

Bridgewater City Council Regular Meeting Minutes
November 6, 2017 7:00 pm

The City Council of the City of Bridgewater met in the Council Room for their regular meeting on 11/06/2017. The meeting was called to order at 7:00 pm by Mayor Michael Damm. Answering roll call were Bob Anderson, Mayor Damm, Travis Holthaus, Jessica Liesinger, Jerry Paweltzki, Jesse Sutton, and Lacey Weber. Others present: Finance Officer-Joan Julson, Maintenance-Todd Letcher, Bar Manager-Cassidy Lehrman, Attorney Mike Fink, Allen Bolte (RBS Sanitation), Butch Hansen (Novak Sanitation), Jim Julson, Steve Sievers, Sandi Tschetter, Tony Hofer, Aaron Miller (DGR Engineering), Jerry Weber, and Sheriff Mark Norris.

Pledge of Allegiance was recited.

The minutes of last month's meeting was sent to the council for reading prior to the meeting. Motion by Weber, second by Sutton to approve the Oct 10th regular meeting minutes. Motion carried.

The October Financial statement was sent out to the council for reviewing prior to the meeting. After discussion, a motion was made by Anderson, second by Holthaus to approve the October Financial Statement. Motion carried.

2nd reading of Supplemental Budget Ordinance #A-101 was done. Motion by Holthaus, second by Paweltzki to approve Supplemental Budget Ordinance #A-101. Motion carried. Supplemental Budget Ordinance #A-101 printed separately in the Bridgewater Tribune.

The bills for the month of October were reviewed. A motion was made by Weber, second by Sutton to approve the October bills. Motion carried.

Maintenance Report by Letcher:

- Pumping down lagoon
- Winterizing the park bathrooms
- Put gravel on some of the streets for winter
- He'd like to try a ceiling fan or some type of fan in the back of the pumphouse to help with the musty smell.
- Reported that he got ahold of someone to bring a tank for the used fry oil from the bar. They will also come to empty when needed at no charge to us.
- He will be taking Monday Nov 13th off instead of Friday Nov 10th for the Veterans Day holiday.

Streets & Alleys: Mayor Damm shared what he found out about the property lines of Block 14. The west side of Block 14 is out into the city street property about 3-4 feet. It appears to be this way from 3rd to 6th street on Cherry. Council needs to decide how to handle this to know where to put in the corner radius to know for doing 4th street. This will be addressed later when Aaron Miller from DGR Engineering arrives.

Anderson reported on several street areas that need scarifying or reblading before winter.

At 7:15, two bids were opened for the garbage service: Bids were as follows: RBS Sanitation - \$13.50 per month with separate charges for city dumpsters and Novak Sanitation - \$14.95 per month with no charge for city dumpsters. After figuring the difference, RBS was about \$50 less per month. Motion by Weber, second by Sutton to accept the bid from RBS Sanitation. Roll call vote: all voted aye. Motion carried.

Water & Sewer: Attorney Fink and Aaron Miller from DGR went over the Main Street Water Project report of deficiencies with the council. At this point the council needs to decide whether to take a diminished value or replacement. The basis of diminished value is set at 30%. This is based on conversations DGR has had with the SD Concrete Paving Association. Council noted that the deduction of 30% is calculated differently than repair costs. The values to determine repair costs are based on unit bid prices for each item of work needed to make the repair. The costs assigned to the diminished value is based on work currently in place and is typically deducted for the entire panel/section in which the deficiency is noted. We have a total of 35 different areas with deficiencies that are noted in the report. Council must also take into consideration that if you take out one area is the next area going to be damaged in the process. They also could decide to take a diminished value on some of the deficiencies & repair the rest. After continued discussion on the different areas, a motion was made by Holthaus, second by Paweltzki to accept the 30% deduct cost on the Main Street Water project deficiencies. All present voted aye. Motion carried. Attorney Fink will let Premier Contracting's attorney know of the council's decision.

At this time Paweltzki presented another idea for storm drainage. This would be a line running from approximately 3rd & 4th on Cherry going south out past Hwy 42. Aaron Miller from DGR will take it back to the office for review.

