

**CITY OF IOWA FALLS  
REGULAR MEETING  
MARCH 18, 2024**

The Mayor and City Council of the City of Iowa Falls met in regular session on Monday, March 18, 2024 at 6:30 p.m. with Mayor Pro-Tem Roger Nissly presiding over the meeting. Council Members Micah Cutler, Dave Henry, Steve Klein and Bruce Thies were present. Mayor Michael Emerson and Council Member Bruce Thies was absent. Also absent was City Manager Jody Anderson.

**ACCEPTANCE OF THE AGENDA**

It was noted that the agenda was amended on Friday, March 15, 2024 at 11:32 a.m., to correct the dollar amounts in item 9 for items a, b and c. Klein moved and Cutler seconded to approve the agenda as amended.  
Roll Vote: Klein, Cutler, Nissly and Henry voting aye.

**APPROVAL OF MINUTES**

Cutler moved and Henry seconded to approve the minutes of the Special Meeting of February 20, 2024, Regular Meeting of February 20, 2024, and Special Meeting of February 29, 2024.  
Vote: Cutler, Henry, Klein and Nissly voting aye.

**APPROVAL OF MONTHLY CLAIMS AND FINANCIALS**

Cutler moved and Klein seconded to approve the monthly claims and financials.  
Roll Vote: Cutler, Klein, Henry and Nissly voting aye.

**CONSENT AGENDA**

Klein moved and Henry seconded to approve the following items:

1. **Liquor License**

Class B Retail Alcohol License for Handi Stop.

2. **CDBG-CV Program**

Payment to Wiggles & Giggles in the amount of \$3,300.29.

3. **IFA Prom Street Closures**

Resolution No. 2024-08 closing Railroad Street between Main Street and Stevens Street, Main Street from Railroad Street to the River and closing the municipal parking lot beginning at 2:00 p.m. on Saturday, April 27<sup>th</sup> for the Iowa Falls – Alden Prom.

4. **Riverbend Rally**

Resolution No. 2024-09 approving street closures and noise ordinance variances for Riverbend Rally, July 4th thru July 7th.

5. **Scenic City Cruisers Car Show**

Resolution No. 2024-10 closing streets for the Car Show on Labor Day, September 2nd.

Roll Vote: Klein, Henry, Cutler and Nissly voting aye.

**OLD BUSINESS**

6. **Rezoning – South High Street**

a. Mayor Pro-Tem Nissly opened the public hearing on the rezoning of Lot 17 except the south 180 feet of Georgetown East First Addition from RM-Residential Multi-Family District to LI-Light Industrial District. There were no oral or written comments. Mayor Pro-Tem Nissly closed the public hearing.

b. Cutler moved and Klein seconded to approve on first reading an Ordinance amending the zoning classification of certain real property located within the city limits of the City of Iowa Falls, Iowa, from RM-Residential Multi-Family District to LI- Light Industrial District.

Roll Vote: Cutler, Klein, Henry and Nissly voting aye.

c. Klein moved and Nissly seconded to approve suspension of the rules and placing on third and final reading.

Roll Vote: Klein, Nissly, Cutler and Henry voting aye.

d. Cutler moved and Henry seconded to approve on third and final reading Ordinance No. 1196 amending the zoning classification of certain real property located within the city limits of the City of Iowa Falls, Iowa, from RM-Residential Multi-Family District to LI- Light Industrial District.

Roll Vote: Cutler, Henry, Klein and Nissly voting aye.

7. **Not to Exceed \$5,000,000 GO Capital Loan Notes**

a. Mayor Pro-Tem Nissly opened the public hearing on the authorization of a Loan Agreement and the issuance of Notes to evidence the obligation of the City thereunder. There were no oral or written comments. Mayor Pro-Tem Nissly closed the public hearing.

b. Cutler moved and Klein seconded to approve Resolution No. 2024-11 instituting proceedings to take additional action for the issuance of not to exceed \$5,000,000 General Obligation Capital Loan Notes.  
Roll Vote: Cutler, Klein, Henry and Nissly voting aye.

