

**MINUTES OF THE REGULAR MEETING
ZEARING CITY COUNCIL
ZEARING, IOWA
April 13, 2020**

The regular meeting of the Zearing City Council was held April 13, 2020. In order to help stop the spread of the COVID-19 virus, this meeting of the Zearing City Council was held electronically. Chapter 21.8 of the Iowa Code does permit an electronic meeting where all members participate remotely when an in-person meeting is impossible or impractical, which is certainly true during this crisis. On March 19, 2020, Governor Reynolds issued a Proclamation of Disaster Emergency which included a suspension of Iowa laws that would prevent the use of electronic meetings or the limitation on the number of people present at an in-person meeting site. The agenda and the City's social media had this message posted more than 24 hours in advance to give instructions on how others could participate in the meeting: Due to the COVID-19 crisis, the City of Zearing will be holding this city council meeting electronically via a conference call. If you would like to participate, before the meeting start time, you must call: Dial-in number (US): (701) 802-5090, Access code: 505133#, International dial-in numbers: <https://feedl.in/i/zearing>, Online meeting ID: zearing, Join the online meeting: <https://join.freeconferencecall.com/zearing>, For additional assistance connecting to the meeting text "Help" to the Dial-In number above. Message and data rates may apply. Only staff are allowed in city hall.

7:05 PM Mayor Herr called the meeting to order and roll call was taken; Present: Obrecht, Tisdale, Murrell, Perisho and Skinner.

Murrell motioned to approve the agenda. Perisho seconded the motion. Ayes, 5; Nays, 0. Motion carried.

Murrell motioned to approve minutes from March 9, 2020 regular meeting and March 23, 2020 special meeting. Skinner seconded the motion. Ayes, 5; Nays, 0. Motion carried.

Tisdale motioned to pay the claims from March 10, 2020 to April 13, 2020. Perisho seconded the motion. Ayes, 5; Nays, 0. Motion carried.

CLAIMS REPORT		
VENDOR	REFERENCE	AMOUNT
1 STOP AUTO PARTS	SUPPLIES	19.96
AG SOURCE LABORATORIES	LAB WORK	64.75
ALLIANT ENERGY	ELECTRICITY	3,183.87
CARDMEMBER SERVICE	SUPPLIES	1,996.70
CHILD SUPPORT COLLECTION SERVI	CHILD SUPPORT	858.45
ZEARING, CITY OF	ADDL HEALTH DED	145.62
COCHRAN HTG & CLG	REPAIRS	295
DAVISBROWN LAW FIRM	LEGAL FEES	4,066.50
FREDERICK BLANCH	BOOKS	52.45
GANNETT	PUBLICATIONS	784
INTERNAL REVENUE SERVICES	FED/FICA TAX	1,775.06
IOWA PUMP WORKS	SUPPLIES	39.98
IOWA REGIONAL UTILITIES ASSOC	WATER PURCHASE	2,982.45
I P E R S COLLECTIONS	IPERS	1,171.99
BAILEY SERVICE, LLC	GARBAGE SERVICE	4,666.00
JOHNSON SALES & SERVICE	SUPPLIES	133.56
JUNIOR LIBRARY GUILD	BOOKS	213.5

KAREN DAVIS	CELL REIMBURSEMENT	50
KEY COOPERATIVE	SUPPLIES	18
KYLE CHITTY	CELL REIMBURSEMENT	50
MARCO	COPIER	386.84
MINERVA VALLEY TELEPHONE	COMPUTER	1,503.04
NESCO RECREATION BOARD	DONATION	1,350.00
NEVADA HARDWARE	SUPPLIES	66.72
PENWORTHY/MEDIA SOURCE	BOOKS	265.1
SECURITY STATE BANK	DEPOSIT BOX RENT	80
STAPLES	SUPPLIES	483.81
STORY COUNTY TREASURER	LAW ENFORCEMENT CONTRACT	8,415.26
TIM ADAMS	SUPPLIES	58.85
TREASURER- STATE OF IOWA	STATE TAXES	696
TRI-COUNTY SERVICES	INSURANCE	35,622.00
US BANK	COPIER	412.89
WELLMARK BC/BS	INSURANCE	2,514.54
Accounts Payable Total		74,422.89
Payroll Checks		8,087.90
***** REPORT TOTAL *****		82,510.79
GENERAL		57,548.06
EMPLOYEE BENEFIT		2,514.54
WATER		15,532.57
SEWER		6,915.62
TOTAL FUNDS		82,510.79

Sheriff's Report – none.

Open Forum – none.

