

**REGULAR MEETING OF THE DASSEL CITY COUNCIL
SEPTEMBER 18, 2017, 7:00 P.M.
DASSEL CITY HALL**

The regular meeting of the Dassel City council was called to order by Mayor Hungerford at 7:00 p.m. on September 18, 2017 at the Dassel City Hall.

Mayor Hungerford led the opening Pledge of Allegiance.

Present: Council members Bemenderfer, Carlson, Hallquist, Weseloh and Mayor Hungerford (5)
Absent: (0)

APPROVAL OF MINUTES

Motion by Carlson, seconded by Bemenderfer to approve the August 21, 2017 Regular Meeting minutes as presented, with a correction to the start time of the meeting. Motion carried unanimously.

OPEN FORUM

Dale Hultgren presented a resolution on behalf of the American Legion Post #364 to change the name of Breed's Park to Veterans Memorial Park. The council referred the request to City Attorney Greenley to review and prepare a recommendation for the council at their next regular meeting.

Jim Ertz of Fransden Corporation, representing Miller Manufacturing requested the Council not take action on the resolution that will be presented later in the meeting in regard to the request for vacation of part of Atlantic Ave. Ertz stated the original Miller Manufacturing building owner is out of the country and he would like to see if there might be more documents available from the 2 previous vacation requests. Ertz informed the council that he has been out of the loop since the city had been dealing with Golden Angle Properties and he has not seen the proposed encroachment agreement that the city offered Golden Angle. The Clerk and City Attorney were directed to work with Ertz on this matter.

ADDITIONS TO THE AGENDA

Addition: Old Business-10A. Fishing pier donation request.

Motion by Bemenderfer, seconded by Carlson to approve the agenda with the one addition listed above. Motion carried unanimously.

COUNCIL & COMMITTEE REPORTS

Council member Bemenderfer provided an update on the website committee's progress. They had a strategy and planning session. They will be gathering quotes for upgrading/new website.

Bemenderfer invited surrounding area communities to participate in the Heart Safe Community planning process.

Bemenderfer reported on the EDA meeting where outcomes were discussed from Red Rooster weekend.

**REGULAR MEETING OF THE DASSEL CITY COUNCIL
SEPTEMBER 18, 2017, 7:00 P.M. CONTINUED
DASSEL CITY HALL**

He also updated the council on the Personnel Committee meeting which has been discussing policy changes and development of a job description for a new full time position to be shared between the clerk's office and the EDA.

Council member Weseloh reported on the Planning & Zoning Commission meeting where a lot split/combination was approved in Summit Hills.

DEPARTMENT REPORTS

Clerk/Treasurer

Clerk Boese reported on the following upcoming meetings and events:

- A. Website Committee meeting, Tuesday, September 19th @ 4:30 p.m. City Hall
- B. Discover Dassel meeting on Tuesday, Sept 19th has been canceled the next meeting will be October 17th @ 5 p.m. History Center Board Room
- C. Planning & Zoning Commission, Regular meeting Wednesday, September 20th @ 5:00 p.m. City Hall
- D. Historical Society Board meeting, Tuesday, September 26th @ 10 a.m., History Center Board Room
- E. Heart Safe Community Committee Meeting, Wednesday, September 27th @ 6pm, History Center Board Room
- F. EDA Regular Meeting, Thursday, October 5th @ 7 p.m., City Hall
- G. Meeker Broadband meeting, Monday, October 9th @ 1 p.m., Litchfield Service Center
- H. DC Trail Meeting, Thursday, October 12th @ 5 p.m., Dassel City Hall

Motion by Carlson, seconded by Weseloh to hire Fabrianne Schultz, PT Museum Custodian at \$10.50 per hour pending all required paperwork. Motion carried unanimously.

Two bids were received to install electrical outlets in Breeds Park to light the planters during the fall/winter seasons: Algren Electric \$1,000; and Bonniwell electric \$1,500. The council directed Public Works Director Zwilling to meet with the Discover Dassel Committee members and discuss lighting requirements before proceeding with the project.

The Council reviewed a letter from the Spring Lake Association (DAEA) requesting a \$500 donation. The council recommended a representative be invited to the next meeting to discuss the organization and their request.

A letter from MN Department of Health Scoping 2 decision notice and meeting summary was reviewed and discussed.

