

## CITY COUNCIL PROCEEDINGS

The Plankinton City Council met in regular session on Tuesday, July 6, 2021 (one day late, due to the holiday). Mayor John J. Staller called the meeting to order at 6:30 p.m. The Pledge of Allegiance was recited. Members present: Jim Hinckley, Pam Vissia, Brad Kehn, Terry Schuldt and Jason Schurz. City employees present: Eileen Sorsen, Darin Cranny, and Chance Boyd. Visitors were Gayle VanGenderen Studeny from SD Mail, at 6:30, and Chad VanLaecken, Chris Hill, Wendy Nedved and Clint Bultsma at various times through the meeting.

Mayor Staller entertained a motion to approve the agenda. Motion to approve by Vissia. Seconded by Kehn. All voted aye. Motion carried.

### **VISITORS:**

#### **6:30 P.M.—RECREATION COMMITTEE—**

Chris Hill and Wendy Nedved, Rec. Committee representatives, said a group wants to give a \$12,000 to \$17,000 donation to purchase a new playset for the ballpark area. They were asking for Council approval before they would accept the money from this donor group. Chris said they would probably put it in a fenced in area, for safety reasons, and said that from July, on, there are a lot of young kids that will be out there. It does not have to be done this year. Kehn said he feels that they should “start rolling with it”. Schurz said that he thinks Mitchell has fencing over the play area. The Rec. Committee was asked to continue checking it out for the future. There was discussion about closing the road heading east out of the ballpark for safety reasons. The Committee plans at looking at Minn. Twins, Wellmark, and District III for grant funds. Chris and Wendy said that the season ran very smoothly, and the Rec. Committee is grateful that the city pays for coaches, as other cities do not all do that. They departed at 6:46 p.m.

#### **6:46 P.M.—CHAD VANLAECKEN—**

Chad, the City’s Insurance Claims Specialist, came to bring the Council a progress report on city building repairs. The insurance adjuster told him that we must stay with a foam roof on the top northwest section of the city hall roof. Two different roofers were called for estimates. The Senior Center roof will be fixed by ARS. He also said that with old buildings you get surprises during repairing. He took the Mayor and Council on a walk around the city hall to see a couple of the issues they found under the old siding. He would like the city utility employees to put some extra bracing in the two picnic shelters before the new shingles are installed. He would like the city to get RCV (replacement cost value) insurance on the City Hall and Senior Center, as they will both be brand new roofs. Clint Bultsma said that could be done. The fire station has RCV coverage, with a Cosmetic Clause, and did not qualify for a new roof. An ACV (Actual Cost Value) policy would take depreciation off. Gayle asked Chad if he had local suppliers. He will price out fifty plus sheets of OSB in Plankinton, if possible, but must go with the best price for the city. Overhead and profit had to be approved by Kevin, the city’s insurance adjuster, and will now be approved. This had to be done for Chad to be paid.

Brad Kehn left the meeting at 7:28 p.m.

Chad VanLaecken left at 7:30 p.m.

**7:30 P.M.—CLINT BULTSMA ( Insurance Policy)**—Clint, from Bultsma Insurance, arrived to speak to the Council about the 2022 city insurance. After discussion with both insurance agencies, it was agreed to leave the insurance policies with the same companies as in 2021, due to the open hail damage claim from 2020. Clint brought his proposal and asked the Council and Utility employees for any changes that needed

to be made on the new policy and thanked the city for allowing his business to provide our insurance. Lindsey Weich, from Krohmer Insurance will handle the Fire Dept. insurance again in 2022. The completed portion of the city hall roof will go to RCV coverage now, and as soon as the rest is finished, it will change to RCV. All the buildings coverages are the same as last year, with a 3% inflation rate increase. Hinckley feels the city shop coverage should be raised to \$300,000 value, as it would cost quite a bit to replace it. Other vehicle and building changes were listed, and Clint will bring the renewal to the August 2 Council meeting. Clint departed at 8:30 p.m.

#### APPROVAL OF MINUTES:

Vissia made a motion to approve the minutes of the June 7, 2021, regular Council meeting, as e-mailed out to the Mayor & Council. Schurz seconded the motion. All voted aye. Motion carried.

