

A regular meeting of the City Council for the City of Fairfax, Minnesota was held on August 8th, 2023 at 7:00pm in the City Council Chambers.

Members: Josh Bunkers, Jim Schroeder, Tina Castillo, Jill Pelzel

Absent: Steve Schmidt

Visitors: Andrea Merkel, City Administrator
Joel Grejtak, Street & Utility Superintendent
Scott Froehlich, Chief of Police
Aaron Walton, City Attorney
Jim Cuff
David Eurle, Westberg/Eischens
Denise Bonsack, Standard-Gazette, Messenger
Donald Paul, Monk's Bar & Grill
Michelle Paul, Monk's Bar & Grill
Jodi Coleman
Bill Johnson

The meeting was called to order at 7pm by Bunkers.

The Pledge of Allegiance was recited.

The agenda was reviewed. Merkel requested the addition of the following agenda items:

18. Consider Action on Contract Draft for Demolition Services of Park St Lots

A motion was made by Pelzel and seconded by Castillo to approve the agenda with additions. All voted in favor. None voted against. The motion was carried.

The consent agenda was reviewed. A motion was made by Schroeder and seconded by Castillo to approve the consent agenda. All voted in favor. None voted against. The motion was carried.

Consent Agenda

1. Approval of Consent Agenda
2. Consider Approval of Minutes
 - a. July 11th, 2023 Council Meeting Minutes
3. Consider Approval of Claims for Payment

A motion was made by Pelzel and seconded by Schroeder to open a public hearing on a zoning variance to install a fence at 202 1st Ave NE. All voted in favor. None voted against. Motion carried. After no comments were received, a motion was made by Pelzel and seconded by Schroeder to close the public hearing. All voted in favor. None voted against. The motion carried.

The council reviewed resolution 2023-12 Adopting Findings and Facts for Approval of Variance Application for 202 1st Ave NE. A motion was made by Pelzel and seconded by Schroeder to approve resolution 2023-12. All voted in favor. None voted against. The motion carried.

FAIRFAX CITY COUNCIL

RESOLUTION 2023-12

A RESOLUTION ADOPTING FINDINGS OF FACT AND REASONS FOR APPROVAL FOR VARIANCE APPLICATION OF David and Jodi Coleman at 202 1st Ave NE, Fairfax, MN

The City of Fairfax City Council met on August 8, 2023, at 7:00 p.m. and hereby determined the following:

FINDINGS OF FACT

1. David A. Coleman and Jodi L. Coleman (hereafter the owners) are the owners of a parcel of land located at 202 1st Ave NE in Fairfax, MN, 55332.
2. The legal description of the property is as follows:

The West One Hundred Feet (W 100') of the North One Hundred Feet (N 100') of Lot Five (5), Block Two (2), Brown's Addition to the City of Fairfax, Renville County, Minnesota.
PID 31-01635-00
(hereafter "the subject property").
3. The owners have applied to the City of Fairfax for a variance to build a fence on the subject property, as shown in Exhibit A.
4. The proposed fence would vary from requirements established in Chapter 260-15 in the code of the City of Fairfax, in that it would not be built at a distance of at least 2 feet from the subject property line.
5. Following a public hearing on the application on August 8, 2023, the City of Fairfax City Council has considered approval of the variance.
6. Minnesota Statute Section 462.357, subd. 6 provides:
 - a. Variances shall only be permitted (a) when they are in harmony with the general purposes and intent of the ordinance and (b) when the variances are consistent with the comprehensive plan.
 - b. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that (a) the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; (b) the plight of the landowner is due to circumstances unique to the property not created by the landowner;

and (c) the variance, if granted, will not alter the essential character of the locality.

CONCLUSIONS

7. The requested variance is in harmony with the purposes and intent of the ordinance because the property owner agrees to maintain all sides of the new fence and adjacent property owners have agreed to allow access to their property for said maintenance.
8. The City does not presently have a comprehensive plan.
9. The property owner proposes to use the property in a reasonable manner.
10. The variance will maintain the essential character of the locality.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRFAX, MINNESOTA AS FOLLOWS:

The application to issue a variance to allow David A. Coleman and Jodi L. Coleman to build a fence so as to deviate from Chapter 260-15 in the City of Fairfax Code Book, is hereby approved.

Dated this 8th day of August, 2023.

