

**CITY OF BERTHA**  
**REGULAR MEETING OF THE CITY OF BERTHA**  
**HELD AT THE BERTHA COMMUNITY CENTER**  
**JULY 13, 2015**

**Members Present:** Zimmerman, Hoemberg, Bowman and Nelson

**Member Absent:** Olson

**Workers Present:** Umland, Berndt & Templin

**Guest Present:** Barb Mares, Gerald Berndt, Marv Stokes, Amy Botzet, Trinity Gruenberg, Jeff Kuhn ( WSN), Keith Porter (Mayer, Porter & Nelson, LTD), Dean Klebs, Roger Schahn & Randy Chock.

**Declaring a quorum, Mayor Zimmerman called the meeting to order at 6:30 p.m. and the citizens recited the Pledge of Allegiance.**

**2. Public Comment**

Amy Botzet – Ms. Botzet voiced that she was upset with the constant harassment from the city about different objects parked on her yard. She stated that the boat/trailer in her yard was currently licensed and the license is on the side of the hitch. She stated that recently she is having problems with rodents in the house since the neighbor started putting manure on his garden.

Dean Klebs questioned Mr. Berndt where the pictures were taken from

Randy Chock – voiced his opinion about the nuisance letters that were sent to property owners not in compliance. He believes the city is trying to hold commercial property to the same standards as residential.

Mr. Berndt stated that local ordinances can supersede the state statutes.

**Public Hearing – 6:45 p.m. to determine existence of a nuisance**

- a. Gerald Berndt – Mayor Zimmerman opened the Public Hearing to determine a public nuisance at 312 4<sup>th</sup> St. NW. Mr. Gerald Berndt was in attendance. Mr. Bobby Berndt reviewed ordinance infractions on the property. There was discussion about multiple items that have accumulated in the yard. Mr. Gerald Berndt stated he is in the process of removing the nuisance from his property by hiring a bobcat. A final ordinance violation notice was sent out on June 24, 2015 stating the violations that exist. Mr. Berndt requested that the council give him six months to clean his yard of the following violations:

Garbage pushed up against trees

Inoperable Vehicles – Camper & Lawnmower

Vehicle Parts & tires

Rubbish – Brush, plastic, cardboard, branches and doors

Misc – recliner

- b. Kevin Valley – 104 Cherry St. The property owner was not present. A letter was sent both to owner of record & lending agency. Council asked that Clerk Umland send another notice to the mortgage agency informing that a nuisance exist.

Hoemberg made a motion to declare a public nuisance at the two addresses above, seconded by Bowman and carried unanimously to issue an order to the homeowners to abate the nuisance by September 14, 2015, unless other arrangements are made, to avoid the next step of the abatement process. Carried

***Motion to close the public hearing was made by Nelson, seconded by Member Hoemberg.***

The council was questioned who the city inspector was and they stated that law enforcement and one member of the council did the city-wide inspection.

### **3. Communications Reports**

**A.** Reviewed the enterprise reports for June – no questions

**B. Fire/Ambulance Reports** – No one in attendance from either department.

**C. Law Enforcement** – Mr. Berndt presented the council with his June activity report. The monthly report showed violations for Bertha as follows: 1-accident, 6-citations, 2-warnings, 2-public assists, 3-assisted other agencies, 1-alarm, 1-vehicle unlock and 26-citizen calls. Mr. Berndt stated that he was given permission from his council to get quotes for the next meeting for a new Tahoe (squad vehicle). The quote must include installation of all the equipment. A brief discussion was held if the signage on the vehicle would include Bertha since we have a signed joint agreement with the City of Eagle Bend for police protection. Mr. Berndt felt that was a good idea and will take this back to Eagle Bend Council.

**D. Public Works Report** – Council reviewed the June Public Works maintenance activity report submitted by Mr. Templin. Some of the highlights on his report are as follows:

\* Floor scrubber - Hillyard are unable to find parts – Mr. Klebs suggested contacting Brent Lenz to see if he could repair the board.

\* ATA were in town and crack filled the streets

\* Sprayed several times at the pond to control weeds & algae

\* Doors at Lion's Building were replaced

Mr. Templin stated that clean up from the recent storm is nearly completed.

**Motion** by Member Hoemberg, seconded by Member Nelson to spend up to \$150.00 for a new leaf blower. Carried. Two examples were included with the agenda packet.

**Motion** by Nelson, seconded by Member Bowman to purchase and install two new signs for the dump and recycle site. Carried. The sign will indicate what can be dropped at each site. The estimate cost for each sign is \$30.00.

**Austin Chock Resignation Letter** – Part-time public works employee, Austin Chock, has submitted his resignation effective July 3, 2015. Councilmember Hoemberg made the motion to accept Austin's resignation with Member Nelson seconded the motion. The motion carried without a dissenting vote.

Paul Rach purchased a 12 foot culvert to be installed in his driveway when Korblick Construction repairs the alley abutting his property.

