

City Administrator/Clerk Terry explained the meeting protocol for participating in the City Council meetings virtually (Online) using the Zoom virtual meeting application.

1) CALL TO ORDER

The meeting was called to order by Mayor Julius at 7:01 p.m.

Members Present: Mayor Julius, Councilmembers Schuenke, Berg, Timmerman and Novak

Members Absent: None

Also Present: City Administrator/Clerk Terry, Police Chief Juell, Senior Planner Christianson, City Attorney Poehler, Planner Skluzacek, Deputy Clerk Jirak, City Engineer Revering, Scott County Commissioner Wolf, Patrick Fischer, Dave Hume, LRE Water, City's Consultant Hydrologist, Grant Turpin, Dorsey & Whitney, LLP, Mike Larson, Transportation Engineer, BMI, Tony Winiecki, Scott County Engineer, Danelle & Elmer Portnoy, Carol & Ed Anderson, Joe Allen, Pete Volcer, Jenny Pilsner, Ted Pearson, Harold Peters, Mike Beary, Jesse Vorland, Mark Grinager, Victoria Marcon, Gina Styles, Jayson Ramthun, Kitri Kylo, Ed Burek, Tami Chamberlin, Jack Houlihan, Cathy Peregrino, Janelle Kuznia, Veda Kantiz, Steve Frandrup, Tia Smith, Brian Smith, Connie Morrill, Randy Morrill, Kurt Svec, Mariyo Bubkora, Elizabeth Brandt, Gilbert & Julia Novotny, Lisa Bien, Doug & Connie Lehrman, Mike Lucast, Eric & Catherine Ailerve, Larry & Sheri Schofield, Allan Kanitz, Greg Timmerman, Debbie Lattimer, Melissa Lenhardt, Lorraine Rovig, Phil Wilson, Linda Brown, Erin Bell, Sarah Bostrom, Jim Miller, Jennifer Grinager, Amy Butani, Ben Slepica, Preston Slepica, Austin Gerber, Ann Dwenger, Tim Zweber, Joshua Marcon, Jodi Lucast, Deb & Bill Tomczyk, Robert Campbell, Kristy Thompson, Patricia Wick, Betsy Lasch, Greg Caron, Ali Klement and Beth Eilers

2) PLEDGE OF ALLEGIANCE

Mayor Julius led the Council and audience in the Pledge of Allegiance.

3) ADOPT/APPROVE AGENDA

MOTION by Councilmember Schuenke, second by Councilmember Timmerman to approve the agenda.

APIF, MOTION CARRIED

4) PRESENTATION, PROCLAMATIONS AND ACKNOWLEDGEMENTS (PP&A)

None.

5) PUBLIC COMMENT

None.

6) CONSENT AGENDA

MOTION by Councilmember Berg, second by Councilmember Novak to approve the amended Consent Agenda.

- a. Approve Minutes of the March 9, 2023 City Council Meeting
- b. Approve Payment of Claims and Electronic Transfer of Funds

- c. Stormwater Management Ordinance
 - i. Adopt Ordinance 271 Amending City Code Regarding Stormwater Management
 - ii. Adopt Summary Ordinance 272 Concerning Stormwater Management
- d. Encroachment Agreement – 516 Saxon Drive – Joshua Joseph Kindelspire & Julie Yvonne Renee Kindelspire
- e. Amend Effective Date of Police Department Administrative Staff Restructuring
- f. Adopt Resolution 23-15 amending City of Elko New Market Employee Handbook

APIF, MOTION CARRIED

7) PUBLIC HEARINGS

None.

8) GENERAL BUSINESS

Water Use and Service Ordinance

City Administrator/Clerk Terry explained reviewed a draft ordinance amending the City Code to address significant water users. Currently, City Code does not provide for the regulation of water users that may have a significant impact on the water supply, treatment and distribution system. Terry explained the purpose of the draft ordinance and the requirement that any proposed significant user (defined as any person or entity that proposes to use more than 10,000 gallons of water per day or 1 million gallons of water annually) enter into a significant user agreement with the City.

Council discussion included some of the following topics:

- How the City came up with the numbers for a significant user.
- Would emergency restrictions allow for flexibility.
- Updating the Water Supply Plan.
- Relevance to the timeline for the Appropriation Permit with the DNR.
- Promoting conservation.
- Defining material breach of contract.
- The Corrective Action Plan identified in the ordinance.
- Suggested amendments to Ordinance.
- Number of days for the Right to Appeal.

After Council discussion, Council stated that more clarification is needed on items under General Business before voting upon.

MOTION by Councilmember Berg, second by Councilmember Timmerman to table Ordinance No. 273 Amending City Code Concerning Water Use and Service and Summary Ordinance No. 274 Concerning Water Use and Service.

APIF, MOTION CARRIED.

MOTION by Mayor Julius, second by Councilmember Berg to rescind motion to table Ordinance No. 273 Amending City Code Concerning Water Use and Service and Summary Ordinance No. 274 Concerning Water Use and Service.

APIF, MOTION CARRIED.

Councilmembers discussed additional questions on various sections of the draft ordinance to further clarify Councilmembers concerns.

Council consensus determined the draft ordinance should be changed from 115% to 105% for a material breach if the Significant User's annual water exceeds their allocated capacity.

Councilmembers discussed the right to appeal in the draft ordinance should be changed from 30 days to 10 business days.