New Business: Mike from the AARL was on the phone to answer questions about the Amateur Radio Club event they have scheduled for June. They would have about 10 people to set up for the weekend on Friday evening. They would operate all day Saturday until Sunday and tear down then. Their radio systems and operation are out of a trailer they will have on the South side of the park. COVID-19 will determine if the event will be able to take place. Perisho motioned to approve of the AARL event. Murrell seconded the motion. Ayes, 5; Nays, 0. Motion carried.

Perisho motioned to approve the donation of the land West of the water tower to the Colo-NESCO School District. Obrecht seconded the motion. Roll Call vote was taken: Ayes, Obrecht, Perisho and Skinner. Nays: Tisdale and Murrell. Motion carried.

DOT Agreement and Hiring of an Engineering Firm will be tabled until The City receives the agreement from the DOT.

Perisho motioned to hold a public hearing to adopt FY 20 Budget Amendments on May 11th at 7 pm. Tisdale seconded the motion. Ayes, 5; Nays, 0. Motion carried.

Murrell motioned to hold public hearing for the purchase of Alley by Jerry Peck. Tisdale seconded the motion. Ayes, 5; Nays, 0. Motion carried.

Adoption of the following policies was discussed: Open Records Policy and Request Form, Contacting City Attorney, Conflict of Interest, Returned Check Fee and Copy, FAX and Printing Fees. Perisho motioned to

adopt all of the policies. Obrecht questioned how to get the Request Form out to the public during the COVID-19 crisis. It can be made available on the website, mailed, or emailed if it is requested. Obrecht also had a discussion point about Contacting the City Attorney. Obrecht wondered if Council Member would need Mayor approval to contact the Attorney, is the City being run by the Mayor or the council? Perisho mentioned that the Council should be able to discuss these issues that might need to go to the attorney instead of one member making that decision on their own. Obrecht feels like the power is being given away to the Mayor. Legal fees are high enough as it is and the Council should work together to decide when to contact the attorney. Mayor and clerk should be able to be in contact with the attorney because they are here on a daily basis dealing with City issues. Murrell feels that the council members should resolve issues at the council table. Channeling attorney issues through the Mayor is fine. Tisdale feels that the Mayor maybe able to advise a council member before spending money on attorney fees, coming to the Council after that is the best solution. Murrell seconded all of the policy and procedure updates. Roll Call vote was taken: Ayes, Obrecht, Tisdale, Murrell, Perisho and Skinner. Nays:0. Motion carried. Policies can be changed over time as needed.

IPIB Informal Resolution. This is the Board's response to the complaints that were filed against the City. Please see attachment. Skinner mentioned watching one of the power point presentations and its benefit. Perisho motioned to Adopt the Informal Resolution from the IPIB. Obrecht seconded the motion. Roll Call vote was taken: Ayes, Obrecht, Tisdale, Murrell, Perisho and Skinner. Nays:0. Motion carried.

108 E Main rentals were discussed. Commercial and residential leases were received from the attorney. Commercial price needs to be determined. Hansen Family Hospital is not prepared to bring any physical therapist to Zearing at this time. They were not aware of these plans. Mayor suggested having the lease go to December 31, 2020 in case of a possible sale. Skinner motioned to rental the commercial spaces at 108 E Main for \$400.00 per month. Murrell seconded the motion. Ayes, 4; Nay, Obrecht. Motion carried.

Discussion about the lease of an End Loader for the City Superintendent's use. Question was asked about overage charges. An estimate was received to clean up the burn pile, which would be something that could be done if the City had an end loader. Preference would be for the Gehl. Main uses would be for snow removal, burn pile and items that a tractor would be needed. Skid loader could be sold in the future. Community members agree that holding on to the skid loader would be best. Jerry Peck asked if a backhoe would be a better option. Due to the types of work that is performed with a backhoe, having a licensed and bonded to perform the work the City needs completed. Jefferies commented that liability is removed from the city if a different company does backhoe work. Schnormeier agreed that an experienced company is a much better idea. Servicing of the machine would be done in Ames. Purchase of the machine would be possible after the 60-month lease. Murrell motioned to lease the Gehl for 60 months and retain ownership of the skid loader. Perisho seconded the motion. Ayes, 5; Nays, 0. Motion carried.

Old Business: Delinquent water bills. COVID19 water letters were sent out to 7 customers. This letter notifies the customer of the bill but water will not be shut-off at this time. Once the crisis passes the bill will be come due for payment. Any amount of money can be donated to assist another community member in need.