**Public Works Personnel Issue – hours & lunch breaks** Member Hoemberg stated that he had a talk with Mr. Templin prior to the meeting and had this matter cleared up. The audience in attendance stressed to Mr. Templin how important it is to take a break and that he does not have to take it at a specific time. The lunch break can vary according to his work load.

**E. Clerk's Report** – see overview of July agenda

### **4. Consider Business Items**

#### **A. ACCEPT MAYER, PORTER & NELSON, LTD AUDIT**

Keith Porter, with Mayer, Porter & Nelson, Ltd., appeared before the council with the City of Bertha's 2014 financial audit. This annual report is presented in a format consistent with the presentation requirements of the GASB Statement 34, as applicable to the City's accrual basis of accounting. The report also includes the Management's Discussion and Analysis and the General Fund Budgetary Comparison Schedule as required by GASB. The Statement of New Assets and Statement of Activities are fully accrued. Mr. Porter explained various schedules. Mr. Porter was impressed to see that the reserves increased over the previous audit. The city is now at 46% for an unreserved fund balance.

The State auditor recommends maintaining a fund balance between 35% and 50% of fund balance.

Mr. Porter presented the following Financial **Highlights and 2014 Audit Results**:

- The city has a \$3,639,000 debt obligation
- The assets of the City exceeded its liabilities at the close of the most recent fiscal year by \$7,514,160 (net position). Of this amount, \$1,063,623 (unrestricted net position) may be used to meet the City's ongoing obligations to citizens and creditors.
- At the close of the fiscal year, the City's ending cash and investment balance was \$1,173,993.
- At the end of the current fiscal year, unassigned fund balance for the general fund was \$98,555, or 40% of budgeted 2014 expenditures.

Mr. Porter explained that the City is in compliance with all reviewed items and also explained that the items on the Schedule of Findings and Recommendations are in all cities our size and that these items are nothing to be alarmed about. He stated that the review of bank statements and bills that the council does is very important to maintain financial integrity. He suggested review the water /sewer rates to make sure it covers the debt payment.

***A motion was made by Bowman, seconded by Nelson, to accept the 2014 city audit conducted by Mayer, Porter & Nelson, LTD. Carried.***

#### ***B. Citizen Complaints - Summary of Conclusions on City Attorney investigations***

**#1 – Member Nelson** moved that the council has reviewed the complaint, investigated the matter, received and reviewed the report of the City Attorney, and based upon a lack of evidence, finds there is no evidence of employee misconduct on the part of City Clerk, Janet Umland. Motion seconded by Member Hoemberg and unanimously carried. This matter has now been closed.

**#2 –Complaint filed against City Council – City Attorney** stated upon my understanding of the process, and interviews, I cannot find the City Council violated any present policy or procedure in handling the initial complaint. Yet, neither Mr. Chock nor the employee ever received any type of final determination notice or letter from the Council. A letter will be sent by the council to advise the complainant and a copy will be given to the employee on the decision and give a general reason in support of it.

**#3 – Complaint filed against the council for violation of open meeting law - After the City Attorney investigation, there is no evidence that any member of the City Council intended to violate the open meeting law following the regular council meeting on April 13<sup>th</sup> by meeting Mr. Chock, informally, to discuss his concerns. City Attorney states, I think this situation serves as more a reminder to the council to be vigilant about gathering as a council and discussing city related business.**

#### ***C. Preliminary Engineer's Estimate – Street Improvement Project***

Jeff Kuhn, WSN Engineer, reviewed the preliminary feasibility study for street improvements for the City of Bertha. The Street Improvement Project can be broken down into 3 phases or done all at once.

Phase I – 1<sup>st</sup> Street NE,

Phase II – 2<sup>nd</sup> Avenue NE, 1<sup>st</sup> Street NE, 3<sup>rd</sup> Avenue NE, 1<sup>st</sup> Street NE

**Phase I & II** would cost approximately \$346,400.00.

Phase III – 2<sup>nd</sup> Street SE, 1<sup>st</sup> Street SE, 2<sup>nd</sup> Avenue SE, 2<sup>nd</sup> Street NW, 3<sup>rd</sup> Avenue NE and 1<sup>st</sup> Street NW.

**Phase III** would cost approximately \$470,200.00 which would include 6" aggregate base, Class 5 and 2" bituminous wearing course.

Phase I includes the intersection of 1<sup>st</sup> Street NE and 2<sup>nd</sup> Avenue NE which is in need of immediate repair. Two contractors submitted estimates to do improvements at this intersection which ranged from \$63,600.00 to \$84,261.00. Once the city receives the final feasibility study they will hold a public hearing to get input and answer questions from the residents of Bertha. At this time, no decision has been made how to finance the project. Mr. Kuhn was asked by the council to contact Ehlers, & Associates and see how much the city could bond for to do the improvements. The cost of the project could be financed partially by assessments and the rest by a city levy. Mr. Kuhn will supply the city with different options at the August meeting after contacting Ehlers & Associates. Most of the time the payback for street improvements is 10-15 years.