Vissia made a motion to approve the minutes of the June 28, 2021, special Council meeting, as e-mailed out to the Mayor and Council. Schuldt seconded the motion. All voted aye. Motion carried.

#### BILL APPROVAL:

Mayor Staller entertained a motion to authorize the Finance Officer to pay bills. Hinckley made motion to authorize bill pay. Schuldt seconded the motion. All voted aye. Motion carried.

#### EFT BILL LIST- PD. AFTER JUNE 29, 2021

F & M STATE BANK—June Bank Fees--\$27.80.

#### BILLS PAID AFTER JULY 6 MEETING AUTHORIZATION

AFLAC—Employee Vol. Ins.\$181.55; ARAMARK—June Rug Contract--\$42.97; AURORA/BRULE RURAL WATER—June Water Purch/Debt Ret.--\$11,609.20; AURORA CO. AUDITOR—HCPD Lighting Rebate--\$660.00; BARNES & NOBLE—Library Books--\$15.19; BORDER STATES—Electric Supp./Mat.--\$928.26; CITY OF PLANKINTON—Meter Dep. Applied to #00-206-01-3 (M. Hohbach)--\$50.00; CITY OF PLANKINTON—Meter Dep. Applied to #00-320-03-6 (J. Burke)--\$100.00; CITY OF PLANKINTON—Meter Dep. Applied to #00-82-01-9 (J. Steele)--\$50.00; DANR—Annual Water/Wastewater Fees--\$310.00; FP MAILING SOLUTIONS—6/20-9/19/21 Postage Meter--\$89.85; FORTERRA PIPE & PRECAST—East 1st Street Manhole--\$1,564.75; GOLDEN WEST—June Phones--\$396.16; GREAT PLAINS LUMBER—Shop Supplies--\$12.65; HAWKINS—BNC Connector w/cable--Pool--\$253.87; JIM SCHMIDT—Refund Meter Dep. on #00-044-01-9--\$125.00; M & L REPAIR—Mower Parts--\$78.91; MCLEOD'S—Copy Paper--\$77.98; ON-SIGHT—Annual June-May Remote Plan--\$78.75; OVERWEG AUTO—570 Case Parts--\$40.42; PLANKINTON LUMBER—Supp/Materials--\$829.93; RESCO—5 of 25KVA & 1 of 50KVA Transformers--\$15,502.24; ROADSIDE C-STORE—June Fuel--\$535.74; RON'S MKT.—Supplies--\$95.94; SD MAIL—June Publishing--\$1477.13; SCOTT CONSTRUCTION—Dig West Dump Hole--\$1836.74; SPENCER QUARRIES—3/4" Rock--\$313.05; STITCH-N-TIME—Safety Shirt Printing--\$40.00; TECH SOLUTIONS—July IT Contract--\$695.00.

#### OLD BUSINESS:

#### REGIONAL NURSES OFFICE:

Mayor Staller will contact the Development Board to see if there is still a need for a Nurses' office in City Hall.

#### NUISANCE PROPERTIES:

There will be an inspection of a property on East First Street with the owner and city representatives on July 14<sup>th</sup>. The house on 5<sup>th</sup> Street was torn down.

BRIGGS DEVELOPMENT TIF: The Mayor and Council felt they were advised by Planning District III and our lawyer that the city should not get involved in a TIF.

POOL COMMITTEE REPORT:

Mayor Staller reported that Mr. Jirsa and Jesse Hanson (Plankinton Lumber) are working on the pool bathhouse plans. The pool should be closed around mid-August.

SURPLUS AUCTION:

The auction will be held on July 14, at 5:00 p.m. An addition list of surplus items came into City Hall on July 6. The old green bleachers at the racetrack are on the sale because we can no longer insure them.

Listed below are the additional items for the 7-14, 2021 Surplus Sale:

**ADDTL. MISC. ITEMS**

**ADDED 7-6-21**

- CHRISTMAS LIGHTS--
- TREES/WREATHS—13
- TITAN AIR COMPRESSOR
- PUSH MOWER
- RAILROAD WIG-WAG
- ONAN GENERATOR
- MISC. CARTWHEELS
- FORD MOTOR /GENERATOR
- WOOD POSTS--66
- FENCE PANELS—33

MEDICAL MARIJUANA:

At the August 2 meeting Mayor Staller wants to discuss location (what is a suitable distance from school, daycares, residential), hours of operation, License prices, number of dispensaries allowed, etc. He said that whatever they come up with should encompass legalized marijuana. He feels that if someone wants to be a local distributor, they will start with the medical marijuana, so they have an established place. He said it could be a major source of income, so does the city want to be the seller?

