**CITY OF BERTHA**

**REGULAR MEETING OF CITY OF BERTHA**

**HELD AT THE BERTHA COMMUNITY CENTER**

**MONDAY, NOVEMBER 14, 2016**

**Present:** Mayor Zimmerman, Members Olson, Hoemberg, Bowman & Nelson

**Staff:** Clerk Umland, Public Works Templin and Police Berndt

**Guest:** Trinity Gruenberg, Russ Vandenheuvel, Pete Wallner, Marv Stokes, Mark Fay, Joann Collins,

Roger Schahn and Gerald Berndt.

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

***Public Information Announcements- Canvassing of the 2016 Municipal General Election***

The General Election was held on November 8th. Resolution 2016-23 was presented to the Council. This Resolution summarized the results of the Election. A motion to adopt Resolution 2016-23 officially approving these results was made by Bowman and seconded by Olson. Motion carried unanimously.

For office of Mayor, Dennis Zimmerman received 189 votes. For the four-year Council seat, Paul Olson received 147 votes and Darrell Hoemberg received 179 votes. On the Sunday Liquor ballot question, 153 voted yes and 70 voted no. Sunday liquor sales will be allowed in the City of Bertha. Issuance of Certificate of Election will be mailed to each newly elected official. The abstract of Election Results prepared by and compiled from the original returns made to City Clerk by the Todd County Auditor Office is on file in the office of the Bertha City Clerk.

***Public Comments: An opportunity for members of the public to address the City Council on items not on the current agenda. Items requiring Council action may be deferred to staff or committee for research and future agenda, if needed.***

Mark Fay, owner of Traditions Bar & Grill, was in attendance to discuss hours of operation for his Sunday opening. With Sunday liquor passing with 153 votes, the council discussed the steps going forward. The city will have to rewrite the liquor ordinance to include Sunday liquor as a new type of license and add this license fee to the fee schedule for 2017. By state law, the maximum annual amount of the fee is limited to $200.00. The next step was set the hours that Traditions Bar & Grill would be allowed to be open. Mn State Statutes allows sales from 8:00 a.m. until 2:00 a.m. on Monday. Mr. Berndt has nothing against the establishment, but he thinks 2 a.m. is too late for safety reason. The council had more discussion on hours of operation. Mr. Fay addressed the Council that he would like to be open later for some Holidays and special occasions. The council was in agreement that they did not want to allow 2:00 a.m. closing. In addition, the council decided to keep the on-sale/off-sale intoxicating license at $500.00 and the fee for Sunday Liquor license would be set at $200.00. The fee is reviewed annually prior to the new year. The fee schedule and ordinance will be adopted at the December 12th council meeting so that it’s effective January 1, 2017 or once the ordinance is published. The 2 a.m. liquor license was dropped and Mr. Fay will be able to apply thru the state for a temporary license, if needed on Sunday. The Bertha City Council will conduct a public hearing at 6:15 p.m. on Monday, December 12th prior to the regular meeting, in the Bertha Community Center located at 127 2nd Ave NW. The purpose for this hearing is to receive comments regarding proposed amendment to Chapter 11 of the Bertha City Code relating to Alcohol & Tobacco. The public is invited to attend this hearing. Motion was made by Olson to approve allowing the establishments to be open from 8:00 a.m. to 10:00 p.m. and charge $200.00 license application fee. Seconded by Hoemberg and unanimously carried. Liquor establishments include a restaurant which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with service of food.

***3. Communications Reports***

***A. Enterprise Reports –*** October reports reviewed.

**B. Fire/Ambulance Reports -** was delayed until later since the fire department had a fire call. On behalf of the Bertha Fire Department, Fire Chief Pete Wallner is pleased to recommend Clint Dudas be placed on regular firefighter status. This will fill the roster to 16. A motion was made by Hoemberg and seconded by Nelson to approve Clint Dudas as an active member of the Bertha Volunteer Fire Department. The motion carried without a dissenting vote. The new recruit has gone through the application process which includes a background check. The next step will be for Mr. Dudas to enter into their training program that is required. The FEMA 2016 Assistance to Firefighter Grant was submitted to FEMA. Mr. Wallner inquired about the protocol for noxious weeds. The council discussed a noxious weed complaint about a pile of dirt that was at the truck/tractor pull site. Mr. Wallner shared his displeasure on how the situation was handled. He was waiting until the area dried off to prevent ruts. Mr. Templin tried to remove the weeds and left ruts in the process. Mr. Wallner felt he should have been informed to remove the weeds. Member Hoemberg suggested that there needs to be better communications between the different departments. At the present time, Russ Vandenheuvel attorney advised him not to get an easement on his property. So he will be checking with another attorney to get there opinion.

