

**City of Spirit Lake**

**Regular City Council Meeting 5:30 p.m.**

**Tuesday, November 9, 2021**

**City Council Chambers**

**Present: Mayor Keenan. Councilmembers Brockmeyer, Bice, Harbst, Farmer, James.**

Meeting called to order by Mayor Keenan.

The pledge of allegiance to the flag was recited by those present.

**MINUTES**

Motion by Farmer seconded by Bice to approve the minutes of the October 26<sup>th</sup> regular meeting.

Motion carried unanimously.

**BILLS**

Motion by Farmer seconded by Bice to approve the bill list for the month of November, 2021. Motion carried unanimously.

3 D BUILDERS	DROPBOX REPAIR	\$92.11
A&B BUSINESS SOLUTIONS	COPIER CONTRACT	\$267.02
AHLERS & COONEY, PC	LEGAL FEES - THE DWELLINGS	\$248.00
ALLIANT ENERGY/IPL	UTILITIES	\$19,843.92
ARNDT MCINTYRE	REISSUE UNCASHED CHECKS	\$130.00
ARNOLD MOTOR SUPPLY	FILTER	\$24.44
AT & T MOBILITY	PHONES	\$852.21
BAKER & TAYLOR, INC.	BOOKS	\$604.61
BANKCARD SERVICES	CREDIT CARD CHARGES	\$2,641.52
BECK ENGINEERING, INC	ENGINEERING	\$4,702.50
BLACK HILLS ENERGY	UTILITIES	\$496.39
BOMGAARS SUPPLY INC	CHARGE ACCOUNT	\$888.17
BROWN SUPPLY	BLADE	\$1,230.00
BUSINESS TODAY	SANITATION STICKERS	\$89.10
CAASA	FY22 SUPPORT	\$3,500.00
CAMPUS CLEANERS & LAUNDERERS	MATS & TOWELS	\$111.82
CARROLL DISTR&CONSTR.SUPPLY	CHEMICALS	\$300.00
CENTER POINT LARGE PRINT	MEMORIALS	\$185.16
CENTRAL SALT, LLC	DE-ICING SALT	\$6,530.17
CINTAS CORP (CHICAGO)	RESTROOM SUPPLIES	\$53.17
CINTAS CORPORATION	1ST AID SUPPLIES	\$68.07
CITIBUSINESS CARD	CREDIT CARD CHARGES	\$1,492.36
CITY CLERK	UTILITIES	\$2,317.71
COHRS CONSTRUCTION, INC.	SAND	\$2,647.71
TYLER COLEE	REIMB CELL PHONE FOR NOV	\$10.00
COOPERATIVE ENERGY COMPAN	OIL	\$589.60
COOPERATIVE FARMER ELEVAT	LUMBER	\$282.85
CUSTOM CREATIONS	BOOK BAGS	\$399.24
DICKINSON CO AIRPORT AUTHORITY	FY22 SUPPORT - NOVEMBER	\$500.00
DICKINSON CO NEWS	MINUTES	\$387.26
DISCOVERY HOUSE	FY 22 SUPPORT - NOVEMBER	\$583.33
EFTPS	FED/FICA TAX	\$18,197.88
ELASTEC INC	DRUG TERMINATOR	\$4,590.00
ELLIOTT EQUIPMENT CO	GARBAGE CONTAINERS	\$8,356.40
EMC NATIONAL LIFE	POLICE LIFE INS - NOVEMBER	\$229.50