SEAL

Josh Bunkers, Mayor

Andrea Merkel, City Administrator

Attachment: Exhibit A, Sketch of Proposed Fence Location

A motion was made by Pelzel and seconded by Schroeder to open public hearings on various nuisance ordinance violations. All voted in favor. None voted against, the motion carried. No comments were received on the violations. A motion was made by Pelzel and seconded by Schroeder to close the hearings. All voted in favor. None voted against, the motion carried.

A motion was made by Pelzel and seconded by Schroeder to approve Resolution 2023-9 Findings of Fact and Order Issued For Nuisances at 110 4th Street SE, Fairfax, MN, Resolution 2023-10 Findings of Fact and Order Issued For Nuisances at 406 Park Street S, Fairfax, MN and Resolution 2023-11 Findings of Fact and Order Issued For Nuisances at 600 1st Street SE, Fairfax, MN. All voted in favor. None voted against, the motion carried.

CITY OF FAIRFAX
RESOLUTION NO. 2023-9
A RESOLUTION OF FINDINGS OF FACT AND ORDER ISSUED
UNDER FAIRFAX CITY CODE, CHAPTER 155: NUISANCES
RE: 110 4th Street SE, Fairfax

The City Council of the City of Fairfax hereby makes the following:

FINDINGS OF FACT

Whereas, Fairfax City Code Chapter 155 provides for the prohibition and abatement of public nuisances; and

Whereas, the property at 110 4th Street SE, Fairfax, Minnesota, had been identified as being in violation of City Code section and 155-3 for unlawful accumulations in the open of discarded lumber, wood, or other material, and two motorcycles not parked on an improved surface, vehicles with expired registration and/or inoperable ; and

Whereas, the Fairfax Police took photographs of the nuisance items on the above-property, which are attached hereto and made part hereof, which show the nuisance conditions, including the following: Vehicles not parked on an improved surface, lumber piled in back yard; and

Whereas, Richard Prafke and Kasee Prafke (hereafter Prafke's) have been identified as the owners of this residential property, located at 110 4th Street SE, Fairfax, Minnesota 55332; Renville County Property ID No. 31-03800-00; and

Whereas, the City Administrator prepared a letter, which was delivered by the Fairfax Police Department on July 18th, 2023, notifying them that all of the above-listed items must be abated by August 4th, 2023. The letter also gave the owners notice that if the same items were not abated by the given deadline, that the City Council would address the matter at the City Council meeting on August 8th, 2023, and possibly take action to have the nuisances abated, with all expenses charged to them and assessed against their property; and

Whereas, the owners failed to abate the nuisances by the deadline given; and

Whereas, the City Council hereby finds that the conditions on the said property: 1) are conditions which unreasonably annoy, injure, or endanger the safety, health, comfort, or repose of a considerable number of members of the public; and 2) the conditions have not been improved since August 8th, 2023; 3) that the above-described nuisance conditions will continue to exist on the property unless corrective action is taken by the City.

Be It Resolved, that the City Council of the City of Fairfax, pursuant to Code section 155-5 hereby issues the following:

ORDER

1. Richard Prafke and Kasee Prafke shall abate the above-described nuisance conditions on the residential property, located at 110 4th Street SE, Fairfax, 55332, upon service or posting of this Resolution.
2. If the owners fail to abate the nuisance items, the City public works crew or hired contractors, shall, with a Fairfax Police Officer on civil standby, as soon as practicable cause the nuisance items to be abated. City staff shall make record of any time and charges incurred by the City in abating, removing, correcting or eliminating the nuisances from this property.
3. Any charges incurred by the City in abating, removing, correcting, or eliminating the nuisance conditions may be collected as provided in Minn. Stat. section 429.101 and City Code section 155-5. Such charges may include any actual costs incurred by the City, including, but not limited to, administrative, legal, and inspection, in connection with the abatement of the nuisance and a \$250 fine for a first offense of this nature in a 3-year period.
4. This Order shall be effective immediately upon the completion of personal service of this Resolution on the property owner, or by posting a copy of this Resolution in a conspicuous place on the property if the property owner cannot be found after attempting personal service.

Said Resolution was passed and adopted by the Fairfax City Council this 8th day of August, 2023.