8. **Development Agreement with England Commercial Rentals RHM, LLC**

a. Nissly moved and Cutler seconded to defer Authorizing City Manager to obtain a release of all restrictive covenants on the Palisades East Properties and have it signed and in hand prior to authorizing the Mayor and City Clerk to sign the Development Agreement with England Commercial Rentals RHM, LLC, this is a requirement for the Development Agreement to be signed, to a special meeting on April 1, 2024 at 6:30 p.m.  
Roll Vote: Nissly, Cutler, Henry and Klein voting aye.

b. Mayor Pro-Tem Nissly opened the public hearing on the proposal to enter into a Development Agreement with England Commercial Rentals RHM, LLC. There were no oral or written comments. Mayor Pro-Tem closed the public hearing.

c. Klein moved and Cutler seconded to defer approval of the Resolution approving and authorizing execution of a Development Agreement by and between the City of Iowa Falls and England Commercial Rentals RHM, LLC to the special meeting on April 1, 2024 at 6:30 p.m.  
Roll Vote: Klein, Cutler, Nissly and Henry voting aye.

9. **Palisades Land Development**

a. Nissly moved and Klein seconded to approve reimbursement for Palisades Estates Plat 1 Construction Costs in the amount of \$239,283.01 coming from Water and Wastewater cash and 80% LOST.  
Roll Vote: Nissly, Klein, Henry and Cutler voting aye.

b. Cutler moved and Klein seconded to approve reimbursement for Palisades Estates Plat 1 Design Costs in the amount of \$58,259.94 with the funds coming from Water and Wastewater cash and 80% LOST.  
Roll Vote: Cutler, Klein, Henry and Nissly voting aye.

c. Nissly moved and Cutler seconded to approve reimbursement for Palisades Estates Plat 2 Design Costs in the amount of \$34,718.32 with the funds coming from Water and Wastewater cash and 80% LOST.

Roll Vote: Nissly, Cutler, Henry and Klein voting aye.

d. Klein moved and Henry seconded to set a public hearing in regard to Palisades Development Agreement Plat 3 for the April 15, 2024, City Council meeting.

Roll Vote: Klein, Henry, Cutler and Nissly voting aye.

10. **River Road – Water and Sewer Extensions**

Council directed City Engineer Mitch Holtz and staff for move forward with a reimbursable program and put together a letter to be sent to home owners in regard to the water and sewer extensions.

11. **Glen Drive Bridge**

Different options were discussed. This item will be put on the April agenda City Council agenda.

12. **Linear Park Sidewalk**

Engineer Mitch Holtz reported that the sidewalk area will be staked tomorrow. This item will be put on the April agenda.

13. **Weaver’s Cove & Test Wells**

Nissly moved and Cutler seconded to approve Pay Request #3 in the amount of \$93,628.20 for The Northway Corporation.

Roll Vote: Nissly, Cutler, Henry and Klein voting aye.

14. **Palisades East Electric Service**

Klein moved and Henry seconded to approve the extension of electrical service on Palisades East not to exceed \$385,000 with the funds coming from 80% LOST.

Roll Vote: Klein, Henry, Nissly and Cutler voting aye.

15. **Iowa Falls Airport – Rehabilitate Taxiway A Project**

a. Mayor Pro-Tem Nissly opened the public hearing on Iowa Falls Municipal Airport Rehabilitate Taxiway A Project regarding approval of plans, specifications, form of contract, and estimate of cost. There were no oral or written comments. Mayor Pro-Tem closed the public comment.

b. It was reported that six bids were received. Cutler moved and Klein seconded to approve the bid from Wicks Construction in the amount of \$370,429.30.  
Roll Vote: Cutler, Klein, Henry and Nissly voting aye.

c. Klein moved and Nissly seconded to approve the of two grant applications (one in the amount of \$355,163 and one in the amount of \$172,199) associated with the taxiway project as well as approval to sign and submit these grant applications.  
Roll Vote: Klein, Nissly, Cutler and Henry voting aye.

d. Culter moved and Henry seconded to approve Task Order #2 with McClure for construction administration services for the taxiway project, the construction is scheduled to begin April of 2025.  
Roll Vote: Cutler, Henry, Klein and Nissly voting aye.

e. Nissly moved and Cutler seconded to approve CMT's QA Testing Agreement for the taxiway project.  
Roll Vote: Nissly, Cutler, Henry and Klein voting aye.

f. Klein moved and Cutler seconded to approve payment in the amount of \$10,632.50 to McClure for the Taxiway A Project.  
Roll Vote: Klein, Cutler, Nissly and Henry voting aye.

