	visa	1518.13			

Respectfully submitted

Mary Lynn Brooks, Auditor

Jeanine Kabanuk, Mayor