Next Aaron Miller from DGR brought up the survey of the Block 14 right of way. The council needs to decide a standard curb width and road width. Then as we continue to do the streets, they will all eventually line up. Council will look at this and decide at a later date.

Gov't Bldg/Municipal Liquor Store: Finance Officer brought to the council information on a credit card machine for Sparky's. This was through Elavon merchant services recommended by the bank. Monthly fees alone would be around \$85 per month plus a charge for each transaction. At this time, we do have an ATM on site and the bank next door also has an ATM, on the recommendation of bar manager Lehrman the council decided to leave it as is for now.

Paweltzki presented this proposal for 2018. 1) That the city of Bridgewater builds a 50' X 120' building to be used as a new bar/restaurant and finance office. Or that it be used as a grocery store/finance office. 2) or the city buy the packing plant and turn it into a new bar/restaurant/finance office or grocery store. 3) That the city builds a spec house to sell, or buy the Jason Waldner lot and build an affordable house to sell. 4) He also purposes that the city chip and seal the majority of streets that are still in good shape before they deteriorate. So noted by the council.

Motion by Sutton, second by Weber to pass Resolution 17-0911 – Public Video Surveillance Policy. Roll Call vote – all voted aye. Motion carried.

CITY OF BRIDGEWATER RESOLUTION 17-0911

RESOLUTION APPROVING PUBLIC VIDEO SURVEILLANCE POLICY

WHEREAS, the City of Bridgewater desires to add the following Public Video Surveillance Policy;
NOW THEREFORE BE IT RESOLVED by the City as follows:

City of Bridgewater, South Dakota Public Video Surveillance Policy

The following guidelines shall apply to any/all municipal video surveillance systems operated under the authority of the City of Bridgewater, South Dakota.

1. *The City of Bridgewater has created a video surveillance system designed to further the following objectives:*
 - a. *To assist law enforcement in investigating and bringing to justice persons committing criminal offenses in public places covered by the City's public surveillance system.*
 - b. *To assist the City of Bridgewater in its effort to ensure that public employees are performing their duties in a manner consistent with the City of Bridgewater employment handbook, or as otherwise expected by the City Council.*
2. *With these policies, the City seeks to address the foregoing goals in a manner which also takes into consideration the impact of the video surveillance system upon the constitutional rights and values of others.*
3. *It is the City of Bridgewater's goal to utilize the public video surveillance system in a manner so as to minimize its negative impact on such constitutional rights and values.*
4. *It is the policy of the City of Bridgewater that video surveillance footage may be reviewed by the City Finance Officer, Mayor, and members the city council. It is the policy of the City of Bridgewater to prohibit any dissemination of such video footage to person other than those listed herein.*
5. *Record footage from the Bridgewater Video Surveillance System may not be copied/downloaded by any persons listed above, unless such is necessary to further the goals of the City's surveillance policy, as stated herein. Under most circumstances, individuals may be "tracked" or "identified" by the Bridgewater Surveillance System pursuant to a warrant: (A) Law enforcement must obtain a warrant prior to using the Bridgewater Surveillance System to track or identify an individual; (B) Law enforcement must obtain a warrant prior to using a "watch list" to automatically identify individuals, except when using a federal anti-terrorism watch list.*
6. *The Bridgewater Video Surveillance System may be utilized for legitimate law enforcement purposes in addition to the purposes set forth above, subject to the following restrictions: (A) No additional approval is*

required for incidental use of the system; (B) Law enforcement must obtain a warrant for secondary use of "archival" stored video surveillance footage.

7. To the extent possible, the City of Bridgewater shall prohibit the sharing of public video surveillance data with third parties, including private litigants, and shall restrict sharing with other governmental entities. As is the case with law enforcement, third parties and private litigants may obtain the footage through Subpoena.

8. The Finance Officer shall keep a log, documenting the review of any footage.

This resolution shall be effective upon publication.

Passed this 6th day of November, 2017.