## **NEW BUSINESS**

### 16. **Sycamore Gardens**

Council directed Water/Wastewater Superintendent Shannon Hazelton to work with the Sycamore Gardens group to get water at the garden.

### 17. **Alley North of N First Street**

Staff was directed to work with Mike Kappel and get a map showing the exact area he is requesting and bring back to the April City Council meeting.

### 18. **Trees**

a. The one-time species waiver for a donated tree project was deferred to the April meeting to get the exact kind of trees.

b. Approval of administrative fees related to dangerous or diseased trees on private property was deferred to the April meeting to get an idea of the possible fees.

19. **Snow Removal Invoice**

Nissly moved and Klein seconded to approve the request from Connect Property's to void the bill they received for sidewalk snow removal.

Roll Vote: Nissly, Klein, Henry and Cutler voting aye.

20. **EMS Offset Iowa**

a. Cutler moved and Henry seconded to approve on first reading an Ordinance amending the Code of Ordinances of the City of Iowa Falls, Iowa, by adding a new Chapter in regard to Emergency Medical Services.

Roll Vote: Cutler, Henry, Klein and Nissly voting aye.

b. Klein moved and Cutler seconded to approve suspension of the rules and placing on third and final reading.

Roll Vote: Klein, Cutler, Nissly and Henry voting aye.

c. Cutler moved and Nissly seconded to approve on third and final reading Ordinance No. 1197 amending the Code of Ordinances of the City of Iowa Falls, Iowa, by adding a new Chapter in regard to Emergency Medical Services.

Roll Vote: Cutler, Nissly, Klein and Henry voting aye.

21. **Assembly Park Restrooms**

Cutler moved and Henry seconded to approve the bid from Hoversten Construction in the amount of \$61,188.74 with the funds coming from 80% LOST.

Roll Vote: Cutler, Henry, Klein and Nissly voting aye.

22. **Fire Department**

a. Klein moved and Nissly seconded to approve the bid received from Reliable One in the amount of \$48,855.57, for replacement of the pumps for the in-floor radiant heat and the pumps that serve the geothermal well field at the Fire Station.

Roll Vote: Klein, Nissly, Cutler and Henry voting aye.

b. Fire Chief Scott Eisentrager discussed the street closures for the Firemen's Convention. Communication with the downtown businesses was discussed.

23. **Iowa Public Information Board**

Klein moved and Cutler seconded to approve the informal resolution proposed by the Iowa Public Information Board as follows:

In re the Matter of: Brendan Chaney, Complainant And Concerning: City of Iowa Falls, Respondent	Case Number: 23FC:0083  Informal Resolution
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Brendan Chaney filed formal complaint 23FC:0083 on August 14, 2023, alleging that the City of Iowa Falls ("City") violated Iowa Code chapter 21 on July 17, 2023 and July 24, 2023.

Mr. Chaney alleges the City posted an original agenda for a City Council meeting on July 17, 2023, that did not give sufficient information regarding discussion and potential action regarding the operations of the Iowa Falls Police Department Dispatch Center. The agenda simply stated "Discussion and Operations" under "Police Department Operations." An amended agenda, posted the morning of July 17, 2023, was changed to include "Discussion and Action" under "Police Department Operations." Mr. Chaney alleges the amended agenda did not provide information sufficient to alert the public regarding the matter under consideration. The amended agenda, he further alleged, was posted less than twenty-four hours prior to the meeting.