***C. Law Enforcement –*** Mr. Berndt presented his October activity report. The monthly report showed the following violations for Bertha; 15-citizen calls, 3-citations, 2-warnings, 2-public assists, 5-assist other agencies, 2-accidents and 1 vehicle unlock. A letter from Sheriff Asmus was also reviewed. He shared his displeasure with the lack of manpower to cover calls while Mr. Berndt was on vacation and the cost to provide coverage. Officer Berndt shared that Sheriff Asmus letter wasn’t directed to him, but it was for the need for more part-time deputies for the county department. They are having a hard time to staff the county sheriff department At the October regular council meeting, Mr. Berndt was questioned if a city could pass an ordinance prohibiting registered sex offender from moving into a community. The city attorney contacted the city office with the simple answer **“No”**. While a City can enact ordinances adopting reasonable restrictions, the City should not pass a blanket prohibition on a class of people. He suggested that he did not think it would be enforceable in court. Mr. Berndt explained to the council the different stages of sex offenders and what his done to notify the residents.

**D. Public Works Report –** Mr. Templin supplied the council with his October activity report. The monthly report included flushing fire hydrants, completed the fall pond discharge, winterized the Lion Building and installed new street signs that were damaged and removed.

***Topics for Discussion***

1. Adam received one verbal estimate of $2,500. to replace the curb stop on 3rd Ave NE. This project will wait until next summer and possibly get more estimates. The estimate was a little higher than expected because of the proximity of gas and phone lines.
2. Review water tower cleaning interior and exterior. The outside cleaning was tabled. The council reviewed the service agreement from Maguire Iron, Inc. to do Interior cleaning and exterior inspection on the water tower. Motion by Hoemberg, seconded by Nelson giving authorization for the city clerk and mayor to sign the original service agreement and send the original back to Maguire Iron office. Carried. The first service will be done in 2017. The contract will run for a period of nine years, with the tank servicing to be done every two years. The city will be charged $1,450.00 every other year starting in 2017.
3. Reviewed sewer line cleaning proposals submitted by Johnson Jet-Line and Empire Pipe Company.

The council felt that the 5 year service agreement would be the one to go with. Motion by Nelson, seconded by Member Bowman to authorizing the city clerk to sign the 5 year sanitary sewer maintenance agreement proposal from Johnson Jet-Line starting in 2017. Carried. Each year approximately 3,700 feet would be done with a charge of $4,625.00 along with a lump sum fee for mobilization of $400.00. The cost is slightly higher to do the maintenance every year plus the fee for mobilization every year. For being on a contract there will be no additional charge for emergency calls. The LMC does give reduce rate on insurance policy if you have a sanitary service maintenance contract.

1. Lion’s Building gas service. Clerk Umland was given permission to contact Mn Energy Resources to shut off the gas service to eliminate the monthly service charge. Mr. Templin has winterized the building and felt there was no need to have gas service.

E. ***Clerk –*** review of the November agenda

**4. Consider Business Items**

1. **Nuisance Property –** A final inspection was done at the Gerald Berndt property prior to the meeting. There are a few minor things that need to be taken care of like removing a tractor and the pile of cement/dirt which Adam will try to do this week. The lawn has been raked. Clerk Umland will contact City Attorney Churchwell and inform him that Berndt has passed inspection. The city will monitor the completion locally. The City of Bertha sent Mr. Berndt a Notice of Public Hearing on proposed special assessment which was held on September 12th. Mr. Berndt was in attendance but had no comment to the assessment. This letter explained the different payment options he could choose from. A second letter was sent on October 28th which gave him the total cost incurred for enforcing the Public Nuisance Code. The letter stated if payment was not received by noon on Monday, November 14th that the amount would be assessed on his property for 2017. Also, a copy of Resolution 2016-25 was enclosed with the letter.

**Council Member Hoemberg offered the Resolution and moved for its adoption:**

This current assessment is for expense for costs incurred in carrying out and enforcing public health nuisance at 312 4th Street NW. Member Nelson seconded the foregoing Resolution and the following vote was recorded: Ayes: All members Nayes: None. Whereupon the Mayor declared Resolution No 2016-25 duly passed and adopted. The complete resolution is filed in the minute book and all paperwork is on file under Berndt property.