SEAL

Josh Bunkers, Mayor

Attest: _____

Andrea Merkel, City Administrator

MOTION BY: _____

SECOND MOTION BY: _____

Attachments: Photos of Nuisance Items

CITY OF FAIRFAX
RESOLUTION NO. 2023-10
A RESOLUTION OF FINDINGS OF FACT AND ORDER ISSUED
UNDER FAIRFAX CITY CODE, CHAPTER 155: NUISANCES
RE: 406 Park St S, Fairfax, MN 55332

The City Council of the City of Fairfax hereby makes the following:

FINDINGS OF FACT

Whereas, Fairfax City Code Chapter 155 provides for the prohibition and abatement of public nuisances; and

Whereas, the property at 406 Park Street S, Fairfax, Minnesota, had been identified as being in violation of City Code section and 155-3 for unlawful accumulations in the open of a dumpster filled to capacity and a vehicle without current registration and not parked on improved surfaces; and

Whereas, the Fairfax Police took photographs of the nuisance items on the above-property, which are attached hereto and made part hereof, which show the nuisance conditions, including the following: Vehicles not parked on an improved surface or displaying current registration and a dumpster filled to capacity for over 7 days; and

Whereas, Jesus Hernandez has been identified as the owners of this residential property, located at 406 Park Street S, Fairfax, Minnesota 55332; Renville County; and

Whereas, the City Administrator prepared a letter, which was delivered by the Fairfax Police Department on July 21st, 2023, notifying them that all of the above-listed items must be abated by August 4th, 2023. The letter also gave the owners notice that if the same items were not abated by the given deadline, that the City Council would address the matter at the City Council meeting on August 8th, 2023, and possibly take action to have the nuisances abated, with all expenses charged to them and assessed against their property; and

Whereas, the owners failed to abate the nuisances by the deadline given; and

Whereas, the City Council hereby finds that the conditions on the said property: 1) are conditions which unreasonably annoy, injure, or endanger the safety, health, comfort, or repose of a considerable number of members of the public; and 2) the conditions have not been improved since July 21st, 2023; 3) that the above-described nuisance conditions will continue to exist on the property unless corrective action is taken by the City.

Be It Resolved, that the City Council of the City of Fairfax, pursuant to Code section 155-5 hereby issues the following:

ORDER

2. Jesus Hernandez shall abate the above-described nuisance conditions on the residential property, located at 406 Park Street S, Fairfax, 55332, upon service or posting of this Resolution.
5. If the owners fail to abate the nuisance items, the City public works crew or hired contractors, shall, with a Fairfax Police Officer on civil standby, as soon as practicable cause the nuisance items to be abated. City staff shall make record of any time and charges

incurred by the City in abating, removing, correcting or eliminating the nuisances from this property.

6. Any charges incurred by the City in abating, removing, correcting, or eliminating the nuisance conditions may be collected as provided in Minn. Stat. section 429.101 and City Code section 155-5. Such charges may include any actual costs incurred by the City, including, but not limited to, administrative, legal, and inspection, in connection with the abatement of the nuisance and a \$250 fine for a first offense of this nature in a 3-year period.

7. This Order shall be effective immediately upon the completion of personal service of this Resolution on the property owner, or by posting a copy of this Resolution in a conspicuous place on the property if the property owner cannot be found after attempting personal service.

Said Resolution was passed and adopted by the Fairfax City Council this 8th day of August, 2023.

SEAL

Josh Bunkers, Mayor

Attest: _____

Andrea Merkel, City Administrator

MOTION BY: _____

SECOND MOTION BY: _____

Attachments: Photos of Nuisance Items

CITY OF FAIRFAX
RESOLUTION NO. 2023-11
A RESOLUTION OF FINDINGS OF FACT AND ORDER ISSUED
UNDER FAIRFAX CITY CODE, CHAPTER 155: NUISANCES

RE: 600 1st St SE, Fairfax, MN 55332

The City Council of the City of Fairfax hereby makes the following:

FINDINGS OF FACT

Whereas, Fairfax City Code Chapter 155 provides for the prohibition and abatement of public nuisances; and

Whereas, the property at 600 1st Street SE, Fairfax, Minnesota, had been identified as being in violation of City Code section and 155-3 for parking of a vehicle without displaying current registration; and

Whereas, the Fairfax Police took photographs of the nuisance items on the above-property, which are attached hereto and made part hereof, which show the nuisance conditions; and

Whereas, Amy Lawrence has been identified as the owner of this residential property, located at 600 1st Street SE, Fairfax, Minnesota 55332; Renville County; and