Ayes 6 Nays 0 Absent 0

Michael Damm, Mayor

ATTEST:

Joan M Julson, Finance Officer

(SEAL)

(Finance Officers note: In order to provide accurate, fair, and unbiased minutes, the following portion was taken from the audio tape as it was said. While it is not verbatim, I am reasonably confident that it portrays what was said during the approximate 35 minute discussion on this situation. Also note that Mayor Damm and Sutton did contribute to this section of minutes.) Sutton brought up two situations that happened at Sparky's Bar that occurred within one month of each other. The first situation which occurred on September 28th 2017 when Scott Hofer made serious threats towards another bar patron, and then turned his aggression towards Mayor Damm, who was bartending, and proceeded to call him a "fag" and "faggot" several times. Scott also referred to Sutton as Mayer Damm's, "little boyfriend." Scott's wife, Krystal, did come in the bar the next day to apologize for Scott's behavior and also said that Scott would be apologizing also which never did happen. The second situation Sutton brought up occurred on October 28th 2017 during bar 2 am closing. After Mayor Damm and Cassidy Lehrman totaled bar tabs and distributed them to patrons for collection of payment, Scott Hofer and wife Krystal Hofer disputed their bill. They became argumentative with Damm and Lehrman. They accused the bar staff of padding their bill, and were refusing to pay. Soon after the start of the confrontation Scott's father, Perry Hofer, became involved. A lot of profanities were directed towards Damm and Lehrman, during which Damm was called a "fag" and "faggot" several times, and was aggressively grilled by Perry asking, "Well, is it true? Is it true?" in regards to Damm being called a "fag" and "faggot". Sutton then informed the council that surveillance footage of the confrontation shows the following: Scott crossing the threshold into the employee only area, placing himself chest to chest with Mayor Damm (physically touching Damm), and throwing his finger in Damm's face while yelling at him. Krystal slamming her bottle of beer on the bar top, physically shoving Cassidy Lehrman, crossing the threshold into the employee only area, placing herself face to face with Mayor Damm, and yelling at him. It shows Krystal exiting the bar after being told to leave and then reentering the bar to continue with the confrontation. Scott and Perry being escorted out of the bar, at which point Scott then reenters the bar to continue with the confrontation. Sutton then informed the council that Scott and Krystal's bill was left unpaid until October 30th, that this confrontation prevented bar staff from clearing patrons out of the bar by the 2am cutoff prescribed by South Dakota State Law, and that charges were pending against Perry, Scott, and Krystal subsequent to an investigation performed by the McCook County Sheriff's Office. At this time Sutton was prepared to show the surveillance footage of the incident to the council, to which the other five members of the council declined to view it. Sutton also read parts of the Employee Personnel manual referencing the section dealing with sexual harassment. Sutton then made a motion to immediately ban Perry Hofer, Scott Hofer, and Krystal Hofer from entering the premises of Sparky's Bar indefinitely with the possibility for review after one full year. He also asked that if the vote is not unanimous or vote fails, a roll call vote be taken and published. During discussion, the council asked why Perry, Scott and Krystal were not banned immediately that evening and Mayor Damm said that since it was closing time his main concern was to empty the bar and get people out of there. He was "fit to be tied" that he was treated or talked to that way. He is speechless as he doesn't feel anyone should have to endure that verbal abuse, humiliation and that no one deserves to be treated like that. He feels that if we take no action, the city is condoning this type of behavior. Holthaus brought up that he doesn't feel that a motion is needed by the council to deal with this type of situation. If someone is acting in a belligerent fashion, drunk or not, they need to be banned immediately. Mayor Damm felt that they wouldn't have listened to