Mr. Chaney also alleges the notice for the City Council meeting on July 24, 2023, was posted less than twenty-four hours prior to the meeting. He alleges it was posted on the city's website the morning of the 4:30 p.m. special meeting. He alleges this meeting was scheduled for an unusual day and time that would not be reasonable for interested parties to attend on such short notice.

Kaci Elkin, City Clerk for the City provided a response for the City. She explained the notice posted for the meeting. The original agenda was sent to *Times-Citizen*, the local paper, on Friday, July 14, 2023, at 10:00 am. On Monday, July 17, 2023 the amended agenda that changed the wording for item #19 from "discussion and operations" to "discussion and action" was sent at 7:52am. Ms. Elkin contends that the Code requires twenty-four hours' notice "unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given." This would have provided at least 8 hours of notice and only changed one word from the original agenda.

Ms. Elkin shared that the notice for the second meeting was sent to the *Times Citizen* on July 21, 2023, at 3:47 p.m. for the July 24, 2023, meeting. Over 72 hours of notice was given.

Jody Anderson, Administrator for the City provided additional explanation. He stated that the change in the July 17 agenda was due to a clerical error identified by one of the council members. Mr. Anderson provided several other council agendas to illustrate their use of terms "discussion and operation" and "discussion and action." He stated

that the notice of the meetings was posted at the front counter of city hall besides being sent to the newspaper. This is their standard procedure. Mr. Anderson also explained that the City knew the discussion would be regarding staffing at the dispatch center and the potential that the City may lose its dispatch if it was not able to be fully staffed and operational for twenty-four hours a day, seven days a week.

### **Law**

[A] governmental body shall give notice of the time, date, and place of each meeting including a reconvened meeting of the governmental body, and the tentative agenda of the meeting, in a manner reasonably calculated to apprise the public of that information. Reasonable notice shall include advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held. Iowa Code

...notice conforming with all of the requirements of subsection 1 shall be given at least twenty- four hours prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given.

When it is necessary to hold a meeting on less than twenty-four hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes. Iowa Code § 21.4.

### **Analysis**

IPIB staff reviewed the circumstances explained as part of this complaint. It appears that the city did post their notice at the city hall to meet the requirements under Iowa Code §21.4(1)(a). The July 17, 2023, notice however was changed with less than twenty-four hours' notice. The city cited the exemption referenced in Iowa Code §21.4(2)(b), but failed to provide an explanation in the minutes of the meeting regarding why the change was necessary. This did not appear to be an emergency action that could not be delayed until the next meeting which was one week later.

The change in the wording of the agenda indicated that it would be a possible action item but still remained vague as to what the action would be considering. In reviewing other agendas from the city in recent meetings, more details are currently being used to clarify the action of the council.

In responding to the Complaint, the City acknowledged that it knew it would be discussing at least the staffing of the dispatch center. The description in the agenda, even after the revision was still vague and would not have given notice to anyone in the community that this was the topic to be considered. The issue is not "whether the



notice given by the governmental body could have been improved, but whether the notice sufficiently apprised the public and gave full opportunity for public knowledge and participation. In determining whether the public was sufficiently apprised, we may consider the public's knowledge of an issue and actual participation in events in light of the history and background of that issue." *KCOB/KLVN, Inc. v. Jasper County Bd. Of Sup'rs*, 473 N.W.2d 171, 173 (Iowa 1991).

The evidence provided by Mr. Chaney indicates that the City's dispatch was a controversial topic that had received community involvement and interest in the past. Using such a generic topic when typical descriptions of issues are provided could not reasonably provide notice to the community that the dispatch staffing would be discussed.

The notice for the July 24, 2023 was sent to the paper three days prior. It is unclear whether posting the agenda in the city hall over the weekend was in such a manner as to be visible and provide notice. Regardless, the agenda topic and revised topic were not sufficiently descriptive to give notice regarding a planned discussion on the City's dispatch staffing.

The formal complaint was accepted by the IPIB on December 21, 2023.