EMPLOYEE BENEFIT SYSTEM INC	ADMIN FEES DECEMBER	\$260.05
FERGUSON WATERWORKS #2516	METERS	\$46,230.56
FICK'S ACE HARDWARE	SPRAYER	\$34.84
NICK FIEBIG	REIMB CELL PHONE FOR NOV	\$20.00
FINDAWAY WORLD LLC	PLAYAWAYS	\$139.48
FOX INT'I	FILTER & PART	\$174.67
MICHAEL FREDERICK	BOOKS	\$48.00
FRIENDS OF THE MILFORD LIBRARY	LINCOLN PROGRAM	\$116.67
GALE GROUP	EBOOK HOSTING	\$446.24
GENERAL TRAFFIC CONTROLS,INC.	TRAFFIC SIGNAL EQUIP - BULBS	\$980.40
GJERDE COLLISION CENTER	REPAIR - 2006 FORD	\$1,421.00
GRAHAM TIRE SPENCER	TIRES	\$447.92
GWORKS	2022 LICENSE & SUPPORT	\$6,095.00
HACH COMPANY	TESTING	\$872.65
BILL HANSON	CLOTHING ALLOWANCE	\$69.99
AMANDA HASKAMP	TRAINING - IMFOA	\$294.84
HAWKINS, INC	CHEMICALS	\$5,563.49
TJ HAULING INC	APPLIANCE DISPOSAL	\$120.00
HISTORIC ARNOLDS PARK INC	FY22 SUPPORT RESTORE THE PARK	\$2,000.00
HOLIDAY INN AIRPORT	FALL IMFOA	\$224.00
IA LAW ENFORCEMENT ACADEMY	MMPI TESTING	\$50.00
IA ONE CALL	LOCATES SEPTEMBER	\$102.60
IMWCA	FY22 PREMIUM 6 OF 8	\$3,010.00
INGRAM LIBRARY SERVICES	CHILDREN'S BOOKS	\$343.70
IOWA LAKES REGIONAL WATER	UTILITIES	\$78.84
JACK'S UNIFORMS & EQUIPMENT	HEAT SHIRT - FEATHER	\$159.78
JANITOR'S CLOSET	RESTROOM SUPPLIES	\$58.79
JENNINGS AUTO PARTS	55G DEF	\$1,448.13
JOE D JENNINGS	TOW	\$1,250.00
DWIGHT JERGE	REISSUE UNCASHED CHECKS	\$30.00
KAPCO, INC	SHIPPING FEE	\$17.14
KUHLMAN LAKE SERV&WELDING INC	HOSE	\$166.46
L & C TIRE SERVICE	TIRES	\$269.85
LAKES AREA SENIOR CITIZENS	FY22 SUPPORT NOVEMBER	\$416.67
LAKES AUTO SPORT LLC	REPLACE BRAKE HOSES	\$516.77
LAKES LUBE CENTER LLC	OIL CHANGE	\$60.60
LAKES MARKETING AND PRINT	SANITATION WORK ORDERS	\$545.24
LAWSON PRODUCTS INC.	SAFETY GLASSES & BATTERIES	\$520.82
MARCO	COPIES	\$125.00
MEDICAL REIMBURSEMENT	MEDICAL REIMBURSEMENT	\$1,008.36
MICHAEL TODD & COMPANY	BROOM WIRE	\$505.56
MICRO MARKETING LLC	LARGE PRINT	\$42.38
MID-IOWA SOLID WASTE EQUIP CO	SWEEPER PARTS	\$2,075.12
KRIS MULDER	REIMB CELL PHONE FOR NOV	\$10.00
O'REILLY AUTOMOTIVE INC	CAPSULE	\$129.11
OVERALL BUDDIES	1000 BOOKS PROGRAM	\$350.00
PETTY CASH	POSTAGE	\$69.57
PLIC - SBD GRAND ISLAND	LIFE INS - NOVEMBER	\$1,146.00
POLICE LEGAL SCIENCES	2022 SUBSCRIPTION	\$1,080.00
DIANA PRITTS	LOCAL HISTORY BOOKS	\$5.00
USPS-POC	REFILL POSTAGE METER	\$1,500.00
SAM WEDEKING EXCAVATING INC	21ST ST & FARGO	\$2,315.95
SCHAEFFER'S MFG CO	DRUM OIL	\$1,184.70
SECURE BENEFITS SYSTEMS	ADMIN FEE	\$55.00