1. Mousseau Property – Clerk Umland provided the city attorney with the abstract and informed him to get the needed paperwork done prior to payment.
2. **2016 Final Tax Levy & 2017 Budget Adoption – Member Nelson introduced the following resolution and moved for its adoption:**

**Resolution 2016-20**

**Certifying the 2017 Final Budget & 2016 Final Tax Levy for Taxes**

**Collectible in 2017**

**Be It Resolved**, by the City Council of the City of Bertha, County of Todd, Minnesota that the following sum of money is levied for the current year, collectible in 2017, upon the taxable property in the City of Bertha, for the following purpose:

General $ 72,000.

Fire $ 9,100.

Ambulance $ 1,000.

Street Improvement $ 40,000.

Total $122,100

The final budget for the City of Bertha for 2017 was approved with the expenditures to different funds allocated in the following ways;

General $257,500.

Fire $142,295.

Revolving $ 100.

Water $138,850.

Sewer $147,300.

Ambulance $107,000.

Total $793,045.

The City Clerk is hereby instructed to transmit a certified copy of this resolution to the auditor of Todd County, Minnesota. Member Bowman seconded the foregoing motion and passed unanimously.

1. ***Liquor Fees for 2017***

The council consensus for Sunday On-Sale Intoxicating License was set at $200.00 annually and the On/Sale Liquor License will remain the same.

1. ***Resolution 2016-29 authorizing the write-off of uncollectible ambulance bills***

Motion by Bowman, seconded by Member Olson authorizing the write-off of uncollectible ambulance bills for collection and direct the city clerk to remove the accounts from active receivables of the City, said accounts being detailed in the official files of the City. The Expert T Billing has determined that certain ambulance accounts, shown on the resolution are uncollectible.

1. ***Consider Consent Agenda – Action Required***

***Note:*** The Consent Agenda listed those items of business which are considered to be routine which need no discussion. Consent items are acted upon by one motion. If discussion is desired by council, that item may be removed to an appropriate section of the regular agenda for discussion.

Mayor Zimmerman asked if there were any additions, corrections, deletions to be made to the Consent Agenda. Motion by Nelson, seconded by Hoemberg to approve the Consent Agenda as presented, with all members voting in favor. The following agenda items include the following:

1. Approval of the October 10, 2016 Regular Council Minutes
2. Approval of October Disbursements & Authorize Issuance in accordance with the list provided including all electronic payments. Void Check 5665 to Fortwengler-25.45 and

approve Election judges Checks No. 5730-5740 in the amount of $2,206.62.

1. Review bank correspondence - Bank Statement & Investment Report
2. Approved Resolution 2016-27 accepting donations in full and designate use for reserve Capital Fund. Donations received from Warren Truax-$10.00, Ken Nelson-$25.00 & Faith United Church -$200.00.

E. Renewal of 2017 Lutheran Social Services Site Agreement – Clerk Umland presented a 2017 agreement with LSS for Nutrition Site Use with an annual rate of $80.00 and authorizes the city clerk to sign the agreement on behalf of the City of Bertha.

1. Approve allowing the council to issue Sunday On-Sale Intoxicating Liquor License to restaurants in the City of Bertha.
2. Public Hearing set for 6:15 on December 12th to amend the Bertha City Code

amending the Zoning Map districts and Chapter 11 of Alcohol & Tobacco Ordinance allowing Sunday on-sale intoxicating liquor licenses to be issued.

1. Approved Resolution 2016-17 to formalize the commitment of different fund balances for specified purposes. Council action is required prior to yearend.
2. Adopt Resolution 2016-28 to certify delinquent ambulance bills for inclusion to MN Recapture Agency and direct the city clerk to remove the accounts from active receivables of the City of Bertha, said accounts being detailed in the official files of the City. The Expert T Billings has determined that certain accounts, shown on the resolution are uncollectible.
3. ***Committee Reports***

None

1. ***Meeting/Conference/Correspondence***
2. Discuss letter from Sheriff Asmus –Police Berndt explained earlier during the meeting
3. Correspondence from different collection bureau – will contact one to try and collect delinquent ambulance bills

The council asked Clerk Umland to send a certified letter to the present owner of Kapp’s Kafe instructing her to remove the awning in the front of the building. If no response, the city will remove it and assess the cost on her property taxes as a special assessment.

1. ***Adjournment***

There was no further business to come before the City Council, Member Bowman moved; Member Hoemberg seconded the motion to adjourn. With all members in favor motion was carried. The meeting adjourned at 8:00 p.m.