

**CLEARWATER CITY COUNCIL MEETING MINUTES
REGULAR CITY COUNCIL MEETING
SEPTEMBER 11, 2023**

1. Call to Order and Pledge of Allegiance: 7:00 p.m. at City Hall

- Mayor Lawrence called the Clearwater City Council to order Monday, September 11, 2023, at 7:00 p.m. in the Council Chambers. The Pledge of Allegiance was recited. A moment of silence was observed in respect of those that lost their lives in the September 11, 2001 terrorist attacks.
- Members present were Mayor Lawrence, Council Members Luhmann, Winkelman, Schwinghammer, and Vazquez. Also present were members of the public, staff, and guests.

2. Approval of Agenda

- **MOTION** by Luhmann to approve Agenda as presented, seconded by Winkelman, all voted aye. **MOTION CARRIED.**

3. Wright County Sheriff's Report

- Deputy Doiron gave the sheriff's report. He noted there will be extra patrols in the area of Spring Street Park following reports of vandalism. He also noted that someone had placed cardboard stop signs at the intersection of Oak Street and Spring Street. It is an uncontrolled intersection. Council Members explained that the intersection does not have any stop signs due to it being a low traffic area and due to the steep inclines. Some motorists were having difficulty making it up the hills after having to stop midway, so signs were removed by the city. Members asked the sheriff to remove the homemade signs. Residents with concerns may be directed to the City Council.

4. Public Forum

a. Heritage Festival Committee Recognition – Mayor Lawrence

- Mayor Lawrence thanked the Heritage Festival Committee for all of their hard work in producing an excellent festival. She handed out certificates of appreciation to each of the committee members.

5. Consent Agenda

- a. Claims/Accounts Payable in the Amount of \$ 175,660.49**
- b. Approval of Minutes from 08-14-2023 Regular City Council Meeting**
- c. Approving Clean-up Day Pricing**
- d. Res 2023-56 – Certifying Lien for Unpaid Charges**
- e. Res 2023-59 – Appointing Planning Commission Member**
- f. Res 2023-61 – Approving Grant Agreement**
- g. Res 2023-62 – Accepting Donation for Fire Department**
- **MOTION** by Winkelman to approve Consent Agenda, seconded by Luhmann, all voted aye. **MOTION CARRIED.**

6. Old Business

a. Res 2023-57 – Approval of 2024 Preliminary Levy and Budget

- Administrator Smythe outlined the changes to the budget since last month, which include an update to the dues and subscriptions budget for the EDA and updates to the health insurance rates for city staff, as the renewal rates were just received.

- **MOTION** by Schwinghammer to approve Resolution 2023-57, seconded by Luhmann, all voted aye. **MOTION CARRIED.**
- b. Res 2023-58 – Approval of Purchase Agreement – 100 Elm St**
 - Smythe explained that this purchase agreement is for the purchase of the Elm Street property that was previously discussed. The sales price is \$100,000.
 - **MOTION** by Winkelman to approve Resolution 2023-58, seconded by Schwinghammer, all voted aye. **MOTION CARRIED.**
 - As a side note, Mayor Lawrence outlined the invitation from the City of St. Joseph for an economic development event. One of the highlights of the event is St. Joseph’s new brewery. A brewpub had been suggested as a possible use of the Elm Street property, which could be a river trail destination.
- c. Res 2023-xx – Consider Rescinding Two-Mile Subdivision Area in Clear Lake Township**
 - Mayor Lawrence provided an overview of this requested resolution, summarizing the request from Clear Lake Township which was made at the last meeting. Smythe explained that the resolution came from the township and would be re-formatted and numbered to match city resolutions if adopted by the City Council.
 - Member Schwinghammer asked why the township wants the city’s two-mile subdivision area repealed. Member Luhmann explained that because they have an orderly annexation agreement with the City of Clear Lake, they don’t want the city’s subdivision regulations to apply to them.
 - Member Schwinghammer asked where it applies. Smythe explained that it applies to unincorporated areas within two miles of city limits who don’t have their own subdivision regulations in place. She explained further that if the City of Clear Lake annexed property, Clearwater’s regulations would not apply to the annexed property. Also, if Clear Lake Township adopted their own subdivision regulations and appointed a Planning Commission like Lynden Township has done, Clearwater’s regulations would not apply.
 - After further discussion, Members’ consensus was to take no further action at this time.
- d. Res 2023-63 – Approving Easement Agreements with T.O. Plastics**
 - Smythe explained that there were two minor changes to the easement agreement that were requested by T.O. Plastics’ attorney. Both are on page 3 of the draft easement agreement – one eliminates a termination provision in paragraph 7, the other adds reasonableness language to paragraph 8. The city attorney was okay with both of these changes. They are highlighted in the handouts added to the agenda packet.
 - **MOTION** by Lawrence to approve Resolution 2023-63 with the two highlighted changes, seconded by Vazquez, all voted aye. **MOTION CARRIED.**
- e. Res 2023-64 – Approving Settlement Agreement – 420 Main St**
 - Smythe outlined the major terms of the settlement agreement with Mr. Pesola intended to address his City Code violations. The city attorney recommended having the settlement agreement approved by the City Council. It was already entered with the court and accepted by Mr. Pesola, with a follow-up hearing pending for the end of October.
 - **MOTION** by Lawrence approving Resolution 2023-64, seconded by Luhmann, all voted aye. **MOTION CARRIED.**