Whereas, the City Administrator prepared a letter, which was delivered by the Fairfax Police Department on July 21st, 2023, notifying them that the above-listed items must be abated by August 4th, 2023. The letter also gave the owners notice that if the same items were not abated by the given deadline, that the City Council would address the matter at the City Council meeting on August 8th, 2023, and possibly take action to have the nuisances abated, with all expenses charged to them and assessed against their property; and

Whereas, the owners failed to abate the nuisances by the deadline given; and

Whereas, the City Council hereby finds that the conditions on the said property: 1) are conditions which unreasonably annoy, injure, or endanger the safety, health, comfort, or repose of a considerable number of members of the public; and 2) the conditions have not been improved since July 21st, 2023; 3) that the above-described nuisance conditions will continue to exist on the property unless corrective action is taken by the City.

Be It Resolved, that the City Council of the City of Fairfax, pursuant to Code section 155-5 hereby issues the following:

ORDER

3. The property owner and/or current resident shall abate the above-described nuisance conditions on the residential property, located at 600 1st Street SE, Fairfax, 55332, upon service or posting of this Resolution.

8. If the owners fail to abate the nuisance items, the City public works crew or hired contractors, shall, with a Fairfax Police Officer on civil standby, as soon as practicable cause the nuisance items to be abated. City staff shall make record of any time and charges incurred by the City in abating, removing, correcting or eliminating the nuisances from this property.

9. Any charges incurred by the City in abating, removing, correcting, or eliminating the nuisance conditions may be collected as provided in Minn. Stat. section 429.101 and City Code section 155-5. Such charges may include any actual costs incurred by the City, including, but not limited to, administrative, legal, and inspection, in connection with the abatement of the nuisance and a \$250 fine for a first offense of this nature in a 3-year period.

10. This Order shall be effective immediately upon the completion of personal service of this Resolution on the property owner, or by posting a copy of this Resolution in a conspicuous place on the property if the property owner cannot be found after attempting personal service.

Said Resolution was passed and adopted by the Fairfax City Council this 8th day of August, 2023.

SEAL

Josh Bunkers, Mayor

Attest: _____

Andrea Merkel, City Administrator

MOTION BY: _____

SECOND MOTION BY: _____

Attachments: Photos of Nuisance Items

David Eurlle from Westberg/Eischens presented 2022 audit information to the council. A motion was made by Pelzel and seconded by Castillo to approve the audit. All voted in favor. None voted against, motion carried.

The council considered approval of off-sale, on-sale and Sunday liquor licenses for Monk's Bar and Grill. A motion was made by Pelzel and seconded by Castillo to approve all three licenses. All voted in favor. None voted against, the motion carried.

The council considered hiring of Matt Ibberson as a full-time police officer. Merkel informed the council that the current employment offer was for an hourly rate of Step 10 on the current police officer pay scale, adjust vacation accrual based on years of experience and provide 2 sick days upon start of employment. A motion was made by Schroeder and seconded by Castillo to approve hiring Matt Ibberson as a full-time police officer at the current stated employment offer. All voted in favor. None voted against, the motion carried.

The council considered hiring of Joel Hennager as a part-time police officer. Merkel informed the council that the current part-time police officer wage is set at step 4 of the current pay scale for the police officer position. A motion was made by Pelzel and seconded by Castillo to hire Joel Hennager as a part-time police officer at Step 4 of the current pay scale for the police officer position. All voted in favor. None voted against, the motion carried.

The council discussed 2024 employee cost of living wage adjustments. The personnel committee's recommendation was to increase wages by 1.5% for 2024. After some discussion a motion was made by Schroeder and seconded by Castillo to increase employee wages by 2.5% beginning January 1, 2024 for a cost of living adjustment. Schroeder, Bunkers and Castillo voted for approval, Pelzel abstained from voting. None voted against, the motion carried.

The council reviewed updates to the employee personnel policy to update various areas of the policy to match current practices and to add wording regarding cannabis product use by employees into the policy. A motion was made by Pelzel and seconded by Castillo to approve the changes. All voted in favor. None voted against, the motion carried.

The council reviewed Ordinance 440 – Amending the City's Golf Cart and Utility Vehicle ordinance. The council requested some changes be made to the requirements of the new ordinance before approval.