Mayor Staller entertained a motion for 2<sup>nd</sup> Reading & Adoption of Medical Marijuana Ord. #2021-2. Hinckley made the motion to adopt. Schuldt seconded the motion. All voted aye. Motion carried.

**MEDICAL MARIJUANA ORDINANCE #2021-2 Second Reading & Adoption:**

1 <sup>st</sup> Reading:	6/28/2021
2nd Reading:	<u>7/6/2021</u>
Date Adopted:	<u>7/6/2021</u>
Date Published:	<u>7/15/2021</u>
Effective Date:	<u>8/4/2021</u>

**ORDINANCE NO. 2021-2**

## **AN ORDINANCE REGARDING THE ISSUANCE OF**

### **LOCAL MEDICAL CANNABIS ESTABLISHMENT PERMITS AND/OR LICENSES.**

WHEREAS, under SDCL 9-32-1 every municipality has the power to do what may be necessary or expedient for the promotion of health and wellbeing of the community;

WHEREAS, South Dakota medical cannabis laws under SDCL Chapter 34-20G are effective July 1, 2021;

WHEREAS, medical marijuana dispensaries, or medical cannabis dispensaries, or medical cannabis establishments, the various terms being used in differing, but related for purposes of regulation, licensing, and permitting, will be, after July 1, 2021, a legal, regulated business pursuits in South Dakota;

WHEREAS, under SDCL 34-20G-58 a local government may enact an ordinance not in conflict with SDCL Chapter 34-20G, governing the number and time, place, manner, and number of medical cannabis establishments in the locality and may establish civil penalties for violation of an ordinance governing the time, place, and manner of a medical cannabis establishment that may operate in the locality;

WHEREAS, under the general authority of SDCL Chapter 9-34 a municipality has the power to fix the amount, terms, and manner of issuing and revoking licenses and, in conjunction with the general authority granted in SDCL Chapter 34-20G-58 to regulate medical cannabis establishments, including under SDCL 34-20G-60 that a local government may require a medical cannabis establishment to obtain a local license, permit, or registration to operate, and may charge a reasonable fee for the local license, zoning permit, or registration;

WHEREAS, the City of Plankinton, South Dakota ("Municipality"), finds that the Municipality's current regulations and controls do not adequately address the unique needs and impacts of medical cannabis establishments as defined in SDCL 34-20G-1;

WHEREAS, the South Dakota Department of Health has been directed to promulgate rules pursuant to SDCL Chapter 1-26 not later than October 29, 2021, as defined by SDCL 34-20G-72;

WHEREAS, during the time between July 1, 2021, and potentially as late as October 29, 2021, the Municipality will not know State of South Dakota standards for medical cannabis establishments and will, therefore, not be able to adequately assess and establish by ordinance complete licensing requirements as will be necessary to properly permit/license an otherwise approve the time, place, and manner of operation of medical cannabis establishments within the Municipality;

WHEREAS, the Municipality acknowledges that in the absence of any license or permit process being established by the Municipality the South Dakota Department of Health may issue a license to a medical cannabis establishment under the authority of SDCL 34-20G-55(1)(e);

WHEREAS, the Municipality finds that the public interest requires that the Municipality study, analyze, and evaluate the impacts of medical cannabis establishments and to fully explore the impacts of any proposed regulations regarding medical cannabis establishments;

WHEREAS, the Municipality finds finding that it would be inappropriate for the Municipality to issue a local permit or license to a medical cannabis establishment without some basic regulatory requirements prior to the South Dakota Department of Health promulgating regulations governing the same; WHEREAS, potential proprietors of medical cannabis establishments need some predictability in permitting processes, both on a state and a local level, and need to avoid the possibility of stranded or otherwise unproductive investments;

WHEREAS, SDCL 22-44-19 implicitly establishes a statewide public policy regarding possession of controlled substances, including cannabis, within certain zones surrounding public or private elementary or secondary school, or playgrounds, public or private youth centers, public swimming pools, or video arcade facilities as those are defined by SDCL 22-14-18;