7. New Business

- a. Res 2023-60 – Approval/Denial of Variance – 705 Spring St**
 - Mayor Lawrence summarized the background of the requested variance, reminding Members that the applicant had come before the City Council previously to outline her issue.
 - Smythe gave a brief overview of the statutory and ordinance requirements for reviewing variance requests and provided handouts to Members of both the statute and local ordinances.

- Member Luhmann outlined the review by the Planning Commission and their findings that the applicant did not meet the requirements for a variance because the practical difficulties test was not satisfied. The applicant can place a privacy fence along the Pine Street side of her property as she requested but it would have to be set back further than she desired. Planning Commissioners found that a variance was not needed to accomplish her goal of having a privacy fence along Pine Street. Her desire to place that fence closer to the road was not a practical difficulty unique to her property, but a public health and safety requirement of the ordinance that applies to all corner-lot properties. Planning Commissioners therefore recommended denial of the variance.
- Member Vazquez asked why the applicant asked for the variance. Smythe explained that City Code requires a privacy fence to be set back further from the road than an open-style fence like the current chain-link fence. This is for line-of-sight and traffic visibility on corner lots. The applicant believes her property is unique because the right-of-way next to her house is broader than in other areas due to where the road is located and because her home is set back quite a ways from Spring Street on the front side of her house. In addition, some of her children have disabilities that require a privacy fence to cut down noise and distractions from the roadway. She wants to replace the existing chain-link fence along Pine Street with a privacy fence in the same location.
- Applicant Melissa Alberico addressed the City Council. She explained her children’s disabilities, which require additional noise/sound screening in her yard and the process she went through to obtain a federally funded grant to pay for the privacy fence due to those needs. She explained that she simply wants to replace her existing fence with a privacy fence in the same location and does not want to lose the use of part of her property. She also stated that she believed members of the Planning Commission did not understand her specific need for the fence and treated her as though she were just another case of someone trying to get something from them.
- Mayor Lawrence asked how far from the existing fence would the privacy fence have to go to comply with City Code. Asst. City Administrator Johnson explained that the ordinance requires the privacy fence to extend from the rear corner of the house, which is about 10 feet further back from the roadway. Member Schwinghammer asked if there was a better map to view the property instead of the Beacon map that is in the agenda packet. Member Luhmann shared the hand-drawn map that was included in the Planning Commission agenda with other City Council members so they could view the property layout.
- Resident Katie Neuman, 625 Spring Street, spoke in favor of the variance request. She stated that the neighborhood is supportive of the fence. She noted that she doesn’t understand why it is an issue and that even though the ordinance calls it a front yard, it is really a back yard. There is no reason to say no to the variance.
- Mayor Lawrence then asked Members to share their views of the request.
- Member Schwinghammer stated that he can understand the reasons for the request.
- Member Vazquez asked again why the Planning Commission was opposed. Smythe explained that they didn’t believe the practical difficulties test was satisfied because the applicant was able to place a privacy fence along the Pine Street side of the property without a variance. They were also concerned about setting a precedent because other corner lots would be similarly situated.
- Member Luhmann stated that she continues to agree with the findings of her fellow Planning Commissioners and is opposed.
- Member Winkelman stated that he was in agreement with Member Luhmann.
- Member Schwinghammer stated that he was okay approving the variance.
- Member Vazquez stated he was leaning no.
- Mayor Lawrence stated that she had thought a lot about it and was leaning yes. She stated the request is reasonable and the logic behind it is sound. She expressed that not everyone is in the same circumstances and that this is why variances are permitted. She thought that granting a