Motion by Carlson, seconded by Weseloh to adopt Resolution 2017-014 as follows:

**RESOLUTION OF THE DASSEL CITY COUNCIL REGARDING A
REQUEST THAT THE CITY VACATE A PORTION OF ATLANTIC
AVENUE BETWEEN FOURTH STREET AND FIFTH STREET**

**REGULAR MEETING OF THE DASSEL CITY COUNCIL
SEPTEMBER 18, 2017, 7:00 P.M. CONTINUED
DASSEL CITY HALL**

WHEREAS, on or about April 21, 2016, the City of Dassel (hereafter the City”) received from Miller Manufacturing Company (hereafter “Miller Manufacturing”) a Petition to Vacate a strip of Atlantic Avenue right-of-way. The strip proposed for vacation was the north 13 feet of Atlantic Avenue between 4th Street and 5th Street, a distance east to west of 280 feet. The Petition including a survey dated April 18, 2016 are attached as **Exhibit 1**; and

WHEREAS, beginning in about 1987 Miller Manufacturing was the owner of properties abutting this Atlantic Avenue right-of-way to the north. These abutting properties are designated on this survey as Lots 6 through 12 of Block 6 (hereafter the “abutting properties”); and

WHEREAS, in support of this Petition Miller Manufacturing indicated that the April 18, 2016 survey disclosed that two large industrial buildings built on the abutting properties several years earlier encroached by 12.4 feet into the original 50-foot City right-of-way for Atlantic Avenue; and

WHEREAS, in view of the magnitude of this encroachment and the requested vacation, the City Council deemed it necessary to investigate more fully the historical facts surrounding this Petition and the potential impact of the proposed vacation. This investigation included the City Clerk/Treasurer, the Public Works Director, the City Engineer, the Meeker County Engineer, and the City Attorney; and

WHEREAS, this investigation has disclosed the following historical facts:

On July 27, 1987, the City adopted Resolution 87-13 by which it vacated the north 6 feet of Atlantic Avenue right-of-way that bordered Lots 9 through 12 and the west one half of Lot 8, thereby extending a distance east to west of 180 feet. After the 1987 right-of-way vacation, Miller Manufacturing built an industrial building (“building A”) on Lots 9, 10, and the west one half of Lot 8. No evidence has been presented to the City indicating that Miller Manufacturing or its building contractor caused a survey to be performed before undertaking this 1987 construction.

On July 11, 1990, the City adopted Resolution 90-15 by which it vacated an additional strip of Atlantic Avenue right-of-way. This additional strip was the north 6 feet of Atlantic Avenue that bordered Lots 6 and 7 and the east one half of Lot 8, thereby extending a distance east to west of 100 feet. After the right-of-way vacation, Miller Manufacturing built a second industrial building (“building B”) on Lots 6, 7, and the east one half of Lot 8. Again, no evidence has been presented indicating that Miller Manufacturing or its building contractor caused a survey to be performed before undertaking this construction.

The recent survey by E.G. Rud & Sons, Inc., Certified April 18, 2016, determined that buildings A and B extend into the initially platted 50-foot right-of-way for Atlantic Avenue by approximately 12.4 feet. Even with the vacations of the 6-foot right-of-way strips approved by Resolutions of Vacation 87-13 and 90-15, buildings A and B continue to encroach onto the

**REGULAR MEETING OF THE DASSEL CITY COUNCIL
SEPTEMBER 18, 2017, 7:00 P.M. CONTINUED
DASSEL CITY HALL**

Atlantic Avenue right-of-way by approximately 6.4 feet. These historical developments are depicted in **Exhibit 2** attached; and

WHEREAS, the 1987 and 1990 right-of-way vacations were limited to a 6-foot strip of Atlantic Avenue. It is not and has not been the intent of the City to abandon further portions of Atlantic Avenue, which is the primary business, commercial, and industrial avenue of the City; and

WHEREAS, negotiations over the past year to resolve this issue, involving representatives of the City, Miller Manufacturing, and Golden Angle Properties as current owner of the abutting properties, have not proven successful; and

WHEREAS, the City desires to resolve this encroachment matter, but in doing so the City must also consider the long term interest of the City and must keep available the potential future use of the full remaining 44-foot wide right-of-way.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Dassel as follows:

1. The City should not permanently abandon or vacate the additional right-of-way sought in the Petition to Vacate. Doing so would effectively reduce the initial 50-foot right-of-way to 37 feet. This would jeopardize long-term interests and planning of the City including future development along Atlantic Avenue, traffic flow issues on Atlantic Avenue, overall traffic patterns and planning for the City, safety considerations including unrestricted emergency accessibility to a bulk fuel facility located on the south side of Atlantic Avenue and to other properties along Atlantic Avenue, unrestricted accessibility to current and future utilities in Atlantic Avenue, and future City design planning including esthetic factors.