TERRY SHEELER	SIGN REPAIR - SOUTHERN GLEN	\$320.00
SHIELD TECHNOLOGY CORPORATION	2022 SOFTWARE SUPPORT	\$3,192.50
SMART TECHNOLOGY TEAM	CUSTOMER SERVICE WORKSHOP	\$399.00
SPIRIT LAKE READY MIX	17TH STREET	\$4,062.50
STAPLES	PAPER	\$36.71
STATE INDUSTRIAL PRODUCTS	DRAIN ROCKET	\$238.17
STOREY-KENWORTHY CO.	PAPER & RUBBERBANDS	\$41.52
TERRY STRUBBE	REIMB CELL PHONE FOR NOV	\$10.00
THE WATER CONNECTION	WATER	\$42.00
BRETT TIGGES	REISSUE UNCASHED CHECK	\$10.00
TREASURER STATE OF IOWA	WATER EXCISE TAX 10/16-10/31	\$12,820.11
U.S. POSTMASTER	PREPAY POSTAGE PERMIT #18	\$1,358.00
UMB CORP TRUST	BOND FEES - SERIES 2020	\$600.00
MATT VAHLSING	JANITOR OCTOBER	\$981.00
VERIZON WIRELESS	CELL PHONES	\$245.88
CAPITAL ONE	CREDIT CARD CHARGES	\$191.18
WASTE MANAGEMENT OF WI-MN	LANDFILL FEES 10/1-10/15	\$19,338.23
WATERSHED LLC	JACKET - PETER	\$548.19
WEX BANK	FUEL - OCTOBER	\$8,931.05
WATER	WATER DEPOSIT REFUNDS	\$408.27
PAYROLL	PAYROLL	\$61,764.19
TOTAL		\$285,187.66

#### **TREASURER'S REPORT**

Motion by Farmer seconded by Bice to approve the Treasurer's Report for October, 2021. Motion carried unanimously. Revenue included: General Fund \$1,109,103.32; American Rescue Plan \$128.41; Canine \$1.95; Local Option Sales Tax \$127,256.20; Park Development Reserve \$10.25; Building Reserve \$2.20; Road Use \$60,418.80; Trust & Agency \$226,045.33; TIF \$932,501.79; Friends of the Library \$402.98; Debt Service \$31,365.36; Non-TIF Capital Projects \$.34; Southern Hills Phase \$37.84; Point of Pines \$14.06; Water \$240,102.63; Water T&A \$280.00; Water Rev Sinking 2017 \$11,495.00; Sanitary Sewer \$32,517.85; Solid Waste Collection \$88,413.71; Equipment Revolving \$17.09; Partial Self-funding \$3990.56. Expenditures included: General Fund \$231,842.53; Local Option Sales Tax \$50,000.00; Economic Development \$500.00; Road Use \$138,088.46; Trust & Agency \$39,042.63; Friends of the Library \$1,971.95; Debt Service \$600.00; Water \$136,143.69; Water T&A \$570.90; Sanitary Sewer \$22,350.51; San Sewer Impr/Liner \$707.50; Solid Waste Collection \$78,887.35; Partial Self-funding \$1,324.49.

#### **REZONING CERTAIN PROPERTIES LOCATED WITHIN THE CORPORATE LIMITS OF SPIRIT LAKE, IOWA PUBLIC HEARING**

The Mayor announced this is the time and place to consider the rezoning of certain properties located within the corporate limits of Spirit Lake. Attorney Dan Moore spoke on behalf of his client Steve Pacheco. Moore stated that this is a complicated and difficult situation. Moore stated that Barb Clayton and Keith Diekevers were going to attend in support but had scheduling conflicts. Moore provided the Mayor and council with a letter from Diekevers. Moore provided Mayor and council with a history of the property. Prior to the fire the building had 25 units between both floors with 24 units being studio units and the property had been used as apartments for 100 years. Moore stated that Pacheco has invested in our community and prior to the fire Pacheco updated the roof and windows. The tragic fire happen December 8<sup>th</sup>, 2014 and Pacheco's goal was to build in the same location. Moore stated that a building permit was issued June 12<sup>th</sup>, 2015 and in August 2016, In-Town Suites opened. Moore stated in the City of Spirit Lake ordinances if a building is destroyed you have to build within one year to be able to build a