variance makes more sense than modifying the ordinance and that the practical difficulties test had been met.

- **MOTION** by Schwinghammer to approve the variance, seconded by Lawrence. Voting aye – Schwinghammer, Lawrence. Voting nay – Vazquez, Luhmann, Winkelman. **MOTION FAILED 3-2.**
- Findings by those voting no: Members agreed with the Planning Commission finding that the practical difficulties standard had not been met because placement of the fence was possible without a variance.

b. Accepting Resignation/Retirement of Deb Petty

- Members asked jokingly if they can deny the resignation. Smythe explained that it is tradition for the City Council to accept a resignation and keeps the Council informed of staffing changes. Members asked if a retirement party is planned. Johnson explained that Ms. Petty does not wish to have a party and that staff were planning a small luncheon.
- **MOTION** by Lawrence to accept the resignation/retirement of Deb Petty, seconded by Luhmann, all voted aye. **MOTION CARRIED.**
- Members thanked Ms. Petty for her many years of service to the community.

c. Res 2023-65 – Authorizing Grant Application

- City Engineer Kannas explained the request to apply for the open Minnesota Highway Freight Program grant opportunity to help with the funding gap for the T.H. 24 Corridor project. Kannas explained that the program would give federal funds to MnDOT but that MnDOT is not allowed to be the applicant. This application would also require Wright County as a partner, as the city can't apply on its own due to not being a State Aid city (population 5,000 or higher). Kannas believes our project would score well, as movement of freight is a big component of the scoring. The program does require a 20% local match, which Kannas believes could be covered by other funding programs that don't use federal funds. Kannas also noted that this grant could also fund trail costs as part of the project.
- **MOTION** by Lawrence to approve Resolution 2023-65, seconded by Winkelman, all voted aye. **MOTION CARRIED.**

d. Consider Quotes for Storm Sewer Repair – 845 Ash St

- Smythe gave an overview of the repair/replacement project. The infrastructure was originally built in 2004. The passage of time along with spring flooding has caused most of the rock and other structures to wash away down the Clearwater River. The city obtained two price quotes. A third was requested but not received before the meeting.
- Member Luhmann asked if any of the damage was caused by Pat Briggs's apartment construction. Smythe replied that it was not. Staff only discovered the damage because they happened to be on site when the construction of the apartments began.
- Member Luhmann asked if the city had worked with either of the quoting companies previously. Kannas stated that he had worked with both on several projects and that the scope of work was substantially similar with both quotes.
- Member Luhmann asked if the city would have similar issues in the future and if a different type of structure was warranted. Kannas explained that there were many factors to consider. He stated that there are other systems, such as concrete plus cables, which stand up better to flooding, however, they are much more expensive. Smythe noted that the existing structure had lasted 20 years.
- Mayor Lawrence was concerned about quantities and possible change orders. Kannas thought that both quotes would use similar quantities of materials.
- Smythe also noted that because the city's storm water fund is new, it does not have sufficient reserves to cover the full cost of this repair. She stated that the water and sewer funds have covered some storm water costs in past years, but that general fund was also an option.