Overview of Park I-35 Industrial Park and Niagara Bottling LLC Project

Senior Planner Christianson presented to Council information on Interstate 35 Industrial Park and Niagara Bottling Projects to include the following:

- Citizen Petition for Environmental Assessment Worksheet (EAW)
- Limitations on Water Use Proposed by Niagara Bottling and Prioritization of Water
- Noise Impacts of Proposed Niagara Bottling
- Lighting Impacts of Proposed Niagara Bottling
- Site Renderings
- Natural Area Corridors
- Landscaping and Screening
- Oklahoma City Truck Stacking at Niagara Bottling Facility
- Pleasant Prairie, WI Truck Stacking at Niagara Bottling Facility
- Lawsuits Involving Government Entities
- Review of Scott County and Lakeville Groundwater Studies
- Review of Carrie Jennings Presentation
- Traffic
- Preferred Future Interchange Design

Councilmembers asked questions that were answered by City Staff and Consultants.

Interstate 35 Industrial Park

Senior Planner Christianson advised the Council that Scott County had an issue with the name Park I-35 Industrial Park and it will not be Interstate 35 Industrial Park. Christianson reviewed with the Council the Interstate 35 Industrial Park Location Map and the Wetland Replacement Plan.

Senior Planner Christianson presented the Interstate 35 Industrial Park Preliminary Plat and Rezoning which consists of 119.30 gross acres. One lot containing 28.09 acres which is currently in the City limits and is zoned, Urban Reserve (UR) is being proposed to be rezoned to Limited Industrial (I1) which is consistent with the Comprehensive Plan.

Senior Planner Christianson presented a brief background for the Grading Authorization Permit. Christianson explained that the City Engineer has recommended approval of the grading, subject to the addition of a berm on the north side of the Niagara site and grading of the site can occur after approval of the preliminary plat and grading agreement.

Councilmembers asked questions that were answered by City Staff.

Consensus of the Council was to not take action on Interstate 35 Industrial Park items at this time.

Purple Rain Properties, LLC/Niagara Bottling

Senior Planner Christianson presented a brief overview of an application for wetland replacement associated with the proposed Purple Rain Properties/Niagara Bottling development in Interstate 35 Industrial Park. Christianson presented the location map, explained the Wetland Replacement Plan and approval by the Technical Evaluation Panel (TEP).

Senior Planner Christianson provided a brief background on an application from Purple Rain Properties, LLC, an affiliate of Niagara Bottling, for a conditional use permit to allow construction of silos which exceed the City's maximum height requirement. Three 60' and three 65'9" silos are proposed to be constructed along the southerly side of the building.

Senior Planner Christianson explained an amendment to Title 9 of the City Code is proposing to authorize the City to require a Significant User Agreement for qualifying water and sanitary sewer customers. Niagara Bottling is proposing to construct a beverage manufacturing facility and Staff has determined that a Significant User Agreement for both water usage and sanitary sewer discharge would be required for the proposed facility. City Administrator/Clerk Terry outlined the key items the Draft Significant User Agreement would address.

Councilmembers asked questions and addressed changes to the draft Significant User Agreement that were answered and noted by City Staff. Additional details were provided regarding well interference.

Planner Skluzacek reviewed the Business Subsidy Applications through Minnesota Department of Employment and Economic Development (DEED) and the reduction in Sewer (SAC) and Water Availability Charge (WAC) Connection Fees with the City. Skluzacek explained the Minnesota Investment Fund (MIF) Application, the Job Creation Fund Application (JCF) and noted that Staff received MIF and JCF applications from Niagara in October 2022.

Councilmembers asked questions regarding the Business Subsidy Applications and SAC and WAC Reduction in Connection Fees that were answered by City Staff and Attorney Grant Turpin.

Public Comment Received by City

City Administrator/Clerk Terry advised the Council that emails on the Interstate 35 Preliminary Plat and Niagara Bottling applications and related topics submitted to Staff after the last Public Hearing held on December 20, 2022 were included in the packet.

City Engineer Revering reminded Council to consider time delays given the limited construction season when voting. Revering also reviewed information related to the

Northern Long Eared Bat, that was included in the packet, which could cause time delays to this project.

MOTION by Councilmember Berg, second by Councilmember Schuenke to table all items included in 8a, 8b, 8c and 8d on the agenda.

APIF, MOTION CARRIED

City Administrator/Clerk Terry advised the Council on how to proceed with the discussions and motions on these topics for future meetings.

Councilmember Berg stated his concerns with the DNR and the timing of the Appropriation Permit.

MOTION by Councilmember Berg, second by Councilmember Schuenke to table all items included in 8a, 8b, 8c and 8d on the agenda.

APIF, MOTION CARRIED

9) REPORTS

a) Administration
No report.

b) Public Works
No report.

c) Police Department
No report.

d) Engineering
Advisory Memo on Northern Long Eared Bat Endangered Species Designation included in packet.

e) Community Development
No report.

f) Parks Department
Draft Parks & Recreation Commission Minutes of the March 8, 2023 Meeting included in Council packet.

g) Community & Civic Events Committee (CCEC)
Councilmember Novak updated Council reminded Council that the Egg Hunt will be held on Saturday, April 1 and encourage audience to pre-register for the event.

h) Other Committee and Board Reports

i) Scott County Association for Leadership and Efficiency (SCALE)
No report.

1. Executive Committee

No report.

2. Service Delivery Committee

City Administrator/Clerk Terry gave the Council a brief update on the last Service Delivery Committee Meeting he attended.

ii) I35 Solutions Alliance

No report.

10) DISCUSSION BY COUNCIL

Councilmember Berg questioned if there were any updates to the Planning and Park Commission positions. City Administrator/Clerk Terry provided the Commissioner update to Council.

11) ADJOURNMENT

MOTION by Councilmember Schuenke, second by Councilmember Timmerman to adjourn the meeting at 10:25 p.m.

APIF, MOTION CARRIED.

Respectfully submitted by

Lynda Jirak, Deputy Clerk