non-conforming structure. Moore stated if it would have been possible to build within the first year Pacheco would of to preserve the non-conforming structure. Moore stated that he understands that the setbacks and the parking requirement would be non-conforming and understands that if you make an exception for one you feel the need to make an exception for all but Moore believes this property is unique based on the property's history of being used with first and second floor residential for 100 years. Moore stated that Pacheco has used three different realtors and has only had one serious inquiry that didn't result in a tenant. Moore stated that the first floor has generated no revenue in five years which has caused Pacheco to have to take on additional loans. If you change the zoning from C-1 to R-3 Pacheco would add 8 additional residential units making a total of 22 units. Moore stated commercial uses are not compatible with residential above. Moore stated that rezoning will strength the downtown. Mayor Keenan stated that he views having commercial units below as a normal situation in a downtown area. Brockmeyer asked Pacheco if that property has been listed for sale. Pacheco stated no the property has not been listed for sale. City Administrator Owens stated that he doesn't agree that this is a complicated situation, the building was 100% destroyed and it was a non-conforming when destroyed. Attorney Moore misstates the ordinance and the threshold is the % the building is destroyed and the ordinance did not allow the building to be rebuilt for its previous use. Comprehensive use plan and future use plans need to be taken into account. This building was determined long ago to be intended to be a C-1 property when its life was over. Owens provided the Mayor and council with a history of conversations with Pacheco. Pacheco, Owens & Ihrke met in early January 2015 and discussed Pacheco's options. City staff tried for months now years to find a solution but it has been very clear that first floor residential would never be allowed. Owens and Clyde Ihrke met with Pacheco soon after the fire and explained the zoning issue and explored options for the property with Pacheco. Owens stated on March 29, 2015 Pacheco advised via email that he was going to put in a building with commercial on the first floor and residential on the second floor and he had settled with his insurance company and received his policy limits. Owens stated April 17, 2015 the City discovered Pacheco had run into issues with ADA requirements that required an elevator. This led to Pacheco and Attorney Stoller asking the Board of Adjustment to request a variance June 2015, which was denied. Owens stated that Pacheco intentionally designed this building to have first floor residential even though he was told multiple times that it wasn't allowed. Owens stated the first floor windows match the upstairs residential windows, plumbing is stubbed in for residential units and the commercial space is unfinished. Owens stated he received communications from Pacheco's insurance company advising that Pacheco could have rebuilt on another site with the same insurance benefits which was contrary to what Pacheco had been advising the City and the Board of Adjustment in 2015. Owens stated that he had several conversations with Attorneys representing Pacheco. Owens was asked about tax abatement and provided the information but never heard back. Attorney Sackett asked about the property being used as a hotel and was provided information and nothing further from Pacheco. Attorney Saunders asked about business condo units and the City responded and nothing further from Pacheco. Owens stated if this property is rezoned the parking requirements and the setback requirements can't be met as required by the zoning ordinance. The ordinance doesn't allow it to be rezoned as it will automatically be non-conforming. Owens stated that he was asked if the council could direct this to the Board of Adjustment to take up variances and Owens stated that the ordinance does not allow that. Owens stated that the Board of Adjustment would not be able to grant a variance anyway as the issues involved are problems created by Pacheco. Owens stated that unfortunately sometimes the answer under the law and the ordinance is no, this is one of those times. Owens stated 8 additional residential units in downtown isn't consistent with our comprehensive use plan. Owens stated we already have around 90 residential units in our immediate downtown area. Adding 8 additional transient people will not support downtown, as you support downtown by having businesses that draw in customers. Owens stated that the design of the building may not be appealing for commercial but with some renovation it could be made to look more