2. The Petition to Vacate additional portions of the Atlantic Avenue right-of-way between Fourth Street and Fifth Street requested by Miller Manufacturing is hereby denied in all respects.

3. In a good faith effort to resolve the encroachment issues referenced above, the City Council hereby proposes that the City enter an Encroachment Agreement with Miller Manufacturing Company and/or Golden Angle Properties as their interests appear. A copy of a proposed Encroachment Agreement acceptable to the City is attached as **Exhibit 3**.

4. The attached Encroachment Agreement is a reasonable resolution of the encroachment issues in that it permits the owner(s) of the encroaching properties to contractually continue the encroachment subject to conditions, while protecting the City's future rights and interests in its existing right-of-way along Atlantic Avenue.

Motion carried unanimously.

The Council directed Clerk Boese to notify Jim Ertz, Fransden Bank (representing Miller Manufacturing) of the council's adoption of the above resolution in regard to the Petition to

**REGULAR MEETING OF THE DASSEL CITY COUNCIL
SEPTEMBER 18, 2017, 7:00 P.M. CONTINUED
DASSEL CITY HALL**

Vacate part of Atlantic Ave; and authorized Boese and Attorney Greenley to continue to work on a resolution with Miller Manufacturing is they so desire.

City Attorney

Motion by Weseloh, seconded by Hallquist to appoint Hungerford, Weseloh, Boese, Zwilling, City Engineer-DeWolf and City Attorney-Greenley to a committee to draft ordinance language in regard to the Small Cell Wireless Law. Motion carried unanimously.

Fire Chief

Chief Grochow reported a total of 208 calls year-to-date. The department was busy helping with events during the Red Rooster weekend. He reported that the new Fire Dog costume had been fully funded through donations and he thanked Fire Fighter Doughty for his hard work on this project. He also thanked Shari Bruner for providing meals to the Fire Department.

Liquor Store Manager

Manager Vetsch manager reported sales for August \$110,255.67 a 6% increase over 2016. He stated the summer season ended on a very strong note. He thanked the staff and stated they will be setting up for the fall season. Sunday sales have been very positive.

Museum Director

Director Holje reported on the following upcoming events: Rooster Ruckus, September 29th; Discover Dassel Art Tour, October 28th and the Fungus Amongus Play, Two by Two. A grant was submitted to the MN Historical Society to repair/replace the windows in the Universal Lab Building. Holje will be speaking to the Sauk Center Historical Society on community partnerships. She thanked all the fabulous volunteers who put in many hours to support the community.

Public Works Director

Director Zwilling reported on the following items:

1. Discharged a total of 41.3 million gallons at the sewer facility.
2. Will be televising Lake Street storm drain to find out what repairs are needed.
3. Taking bids to repair a stormwater drain on Summit Cove.
4. Department will be flushing hydrants during the month of October. Residents may notice some discoloration during flushing.
5. The new control panel has been installed at the water plant.
6. There are issues with the high service pump 2 which was rebuilt earlier this year.

City Engineer

Engineer DeWolf presented a proposal of \$10,500 for engineering services to complete Part II of the city's wellhead protection plan.

Motion by Bemenderfer, seconded by Carlson to approve the engineering cost of \$10,500 to complete Part II of the Wellhead Protection Plan as presented. Motion carried unanimously.

**REGULAR MEETING OF THE DASSEL CITY COUNCIL
SEPTEMBER 18, 2017, 7:00 P.M. CONTINUED
DASSEL CITY HALL**

Sheriff's Report

Deputy Bondhus reviewed the 73 calls received in August. He reminded residents that phone scams are still happening and not to give out any personal or financial information over the phone.

CLAIMS FOR PAYMENT

Motion by Weseloh, seconded by Carlson to approve payment of claims in the amount of \$144,403.16 as presented. (Payroll was not included in this month's claims list and will be added to October's agenda.) Motion carried unanimously.

OLD BUSINESS

A request was received from Dave Backes asking the council to consider accepting donations for a proposed fishing pier on Spring Lake.

Motion by Carlson, seconded by Weseloh to deny the request that the city accept fiduciary responsibility for donations supporting the fishing pier on Spring Lake. Recommended Meeker County be responsible for donations and the pier once constructed. Motion carried unanimously.

NEW BUSINESS

Council member Weseloh suggested the city look at adding playground equipment in the Summit Hills park area. No action was taken.

Council member Carlson stated thoughts and prayers are with the McDonald family for their son who is a 10th grader at DC School.

Motion by Hallquist, seconded by Weseloh to adjourn the meeting at 8:35 p.m. Motion carried unanimously.

ATTEST:

Ronald Hungerford
Mayor

Terri Boese
Clerk/Treasurer