WHEREAS, the Municipality hereby exercises its authority under SDCL Chapter 9-32-1, SDCL Chapter 9-34, SDCL 34-20G-58, SDCL 34-20G-60, SDCL 9-19-3, and SDCL 9-19-13 to establish an ordinance regarding the issuance of any local licenses or permits for medical cannabis establishments within the Municipality;

WHEREAS, this ordinance will ensure that a more comprehensive licensing and permitting ordinance can be completely examined with adequate public input from citizens, business interests, medical cannabis industry representatives, and application of regulations promulgated by the South Dakota Department of Health under SDCL 34-20G-72;

WHEREAS, the Municipality is aware of the provisions of SDCL 34-20G-59 providing that local governments may not prohibit a medical cannabis dispensary, either expressly or through the enactment of an ordinance that makes the operation of the dispensary impracticable in the jurisdiction;

WHEREAS, the Municipality is well aware of the difference between an “ordinance” and a “resolution” as set forth in SDCL 9-19-1, particularly that the former, an ordinance, is a permanent legislative act of the governing body of a municipality within the limits of its powers and that the latter, a resolution, is any determination, decision, or direction of the governing body of a municipality of a special or temporary character for the purpose of initiating, effecting, or carrying out its administrative duties and functions under the laws and ordinances governing the municipality;

WHEREAS, the only “temporary ordinance” specifically authorized under South Dakota law is a temporary zoning ordinance under SDCL Title 11, *Planning, Zoning and Housing Programs*;

WHEREAS, the Municipality is not zoned and does not plan to adopt a comprehensive plan or take other steps under SDCL Title 11, *Planning, Zoning and Housing Programs*, relative to zoning;

WHEREAS, the Municipality finds that some action, either as an ordinance or a resolution, is reasonably necessary to temporarily preserve the *status quo* and protect significant investment pending the outcome of the aforesaid study to analyze and evaluate the impacts of medical cannabis establishments on the Municipality and to fully explore the impacts of any proposed ordinances and/or regulations regarding medical cannabis establishments emanating from such study;

WHEREAS, the adoption of an ordinance requires significantly greater notice, public hearing, and opportunities for citizen involvement than the adoption of a resolution, a resolution by its nature being temporary in character;

WHEREAS, the Municipality prefers the broader public awareness, notice, hearing process, and citizen involvement in this important issue of public health, safety, welfare, and business development as required by adoption of an ordinance, though the provisions hereof are intended to be only of a temporary character as a local government may not prohibit medical cannabis dispensaries under SDCL 34-20G-59;

WHEREAS, the Municipality finds that the following action is immediately necessary to temporarily protect and preserve the public health, safety, welfare, peace and support of the municipal government and its existing public institutions;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PLANKINTON, SOUTH DAKOTA:

*Section 1. Temporary Ordinance – Application for Local Permit/License.*

- a. A medical cannabis establishment desiring to operate in the Municipality must apply for a permit and/or license from the Municipality.
- b. Applications for a local permit and/or license to operate a medical cannabis establishment, as defined by SDCL 34-20G-1, will not be accepted by the Municipality until the South Dakota Department of Health has promulgated regulations as required by SDCL 34-20G-72.
- c. Any application received prior to such regulations being promulgated will be denied.

*Section 2. Immediate Effect.*

This ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace, and support of the municipal government and its existing public institutions pursuant to SDCL 9-19-13.

*Section 3. Savings Clause.*

- a. This temporary ordinance is denominated, and enacted, as an ordinance, though only of a temporary nature, because

SDCL Chapter 34-20G sets forth that local regulation of medical cannabis establishments are by ordinance, not resolution;