commercial. Bice asked if Pacheco has reached out to the Iowa Lakes Corridor. Pacheco stated it was done way back. Pacheco stated people don't want to come here. Bice disagreed with that comment as Bice has seen results showing businesses coming to our area. Owens stated that two of Pacheco commercial tenants at a different property owned by Pacheco have decided to purchase properties and invest in renovating there buildings. Owens stated that our downtown has seen an increase in growth. Moore stated that this property goes back 100 years and was conforming at one point and that should carry some weight when making their decision. Moore stated the council has the authority to allow. Moore stated he feels his client has been treated unfairly and judged for the building design. Moore stated Pacheco has a lot of development experience. Pacheco stated it doesn't make sense to finish off the space until he has a tenant. Pacheco knows that residential units would be successful at that location. Moore stated that Pacheco had a different perception of the conversations that took place. Owens stated the City has consistently told Pacheco that the first floor had to be commercial, the City tried to work with him, but Pacheco want to listen and Pacheco has always been treated fairly. Attorney Stein representing the City of Spirit Lake stated that the council needed to take into consideration the following three items; Zoning Ordinance 23.5 which discusses repairs or replacing damaged buildings of non-conforming properties, Article 28.1 and if found consistent with the objectives of the zoning ordinance how a motion to approve would be handled and if not consistent with the objectives of the zoning ordinance then that would call for a motion to deny the application, and since Planning and Zoning Commission denied the recommendation to rezone the property the council would need ¾ majority to approve. Mayor Keenan stated he has prior commission experience and the age of the building isn't a factor in the decision. Brockmeyer doesn't understand why the interior of the first floor wasn't completed. Pacheco stated you can always add walls but didn't want to limit tenants based on a finished space. At this time, the Mayor closed the public hearing. (1514 Hill Avenue)

Motion by Bice seconded by Brockmeyer to deny the rezoning request. Aye: Harbst, Bice, Brockmeyer, Farmer, James. Motion carried unanimously.

#### **RESOLUTION NO. 2021-57**

##### **RESOLUTION DETERMINING THE NECESSITY AND SETTING DATES OF A CONSULTATION AND A PUBLIC HEARING ON A PROPOSED THE DWELLINGS URBAN RENEWAL PLAN FOR A PROPOSED URBAN RENEWAL AREA IN THE CITY OF SPIRIT LAKE, STATE OF IOWA**

Harbst introduced and caused to be read Resolution No. 2021-57 and moved for its adoption, which was seconded by Bice. Aye: Harbst, Bice, Brockmeyer, Farmer, James. Resolution duly adopted.

#### **RESOLUTION NO. 2021-58**

##### **RESOLUTION DETERMINING THE NECESSITY AND SETTING DATES OF A CONSULTATION AND A PUBLIC HEARING ON A PROPOSED MAPLE MEADOWS URBAN RENEWAL PLAN FOR A PROPOSED URBAN RENEWAL AREA IN THE CITY OF SPIRIT LAKE, STATE OF IOWA**

Brockmeyer introduced and caused to be read Resolution No. 2021-58 and moved for its adoption, which was seconded by James. Aye: Harbst, Bice, Brockmeyer, Farmer, James. Resolution duly adopted.

#### **RESOLUTION NO. 2021-59**

##### **RESOLUTION APPROVING FY2021 ANNUAL FINANCIAL REPORT**

Bice introduced and caused to be read Resolution No. 2021-59 and moved for its adoption, which was seconded by Farmer. Aye: Harbst, Bice, Farmer, Brockmeyer, James. Resolution duly adopted.

#### **COMMENTS BY MAYOR, COUNCIL AND STAFF**

Chief Brevik introduced the newly hired Officer Peter to the council.

**ADJOURNMENT**

Motion by Farmer seconded by Harbst to adjourn the meeting. Motion carried unanimously.

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Bruce Keenan, Mayor

ATTEST:

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Gregg L. Owens, City Administrator