The council reviewed Ordinance 441 – Amending the City’s Residential Parking Ordinance. After some discussion, Bunkers and Schroeder requested changes be made to the requirements of the new ordinance before approval.

The council reviewed Resolution 2023-13 Terminating Option to Purchase in Lease Agreement for 114 1st St SE. A motion was made by Pelzel and seconded by Schroeder to approve resolution 2023-13. All voted in favor, none voted against. The motion carried.

CITY OF FAIRFAX, MINNESOTA

RESOLUTION 2023-13

A RESOLUTION BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FAIRFAX,
MINNESOTA CANCELLATION OF THE OPTION TO PURCHASE REAL PROPERTY

WHEREAS, pursuant to a document #388076 dated March 26th, 2019 and recorded March 29, 2019 in the Office of the Renville County Recorder, the City of Fairfax entered into a lease agreement with option to purchase real property with Mitchell Allen Neisen.

WHEREAS, the legal description of the property is as follows:

The North Forty Feet (N-40’) of Lot Twelve (12) in Block One (1); and South Twenty Feet (S-20’) of Lot Thirteen (13), in Block One (1); Original Plat of the Village, now City, of Fairfax, Renville County, Minnesota.

WHEREAS, the recorded document gave the City of Fairfax the exclusive right to purchase the described property for a gross sale price of \$40,250 if Mitchell Allen Neisen decided to sell the property or if he ceased to operate the business located on the described property as an on-sale or off-sale liquor store and restaurant.

WHEREAS, according to a purchase agreement dated August 1, 2023, Mitchell Allen Neisen has decided to sell the described property.

WHEREAS, the business located on the described property has continued to operate an off-sale, on-sale and restaurant establishment since the lease agreement was executed.

WHEREAS, the purchaser listed on the purchase agreement dated August 1, 2023, intends to continue to operate the business located at the described real property as an off-sale, on-sale, restaurant establishment

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL THAT:

The City of Fairfax shall cancel its option to purchase the described real property. No consideration shall be required to be paid to the City of Fairfax for such cancellation.

BE IT FURTHER RESOLVED, that the City of Fairfax reaffirms and shall continue to lease the subject property under the same terms and conditions as in the original lease agreement.

PASSED by the City Council of the City of Fairfax on this 8th day of August, 2023.

ATTEST

City Administrator

Mayor

The council reviewed a draft of a contract between the city and MJ Neisen Asphalt, Inc. for the clean-up of the Park St lots that are in the process of being gifted to the city. A motion was made by Castillo and seconded by Schroeder to approve the contract, with the addition of a penalty if the work is not completed within 30 days of the date that the work begins. And the addition of a 5% penalty of the total project cost to be deducted from the final payment for each week past the

initial 30 days that the work is not completed, unless delay of the work is due to unforeseen circumstances that arise after the start of the project.

In staff reports, Andrea Merkel informed the council that the final day for the pool will be August 19th due to losing staff to fall sports practices beginning. She also informed the council that Renville County approved a change in how they provide valuation assessments throughout the county this past month, which will result in a cost savings for the city. Merkel updated the council that the owner of the Park St lots that are being gifted to the city should be returning to the U.S. on August 14th and hopefully the ownership transfer can happen soon after this date so that clean-up can begin. Merkel also noted that the new street banners have been ordered and should be arriving before the next council meeting.

Merkel also presented the council with city financial information for the month of July.

Grejtak informed the council that the city crew has been working on replacing street lights, fixing water main breaks and repairing curb stops. The city trucks will also be receiving annual DOT inspections soon and the city will need to install a water shut off valve at the former Fairfax Nursing Home building. Grejtak also updated the council on what is believed to be the cause of the waste water treatment pond odor over the past week and what is being done to hopefully reduce the odor again.

Froehlich reported that the department responded to 125 calls in the month of July and that the new squad car is scheduled to be delivered in September. The department also received a grant to purchase 4 new bullet-proof vests and the new body cameras should arrive in 2 weeks. The department will need to take training prior to using the cameras.

In other council member items, Councilmember Schroeder inquired about adding the subject of whether or not the city should continue to plow alleys this coming winter or not to the September meeting agenda.

The council reviewed the 2024 budget.

A motion was made by Schroeder and seconded by Castillo to adjourn the meeting. All voted in favor. None voted against. The motion was carried.

Attest:

Mayor

City Administrator