- i. South Dakota law only authorizes “temporary ordinances” relating to zoning under SDCL Title 11; and
  - ii. the Municipality is not zoned.
- b. To the extent this temporary ordinance should be characterized under SDCL 9-19-1 as a resolution rather than an ordinance, the Municipality recognizes and accepts such characterization.
  - c. It is the specific intent of the Municipality to only temporarily pause until no later than October 29, 2021, and not prohibit, permitting/licensing of medical cannabis establishments under SDCL Chapter 34-20G.
- d. If, notwithstanding the provisions of Section 1., a., b., and c. of this ordinance and the expressed intent of the Municipality to temporarily pause permitting of medical cannabis establishments as expressed herein, the South Dakota Department of Health issues a license to a medical cannabis establishment to operate within the corporate limits of the Municipality under the authority of SDCL 34-20G-55(1)(e), the limits upon the number, and the requirements for a place of operation, of a medical cannabis establishment in the Municipality are:
    - i. Location within the corporate limits of the Municipality -
      - a. no less than one thousand feet (1000’) distant from real property comprising a public or private elementary or secondary school or a playground and
      - b. no less than five hundred feet (500’) distant from real property comprising a public or private youth center, public swimming pool, or video arcade facility,
      - c. all as the terms set forth in this Section 1., d., i., a., and b., are defined by SDCL 22-14-18.
    - ii. Number allowed within the corporate limits of the Municipality –
      - a. medical cannabis dispensaries:   1   (one),
      - b. cannabis testing facilities:   1   (one),
      - c. cannabis cultivation facilities:   1   (one),
      - d. cannabis product manufacturing facilities:   1   (one).
    - iii. Hours of operation of medical cannabis dispensaries –
      - a. Monday through Saturday 8:00 a.m. through 10:00 p.m. and
      - b. Sunday 12:00 p.m. through 5:00 p.m.
      - c. No medical cannabis dispensary may operate
        - 1. on Sundays except between the hours of 12:00 p.m. and 5:00 p.m.,

2. before 8:00 a.m. on Monday through Saturday,
3. After 10:00 p.m. on Monday through Saturday,
4. on Thanksgiving Day;
5. on December 25, or
6. after 8:00 p.m. on December 24.

Date Adopted: 07/06/2021

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John J. Staller, Mayor

ATTEST:

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Eileen Sorsen, Finance Officer

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**BUDGET DEADLINE ORDINANCE:**

Mayor Staller stated that after going back and forth with Mr. Taylor on moving the budget deadline, he would like to withdraw his request to implement the ordinance that would give us until November to have a budget in place. Even the SDML came out and said it has some flaws. So, until the legislature fixes those flaws, he will adhere to our city attorney and leave it as is. There will be a meeting of city department heads on July 19 to start orchestrating the 2022 budget. The Finance Officer and Deputy Finance will attend a budget training conference in Sioux Falls on July 7, 2021.

**FIRE SIREN ISSUES:**

Electric Supt. Chance Boyd has two quotes and is expecting a third for a new fire siren. He has talked to Planning District III, and it will be entered as a project on the Aurora County Pre-Disaster Mitigation Plan.

**NEW BUSINESS:**

**HAZARD MITIGATION DISCUSSION:**

John Clem from Planning District III has requested a list of mitigation projects that the city may want to include in the Aurora County Pre-Disaster Mitigation Plan. Mayor Staller wants to add large (3") gas-powered trash pumps and hoses, as they were needed for the 2019 flooding and could be used at the lagoon, or for future flooding. Other items could be drainage improvements along Skunk Creek; powerline burial; generators for critical facilities, a tornado shelter, and a new fire siren.

**2022 LAW ENFORCEMENT CONTRACT:**

The Law Enforcement Contract with Aurora County for 2022 will be \$64,323.08. The contract for 2021 was \$65,700.20, for a difference of \$1,377.12 less in 2022. Aurora County is looking at hiring another Deputy. Hinckley mentioned that if we hired our own law enforcement, we would have to pay a lot more than \$65,000. And, he said that our Sheriff's Department is out on I-90 a lot, and our county and cities pay for that coverage on Interstate. Our Sheriff said that there needs to be more coverage by the State Highway

Patrol in our county. Mayor Staller entertained a motion to sign the 2022 contract. Motion made by Schurz and seconded by Hinckley. All voted aye. Motion carried.

SURPLUS TRANSFORMERS:

Chance and the City’s seasonal employees spent a day sorting through all the overhead transformers. There are 97 transformers that he would like to surplus. T & R Electric would pay \$2.00 per KVA, and test for PCB’s before they buy them. He would like to have 7 – 8 refurbished transformers from them and is waiting for pricing. They would only be used on existing transformers that go bad, as any new installs have been going underground. Vissia made a motion to declare them as surplus. Schurz seconded the motion. All voted aye. Motion carried.