any of them anyway and felt it would be more effective coming from the city council. Weber brought up that is why we hired a manager. If someone is banned from the bar and returns, you call the Sherriff Dept to come and handle it. Mayor Damm and Sutton explained that all they wanted was the city to follow its policies and doesn't condone this type of behavior for its establishments. Liesinger added that if we're going to do that we will have to ban a lot of others also that she was sorry that this happened to them but this happens in bars all the time. She understood that this was personal for them, but there are others that come into the bar and act just as bad. Pointing out that what they did was no way to act and if she would have known about this situation, she would have talked to Krystal herself. But if we're going to ban them, then there are others that act just as bad or worse, and we would need to be consistent and ban them also. Attorney Fink asked if he could redirect this discussion somewhat stating that he's not going to make any opinion on what we do with the 3 individuals since the wife and mother of these people was his employee. He said that this is not sexual harassment in the sense that the city is harassing you. What is being asked of the city is a safe work environment. Mayor Damm and Sutton are asking the city to provide that safe environment and they are asking the city to take some official action regardless of what the bar manager says. So the city can decide to take action or not take action and continue to leave it up to the manager. This is what we are talking about. It's not suing anybody for damages. Again Mayor Damm added that he feels that if we allow this behavior to happen, it doesn't matter that it may or may not have happened in the past, we are condoning this behavior. Liesinger again spoke up that she in no way is condoning this type of behavior, but we would need to be consistent with who would be banned as these 3 aren't the only ones that have acted this way. Sheriff Norris was asked for his input. He said that most of the time these things just work its way out, not saying its right or wrong. Mayor Damm once again asked if they are going to be allowed in the bar. Weber felt that they should have been banned right away, not weeks later. Paweltzki felt that it should be the bar managers call. Bar Manager Lehrman stated that since they have now gone to a "no tabs" system, the problem seems to have corrected itself. That is why she doesn't feel the need to ban Scott, Krystal and Perry. As Suttons motion is still on the table with no second, Holthaus brought up that he feels the 1 year is too long and would maybe go more for 1-3 months with a harsher penalty if there is a repeat. Paweltzki still feels it should be up to the bar manager. At this time (9:01), Mayor Damm, visibly frustrated, recused himself due to the situation and left the room for a bit and President Anderson presided over the meeting and asked for a second to the Sutton motion. No second was received, Anderson declared that the motion died for lack of a second. Liesinger made a motion for the bar manager to decide what should happen with Scott, Krystal and Perry Hofer concerning this situation. Council and attorney discussed that the bar manager already has the authority to kick someone out due to their behavior. Anderson asked if she wanted to restate her motion. Liesinger wanted a motion giving the bar manager the authority to handle these situations right away and not the council or the bar committee at a later date. Attorney Fink reminded the council that they are ultimately responsible for the actions of their employees and he is not comfortable with the council delegating that type of authority (providing a safe working environment for employees) to an employee. Mayor Damm added that is why nothing was done at the time of the incident, he didn't want to put that responsibility onto an employee, bar manager Lehrman. Attorney Fink stated that he was trying to offer guidance and be helpful but not sway the council in their decision one way or another, but the Council should not expect one employee to provide a safe working environment for another employee. Holthaus feels that some type of action may need to be taken since it was brought to the council that an employee felt we weren't providing a safe working environment. He made a motion that Scott Hofer, Krystal Hofer, and Perry Hofer be banned from the bar for 1 month. Sutton said he would second it if it was for 3 months. Holthaus restated for 1 month. Asking for a second to this motion, Anderson declared motion died for lack of a second. Anderson asked if there are any other motions on the bar subject. At 9:15, Anderson handed the meeting back over to Mayor Damm.

Ambulance: Jim Julson reported that they will be taking training on Dec 11th on NARCAM and in Feb 2018 is the ambulance conference.

Law Enforcement: Reports for October were noted. Sheriff Norris reported that they got the go cart speeding stopped but they did complain about the golf carts on the street.

Parks & Rec: Park committee to get together to discuss improvements to use the \$5000 Xcel grant for park improvements.

Code Enforcement: Hanson house at 7th & Main - procedure on demolition is still on going.