- **MOTION** by Lawrence to accept the quote from JS Excavating and fund the project with a combination of storm sewer and general funds, seconded by Luhmann, all voted aye. **MOTION CARRIED.**

e. Consider Fine for Liquor License Violation

- Mayor Lawrence recused herself from this discussion due to a conflict.
- Smythe gave an explanation of the liquor law compliance process, which is managed by Wright County on behalf of the city. The recent notice from Wright County indicated that one of our local establishments had failed the compliance testing, likely by selling to an underage person. The city's fee schedule ordinance lists the established fines for failure to comply with liquor laws.
- Local Store Leader Joseph Bauer from Kwik Trip #104 explained that a the store cashier had asked for identification but that the store was extremely busy, she became nervous, and entered the age incorrectly to their system by pushing an "over 30" button. The employee was suspended without pay for 3 days and was required to be re-trained for alcohol and tobacco compliance. Store policy is that all sales of tobacco or alcohol require identification. In addition, employees have been instructed that they may no longer use the "over 30" button. Unfortunately, the "over 30" button was installed company-wide, and it is likely too expensive to remove. Member Schwinghammer asked if the employee is back to work. Mr. Bauer stated that she is back to work, has completed the re-training, and was written up.
- Member Luhmann asked what had been done in the past. Mayor Lawrence explained that this issue does not come up often, but that the city has issued fines in the past. Schwinghammer observed the fine is there for a reason.
- **MOTION** by Schwinghammer to impose the first offense fine of \$750 pursuant to the fee schedule ordinance, seconded by Luhmann.
- **DISCUSSION ON THE MOTION** – Member Vazquez stated that the cashiers are human beings and humans can make a mistake. He can understand how someone can get nervous when things are very busy and make a mistake. He doesn't believe a fine is needed to punish human behavior as a first offense.
- **VOTE ON THE MOTION** – Voting aye – Schwinghammer, Luhmann, Winkelman. Voting nay – Vazquez. Recused/Abstained – Lawrence. **MOTION CARRIED 3-1.**

f. Consider Issuing Proclamation Resolution

- Mayor Lawrence explained that former Council Member Lenz had researched the requesting organization last year and the City Council approved a resolution for one year.
- **MOTION** by Luhmann approving the requested Resolution recognizing October 15 as National Pregnancy and Infant Loss Remembrance Day without an expiration date, seconded by Schwinghammer, all voted aye. **MOTION CARRIED.**

8. Committee Reports

a. Mayor and Council

- Mayor Lawrence stated that there is a WCMA meeting in Otsego on September 20 and asked Members to message her by tomorrow if they would like to attend.
- Mayor Lawrence explained the invitation to attend an economic development event in St. Joseph on September 14 and asked Members or staff to message her by tomorrow if anyone can attend.
- Council Members did not have any reports.

b. Boards

- Park Commission – Discussed the following:
 - Seeding Quotes – Member Vazquez explained the seeding quote options and the Park Commission's recommendation to accept the quote from North Star for the athletic grade seed. This will include seeding at El Dorado Park and Veterans Memorial Park.