##### **5. Review and Adopt the Consent Agenda**

**Note:** The Consent Agenda listed those items of business which are considered to be routine and/or which need no discussion. Consent items may be moved to an appropriate section of the regular agenda for discussion.

Mayor Zimmerman asked if there were any additions, deletions or corrections to be made to the Consent Agenda. One minor word correction was made to the minutes of June 8, 2015. The first sentence under public comments the word confronted was changed to read questioned. Bowman moved, Nelson seconded, to approve the Consent Agenda with the amendment of the one word change, with all members voting in favor. The following agenda items included the following items;

- A. Approval of June 8, 2015, Regular Council Minutes
- B. Approval of June Disbursements & Authorize issuance in accordance with the list provided including all electronic payments – Leaf River Ag Check #14863 was replaced with Check #14870 for \$156.32 dated 7/2/2015. The city was billed incorrectly the first time.
- C. Review bank correspondence – Investments & Bank Statement
- D. Approved Issuance of a LG220 Lawful Gambling Exempt Permit, by the State Gambling Control Board, St. Joseph Catholic Church by Father Matthew Crane, for use on August 9, 2015, for a raffle, St. Joseph Catholic Church located at 205 Cherry Street and waives the 30 day waiting period, and authorized and direct the city clerk to complete and sign the application on behalf of the City of Bertha.
- E. The Initiative Foundation submitted literature indicating what the foundation's mission is and all the activities they are involved in. Also included were recent grants and scholarships awarded by their foundation along with recent business financing investments made by them. They formally ask the Council to support and approve their mission to invest in central Minnesota by making a donation of **\$400.00** in 2016. The foundation provides community and economic development through training, grants, and loans. Every donated dollar is matched by the McKnight Foundation, thereby doubling the reach and capacity of committed resources.
- F. Adopt Resolution 2015-16 to certify delinquent ambulance bill for inclusion to Mn Recapture Agency and direct the city clerk to remove the account from active receivable of the City, said accounts being detailed in the official files of the City. The Working 4 Professionals has determined that certain ambulance accounts, shown on the resolution are uncollectible.
- G. Adopt Resolution 2015-17 authorizing the City of Bertha to become a member of a RSG which will be created by the League of Mn Cities.

##### **6. Committee Report – No Reports**

## **7. Meeting/Conference/Correspondence**

**A. Long Pines Bar & Restaurant Revolving Loan** – The Becker's are interested in selling their establishment and was wondering about if the new owners were allowed to take a loan out. Clerk Umland checked with DEED about if they pay their current loan off if the new owner could take a loan for the remaining amount out. DEED replied, " The retail operation would not be an allowable use of funds for State MIF". They suggested letting them know that the city was not aware of that when you used funds previously, but now that you are it isn't possible to fund retail. The only option would be if the Becker's keep the loan under their name and make payments since they are selling it for Contact of Deed.

**B. Correspondence from Todd County Emergency Management Director – free training**  
Mr. Wisniewski is encouraging all elected officials, senior staff, and emergency managers to listen to Director Joe Kelly of Minnesota Department of Public Safety Homeland Security. This training was established to provide official with the knowledge & skills to respond effectively. Mayor Zimmerman asked Clerk Umland to register 3 people from Bertha to attend this meeting.

**C. Regional Trail** – Mayor Zimmerman informed the citizens that this project has been postponed for the current year.

**D. Worker's Comp Hearing** – reviewed correspondence only no action needed.

Upon completion of the city business, there was a lengthy discussion on how the public nuisance problem was handled. Randy Chock discussed how commercial and industrial property is treated the same as residential. Mr. Chock again stressed he will take legal action against the city if they don't correct the problems. Mr. Klebs contacted the city attorney to discuss the best way to solve the current issue to avoid a law suit. Dean Klebs felt mediation would be the best way to eliminate the current problems. Possibly getting a committee and have a mediator involved to help put a closure to the current issues. He felt that a mediator would help the different parties involved sort through the issues and at the end would be able to compromise. Mr. Berndt asked what the issues were that they would like to mediate. He did not receive a clear definite answer what the issues were to be mediated. Mr. Chock expressed again that the city council has an unfriendly business attitude especially the way they handled cleaning up one of the businesses in the past. Mr. Chock expressed again that the council overstepped their bounds on how they handle the public nuisance problems.

Mr. Klebs again stressed how important it would be to have a mediator involved to solve the differences between the council and Mr. Chock. According to Churchwell, Chock wants the city to buy his building and he will leave, if not he expects all the members of the council to resign.

Some of the audience expressed that complaints in writing should only be enforced, especially when it involves a public safety or health issue. They felt the first letter was too harsh. Mr. Chock again stated that the commercial and industrial were being treated with the same standards as residential. Mr. Berndt stated that he treated everybody the same. Mr. Berndt was asked how Eagle Bend handles their businesses. He stated they only enforce residential property and nothing is done with the businesses.

## **8. Adjournment**

There was no further business to come before the City Council, Council Member Hoemberg moved; Member Bowman seconded the motion to adjourn. With all members in favor motion was carried. The meeting adjourned at 9:25 p.m.