Pursuant to Iowa Code §23.9, the parties negotiated and reached an informal resolution. The parties agree to the following terms:

1. The Iowa Falls City Council will acknowledge at an open meeting that there are sufficient facts to show that the notice and agenda of the meetings held on July 17, 2023 and July 24, 2023 was insufficient pursuant to Iowa Code §21.4. This acknowledgement shall be recorded in the minutes of said meeting and minutes shall be provided to the IPIB.
2. The Iowa Fall City Council shall conduct training during an open meeting for all Council members and members of the City's staff, and department heads on Iowa Code chapters 21 and 22 (Sunshine Laws). The City shall work with the Iowa League of Cities and the Iowa Public Information Board to provide the training to the Council and staff.
3. The City shall consider best practices to change the location of posting meeting notices that allows the public improved access to the notices.
4. The Iowa Falls City Council 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 60 days of acceptance by all parties. Upon showing proof of compliance, the IPIB shall dismiss this complaint as successfully resolved.

Roll Vote: Klein, Cutler, Nissly and Henry voting aye.

24. **Ellis Avenue Sidewalks**

Nissly moved and Klein seconded that the property owners are responsible for their sidewalks along Ellis Avenue.

Roll Vote: Nissly, Klein, Henry and Cutler voting aye.

25. **Water and Sewer Ordinances**

a. Klein moved and Nissly seconded to approve on first reading an Ordinance amending the Code of Ordinances of the City of Iowa Falls, Iowa, by amending provisions pertaining to water service system.

Roll Vote: Klein, Nissly, Cutler and Henry voting aye.

b. Cutler moved and Klein seconded to approve on first reading an Ordinance amending the Code of Ordinances of the City of Iowa Falls, Iowa, by amending provisions pertaining to building sewers and connections.

Roll Vote: Cutler, Klein, Henry and Nissly voting aye.

c. Nissly moved and Henry seconded to approve on first reading an Ordinance amending the Code of Ordinances of the City of Iowa Falls, Iowa, by amending provisions pertaining to sump pump and ground water standards.

Roll Vote: Nissly, Henry, Klein and Cutler voting aye.

d. Cutler moved and Klein seconded to approve on first reading an Ordinance amending the Code of Ordinances of the City of Iowa Falls, Iowa, by amending provisions pertaining to water service system.

Roll Vote: Cutler, Klein, Henry and Nissly voting aye.

e. Cutler moved and Nissly seconded to approve on first reading an Ordinance amending the Code of Ordinances of the City of Iowa Falls, Iowa, by adding a new chapter in regard to cross connection and back flow prevention regulations.

Roll vote: Cutler, Nissly, Klein and Henry voting aye.

26. **FY24-25 Budget**

Klein moved and Nissly seconded to set the public hearing date on the proposed property tax levy for April 1, 2024 at 5:30 p.m.

Roll Vote: Klein, Nissly, Cutler and Henry voting aye.

27. **City Manager**

a. Nissly moved and Klein seconded to accept the City Manager's announcement of his retirement effective May 24, 2024.

Roll Vote: Nissly, Klein, Henry and Cutler voting aye.

b. Nissly moved and Henry seconded to form a hiring committee consisting of the Mayor and two Council Members, Steve Klein and Bruce Thies, to begin the process of filling the City Manager's position.

Roll Vote: Nissly, Henry, Klein and Cutler voting aye.

28. **Closed Session**

Klein moved and Cutler seconded to go into closed session as allowed in Iowa Code Section 21.5.1.j to discuss land acquisition and disposal and Iowa Code Section 21.5.1.c to discuss pending litigation.

Roll Vote: Klein, Cutler, Nissly and Henry voting aye.

Nissly moved and Cutler seconded to go back into open session having taken no action in closed session.

Roll Vote: Nissly, Cutler, Henry and Klein voting aye.

**ADJOURNMENT**

Cutler moved and Klein seconded to adjourn.

Vote: Cutler, Klein, Henry and Nissly voting aye.

The meeting adjourned at 9:10 a.m.

  
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Roger Nissly, May Pro-Tem

  
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Kaci Elkin, City Clerk