Planning & Zoning: Paweltzki brought up what he is working with Brenda at SEFP and GOED. After going through the items he had listed that Bridgewater has to attract businesses, council informed him to make sure it

is all true and factual. Paweltzki would like council permission to work with Attorney Fink on talking to individuals. Mayor Damm would like to have a round table with the citizens to see what direction they would like to see the town go in moving forward. Since this wasn't an agenda item, Mayor Damm suggested the council take some time to digest. Comprehensive Plan needs updating – meeting with SECOG to update. Jerry Weber asked to make a comment that this was all good but we first needed to clean up Hwy 42 corridor. After some heated words, Mayor Damm continued on, asking for a motion to adjourn the meeting.

Liesinger said she was submitting her resignation and asked for a motion to that effect. Motion by Sutton, second by Holthaus to accept Jessica Liesinger's resignation. (After reviewing the audio tape, no vote was ever taken on this motion)

Motion by Holthaus, second by Weber to continue employee health insurance as is. Motion carried. It was noted that there was no premium increase for 2018.

It was also noted that on November 9th the State Water Plan applications will be considered by the Board of Water & Natural Resources over the DDN.

Motion by Holthaus, second by Weber to adjourn. Motion carried. Time 9:15 pm.

Next regular meeting is December 11th.

Michael Damm – Mayor

Joan M Julson – Finance Officer

Claims:

Payroll by Dept.: Ambulance 3954.92; Council 6225.00; Finance Office 533.20; Fire 114.10; Gov't Bldg 32.60; Landfill/Dump 81.50; Liquor 3348.60; Mosquito 89.65; Parks 411.58; Sewer 842.22; Streets 1063.59; Water 808.99; EFTPS-October payroll taxes, 2507.64; SD Retirement System-employee & city match, 569.24.

Supplies: Bob's Candy Service – bar food items, 2059.53; Chesterman Company–Coke products for bar, 240.05; C&B Operations LLC–JD lawn mower belt, 42.32; Colonial Research–chemical supply, 823.58; Freeman Lumber–lumber for parks, 293.47; JD Concrete–concrete out at the ball field bathroom, 692.75; Kaylor Locker–bar chislic, 781.25; Menard's–shop, bar, park supply, 29.62; Potter Tire & Service–gas, diesel & supply, 409.38; Quill–printer & staples, 124.97; Scott Supply–seatbelt for skidsteer, 119.00; Sturdevant's–mostly shop supply, 92.74; Total Stop–bar supply, 3.37; Walts Homestyle Foods Inc–bar pizza etc, 407.50.

Beer and Liquor: (paid in October) Beal Distributing, Inc., 2461.45; Dakota Beverage, 627.20; Johnson Brothers Famous Brands, 296.54; Republic National Dist, 386.30.

Miscellaneous: A&B Business Inc–Maintenance contract, 62.48; A-OX Welding Supply-cylinder lease, 51.45; Anderson Trucking- Hauling 7 loads of gravel from Parker, 2145.00; Bridgewater Development Corp–monthly donation, 100.00; Bridgewater Tribune–October publishing, 222.30; CHS Training Solutions-SerSafe course for Lehrman, 165.00; McCook County–Contracted Law Enforcement monthly payment, 2112.50; Nordwald Rentals–December rent (Payable 12/1/17), 350.00; Petty Cash–bar supply & postage, 66.80; RBS Sanitation-October garbage pick-up for 190 households, 2660.00; RBS Sanitation-October dumpster fees (Legion Hall, bar, firehall, shop), 224.18; Schoenfelder, Julie-Karaoke at Sparky's, 225.00; SD Dept of Revenue-water testing, 165.00; SD One Call-6 faxed locates, 6.72; SD State Treasurer–October garbage, etc. sales tax (We received a 1.5% allowance for timely payments - \$3.64), 239.31; SD State Treasurer–October bar sales tax (We received a 1.5% allowance for timely payments - \$16.00), 1050.91; SF Area Humane Society-animal seized at 641 N Main, 112.18.

Utilities (Paid in October): Golden West, 435.15; Hanson Rural Water, 4279.90; Xcel Energy, 4569.97.

Insurance: AFLAC-reimbursed by employees, 200.96; Health Pool of SD, 3141.70.

Professional: Fink Law Office PC-October statement, 265.61.

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