Planning and Zoning – Tisdale motioned to approve both of the singed building permits. Ron Stuart, 317 N Pearl – Shop and Ryan Helgeland, 313 N Center – Accessory Building. Murrell seconded the motion.

Superintendent report: Chitty has been working on the sand on streets, and cleaning intakes. Lagoons will be drained starting around the 17th of April once test results return the lab. Murrell asked about the sand removal on Main Street. Chitty was planning to rent a bucket broom to remove. Perisho requested that the sand be removed as soon as possible.

Clerk Report – Written report was submitted.

Mayor Report – A year ago the City of Zearing was one of the leading examples in Story County. Ron James has been an excellent addition with this grant writing experience. Those same people are now wondering what is going on in Zearing. Many of the same people who are instrumental in grant dispersement do not look favorably to giving grant funds to communities with such conflict. Grants will not be streaming in because of the actions of a few people. Mayor will allow people to apply for grants but he will not be seeking them out as the odds do not seem favorable.

Next Regular City Council will be held on Monday, May 11, 2020 at 7 PM, at City Hall.

Murrell motioned at 8:33 PM to adjourn meeting. Skinner seconded the motion. Ayes, 5; Nays 0. Motion carried.

Martin Herr, Mayor of Zearing

Attested:

Karen Davis, City Clerk of Zearing, Iowa

INFORMAL RESOLUTION

Formal Complaints 20FC:0011 and 20FC:0014

Jerry Peck and the City of Zearing

On February 9, 2020, Jerry Peck filed formal complaint 20FC:0011 alleging that the City of Zearing (City) violated Iowa Code chapters 21 and 22.

Mr. Peck alleged that the City did not honor his request to be placed upon the agenda for the January 12, 2020, meeting, and that the Mayor wrongfully appointed the Mayor's nephew to a City board.

The agenda listed one name to consider to fill a City board vacancy. The meeting agenda did not list the possibility that more than one vacancy would be filled or that other candidates would be solicited and possibly selected.

Iowa Code section 21.7 allows a governmental body to set reasonable rules to govern the conduct of its meetings. Chapter 21 does not require a governmental body to honor all requests to be included on an agenda.

The Iowa Public Information Board (IPIB) accepted his complaint as to the lack of adequate (24 hour) notice for the agenda item concerning the board vacancy.

On February 10, 2020, Jerry Peck filed formal complaint 20 FC:0014 alleging that the City of Zearing (City) violated Iowa Code chapters 21 and 22.

Mr. Peck alleged that at an open meeting on December 9, 2019, he read a prepared comment over the phone during the open forum portion of the meeting. He alleged that while he was doing this, the mayor of the City disconnected him from the phone. His attempts to reconnect to the meeting were unsuccessful.

He further alleged he requested a copy of the audio recording of this meeting on December 12, 2019, and did not receive that until March 5, 2020. Mr. Peck was not informed that his record request was received and that the record would be delayed.

Iowa Code section 21.7 allows the City to adopt and enforce “reasonable rules for the conduct of its meetings to assure those meetings are orderly, and free from interference or interruption by spectators.” There is no statutory right for a citizen to speak at a meeting provided by Chapter 21, although the IPIB encourages such participation.

The IPIB determined that this complaint had merit as to the allegation that the record was not released in a timely manner.

The Iowa Public Information Board (IPIB) accepted these formal complaints in part at the March 19,2020, meeting. Pursuant to Iowa Code section 23.9, the parties negotiated and reached a proposed informal resolution.

The parties agreed to the following terms, subject to the IPIB’s approval:

1. *The City acknowledges that the described actions occurred.*
2. *The City acknowledges that an agenda and notice must include all items for deliberation and action in a manner reasonably calculated to apprise the public of that information. Such notice must be given at least twenty-four (24) hours in advance.*
3. *The City agrees that requests for public records should be reviewed and released in a timely manner. If there will be a delay, the record requestor should be contacted to explain the reason for the delay.*
4. *The City agrees to conduct training for all council members and other city officials on Iowa Code chapters 21 and 22. The City may utilize the PowerPoint training available on the IPIB website or schedule training with the city attorney or through the League of Cities.*
5. *The City shall approve this resolution during an open meeting and include the full text in the minutes of said meeting. Said minutes shall be provided to the IPIB.*

The terms of this informal resolution will be completed within 90 days of acceptance by all parties. Upon showing proof of compliance, the IPIB shall dismiss the complaint as successfully resolved.

THIS INFORMAL RESOLUTION HAS BEEN REVIEWED AND APPROVED BY THE FOLLOWING:

Jerry Peck

Date

City of Zearing, by _____

Date

IPIB Chair

Date