SURPLUS TRANSFORMER LIST-7-6-2021

KVA	Primary Voltage	Secondary Voltage	
5	7200	120/240	1
7.5	7200	120/240	1
10	7200	120/240	12
15	7200	120/240	7
25	7200	120/240	30
37.5	7200	120/240	12
50	7200	120/240	23
75	7200	120/240	3
50	7200	120/208	2
15	7200	240/480	1
10	2400	120/240	3
15	2400	120/240	1
3PH 75	7200	120/208	1
total Reclosures	7200		15
total Capacitors			9
Total Transformer			97
Total 3PH reclosures			2
Total of all			123

BUILDING PERMITS:

Brad Kehn, Building Inspector, was not at the meeting, so Mayor Staller read the 2 Building Permit applications to the Council. Kehn will sign off on them later in the week:

Ray & Teresa Delude—Bldg. Permit #62121—Cement Pad @ 404 W Davenport Str.; Jesse Hanson—Bldg. Permit #62321--Privacy Fence @ Plankinton Lumber.

UTILITY SUPT. REPORT:

Darin Cranny reported a lot of weed spraying in June, further work on the new soccer field, and a lot of pool work. He figured the pool leaked about 75,000 gallons in June, and figures that is along the stainless-steel sides, and under the surface somewhere. Neither pool heater is working now, and he would like to get a new pump, as it is old, and he cannot order parts for it anymore. He wants an up to date one, as, if this one quits, the pool would have to close. Also, a new pre-pump screen setup is needed, and the sand



filters need work or replacement. He would like these things fixed before the pool opens next year. He and Brianne removed all the dead trees in the west ballfield outfield. The old hole at the C & D west site was filled with clay, and a new one has been dug. He is doing roadwork to get ready for the chip seal project. A complete sewer flush is completed. The racetrack was torn down to get that stuff ready for the surplus sale. A culvert at Commerce and Vine St. with a big hole in it was repaired, and the manhole on Vine and 1<sup>st</sup> Street that was 6" under the road was raised. The east R.U. site pit was pushed in, but the loader caught a mattress spring in the driveshaft and will require some repairs. Rural Water will be coming July 12 and possibly 13<sup>th</sup> for more camera work.

ELECTRIC SUPT. REPORT:

Chance Boyd reported that he energized the single phase a couple weeks ago and needs to start to convert the overhead secondaries to underground, after the surplus sale work. There were a couple of outages caused by trees, so the departments went and widened some alleys and did tree trimming. There are still some spots to work on. He has received two quotes for a new fire siren, and has another company interested in sending a quote. He also sent an e-mail to John Clem at District III to see if there was some money out there for one. The new trencher probably will not be coming until late October. Chance, Brianne, and Anna sorted through the overhead transformers for surplus (listed previously in minutes). T & R Electric will pay \$2 per KVA. In return, he would get a couple of each size for stock replacements.

FINANCE OFFICER'S REPORT:

Eileen reported that the office is getting work done for a preliminary budget meeting. Also, she and Deputy F. O. Casey will be attending a budget training school in Sioux Falls on Wednesday, July 7.

MAYOR'S REPORT:

Mayor Staller reported that there will not be a Pheasant Fest this year. The date interferes with two school functions. The Fest committee is looking to re-invent and possibly change the time it will be held. He said that Mrs. Staller would like to do a fund raiser again—this time to do some beautification projects at the cemetery. She would like to put up some small fencing to hide the dirt piles, and make the west fence a chain link, like the other fences surrounding the cemetery. The Council agreed that this was a worthwhile endeavor.

EXECUTIVE SESSION PERSONNEL:

Mayor Staller entertained a motion to enter Executive Session for Personnel, as per SDCL 1-25-2(1) at 8:10 p.m. Hinckley made a motion to enter Executive Session Personnel, and Schurz seconded the motion. All voted aye. Motion carried.

Mayor Staller declared the Council out of Executive Session at 9:36 p.m., with no action taken.

Mayor adjourned the meeting at 9:37 p.m.

Signed, John J. Staller, Mayor \_\_\_\_\_

Attest: Eileen Sorsen, Finance Officer \_\_\_\_\_