- **MOTION** by Luhmann to accept the seeding quote per the Park Commission recommendation, seconded by Winkelman, all voted aye. **MOTION CARRIED.**
- Veterans Memorial Park – Member Vazquez reported that landscaping plans are underway for spring planting. The committee is also still planning a ribbon-cutting ceremony this fall.
- Vandalism – Park Commissioners discussed recent vandalism at Spring Street Park. The sheriff has been asked to increase patrols. There was also a light broken at Veterans Memorial Park by vandals. A replacement has been ordered. Member Luhmann asked if cages could be placed around the lights to protect them. Staff will check into the costs of this alternative.
- Splash Pad – Smythe spoke to a second vendor today and is obtaining additional price quotes and options.
- Shed for Baseball Team – Park Commissioners asked staff to put together a cost for the city to build a shed in-house. They plan to ask the ball team to donate towards the cost of the shed in return for use of the space. This model could also be used with other teams that wish to use city facilities for storage.
- Open House – Park Commissioner plan to host the previously discussed Open House at their meeting on October 9, 2023 at 5:30 p.m. to get input from the public on the proposed uses of the Local Option Sales Tax funds. City Council attendance is requested.
- Dog Park – Park Commissioners wanted to get a price quote for galvanized rather than vinyl coated fencing, but first wanted input from the City Council on the desire to have a dog park. Members were supportive of getting additional fencing quotes for the option that utilizes the ball field fence on one end.
- EDA – Meets September 19, 2023 at 8:00 a.m.
- EDA – Mayor Lawrence explained the proposed digital signage plans and the request to place it at City Hall. Smythe explained the feedback from the city attorney, suggesting an agreement for placement and a policy to govern messaging on the sign. She also outlined his concerns about possible first amendment issues with any content restrictions. The city attorney suggested both boards agree to a policy before placing the sign. Members concurred and asked the EDA Members to bring a policy back to the City Council for review.
- EDA – Smythe explained the proposal for a farmer’s market and the feedback from the city attorney about options for the city or EDA to fund or operate the market. Member Schwinghammer noted this program is in its infancy and has not been discussed in detail yet by the EDA. Members expressed general support for the concept and will await more information from the EDA.
- Sewer Authority – Met in August. Member Sarah Tasa resigned, as she has moved out of the area. Former Member Lance Gilliland has agreed to return to fill the vacancy.
- Planning Commission – Met to review variance, which was discussed previously.
- Fire Relief Association Board – Meets September 25 at 7:00 p.m.

c. Staff

i. Staff Report – Repayment of 202A Equipment Certificate

- Johnson outlined her staff memo responding to City Council’s questions last month about possible early payment of the Equipment Certificate issued for purchase of a fire truck. Members thanked her for the explanation.
- Smythe noted that the city’s financial advisor annually reviews the city’s bonds for refinancing or early payment options, but that there have not been opportunities recently with interest rates increasing. Most of the city’s debt was issued in earlier years at much lower rates than are currently available.

ii. Other Staff Reports

- Smythe noted that the new Community Development Specialist Stephanie Trottier will be starting September 18, 2023.
- Johnson stated that a new Public Works employee had started after the last City Council meeting and that things were going well.
- Johnson asked for a head count of who will attend the clean-up day on September 30, 2023. Members Lawrence, Luhmann, and Schwinghammer stated they will be there.
- Smythe gave a brief overview of the development projects that staff are still working on, including Kwik Trip’s expansion, MnDot’s new facilities, the Central Minnesota Cold Storage project., the T.H. 24 Corridor project, meetings with a new possible developer, and continued work on Versatile Transport and Pat Brigg’s apartment project.

9. Other Business

a. Reminder – Meeting with Lynden Township September 12, 2023 at 6:00 p.m. – Lynden Town Hall

- Members were given a reminder about the meeting with Lynden Township.

b. Next Regular Meeting – October 9, 2023 at 7:00 p.m.

- Next meeting date was confirmed.

- Prior to adjournment, Member Luhmann asked a question about the issues at Spring Street Park with vandalism, police calls, fires, and other issues happening at the park. She asked if cameras could be placed.
- Smythe explained that the sheriff’s office had been contacted about the issues and have agreed to increase patrols in the area. She noted that cameras could be placed if the City Council so directed and if electricity was available.
- Members discussed the pros and cons of placing cameras in the park and ultimately took no action on this request.
- Staff will update the park hours on the city’s Facebook page while we are awaiting delivery of the park hours signs.

10. Adjournment

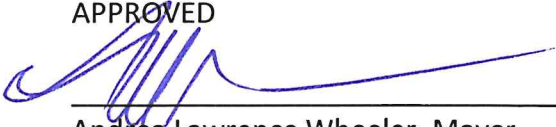
- **MOTION** to adjourn by Luhmann, seconded by Schwinghammer, all voted aye. **MOTION CARRIED.**
- Meeting adjourned at 8:54 p.m.

ATTEST



 Annita M. Smythe, City Administrator

APPROVED



 Andrea Lawrence Wheeler, Mayor