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March 28, 2022

Regular meeting of the City Council of the City of Two Harbors, Minnesota, held on Monday, March 28, 2021, at 6:00 p.m.

The meeting was called to order by President Redden.

Members present, Councilors: Woodruff, Glaser, Rennwald, Swanson, Passe, Erickson (virtual), Redden. 7.

Others present: Interim Administrator/Finance Director, Pietila
City Clerk, Nordean
Community Development/Planner, Sterbenz
City Attorney, Costley
Interim Public Works Director, Gilbert.

Clerk Nordean requested the following changes to the agenda: Change the language for Consent Agenda 13 to Approving an Interim Employment Agreement between the City and Joel Dhein and authorizing the execution of said agreement by the Mayor subject to, contingent on and effective on the date of completion of a satisfactory background check and designating Council President Ben Redden as the City Council Designee under the agreement; moving Consent Agenda Item 14 to New Business 11; moving Consent Agenda Items No. 5 And 6 to New Business 12 and 13 and striking New Business items 3 and 4.

Motion by Passe and Rennwald approving the agenda with the recommended changes. Carried by the following vote: Yeas: Woodruff, Glaser, Rennwald, Swanson, Passe, Erickson, Redden.

Public Hearing:

Motion by Swanson and Woodruff Adjourning the regular meeting and calling to order a public hearing for the purpose of considering the ordering of sidewalk improvements on Eighth Street from Fourth Avenue to Second Avenue, both sides; Second Avenue from Seventh Street to Eighth Street, both sides; Fourth Avenue from Sixth Street to Seventh Street on the north side only; and Fifth Avenue from Sixth Street to Seventh Street, south side only. Carried by the following vote: Yeas: Woodruff, Glaser, Rennwald, Swanson, Passe, Erickson, Redden.

Public Hearing Appearances:

Miranda Pietila, Interim Administrator and Finance Director and Interim Public Works Director, Jim Gilbert, were present and addressed the hearing regarding the proposed project. Pietila provided a summary of the process to date, including a direction by the Council to prepare a feasibility report for the proposed project and use of the existing Sidewalk Construction, Repair and Maintenance Policy. She indicated that the project is based in Ward 2, concentrating on corridors along 8th Streets from Fourth to Second Avenue; along Second Avenue from Seventh street to eighth Street, from Fourth Avenue from Sixth street to Seventh Street on the north side only, and on Fifth Avenue from Sixth to Seventh Street on the South side only. She explained that

sidewalks were selected for improvement based on geographic proximity and condition. The budget for the project was established at \$140,000, and the total costs are projected to be \$150,975. The report and project has been prepared in accordance with MN Statute, Section 429.031. Pietila explained that this is the second year of the City's Sidewalk Improvement Projects. She indicated that a portion of the project will be assessed against the adjoining properties, noting that the City will consider objections to the assessments at the hearing held after the project has been completed, likely in October of this year. She reviewed the proposed project schedule noting that if approved, the City will order the assessments and the award of the contract for the work.

Donna Ranta, 202 Eighth Street, was present and addressed the hearing inquiring about the reason the City isn't doing this as a part of a street improvement project. Interim Public Works Director, Gilbert, explained that there would likely not be a street improvement project in that area for several years and that the City is working to on a plan to reconstruct sidewalks along the Eighth Street corridor to allow for improved pedestrian travel connecting Highway 61 (Seventh Avenue) through the ongoing 2021 – 2022 Street Improvement Project area to the City's downtown area. Ranta expressed concern with semis and heavy truck traffic traveling down Second Avenue.

Adrian Ranta, 202 Eighth Street, was also present and explained that he owned property adjacent to the proposed improvements and would be responsible for assessments on forty squares. He inquired about the need to repair several squares which do not appear to be damaged. Gilbert explained that many other squares along that stretch are damaged and the plan is to replace all of the squares since the new sidewalks would be a different width than the existing ones.

Public Hearing Communications:

Clerk Nordean reported that there have been no communications received regarding the proposed project.

Motion by Glaser and Rennwald adjourning the public hearing and reconvening the Regular Meeting of the Two Harbors City Council. Carried by the following vote: Yeas: Woodruff, Glaser, Rennwald, Swanson, Passe, Erickson, Redden.

Economic Development/Planner Report:

Jennifer Sterbenz, Economic Development/Planner, was present and addressed the Council providing a report of recent projects she has been working on including Quinn Kassell's, Port City Nutrition and The Topsy Mosquito Wine Bar; Harbor Rail Loft and Events, Harbor Rail Pub and 630 Lofts. She also reminded property owners of the requirement to complete land use and building permit applications for their upcoming projects.

Appearances:

Ralph Jacobson, 601 Valley Road, was present and addressed the Council regarding the future of Two Harbors asking for humanity to overcome hostility and expressing his belief that if we allow hatred to continue there will be no community.

Tim Jezierski, 1949 Highway 2, was present and addressed the Council regarding progresses made. He thanked the City Council and Mayor for making an infrastructure plan and following it. He asked that the Council continue with the cooperation they have used for this progress. He suggested that the Council look at the matters that have been brought forth and consider those that

may have merit, but not stop what they are doing because of it. He encouraged them to keep Two Harbors moving forward.

Pastor Jim Joseph, 507 Seventh Avenue, as present and addressed the Council regarding the issues we are facing in our community. He expressed his belief that the church is the heart of a community. He stated that he sees in our community, two groups of people on two sides of an issue. He expressed that he believes in the political process, but he feels that the ongoing hatred and the bitterness must end. He encouraged the Council to lead the way to end the conflict and hatred.

Bonita Bieniek, 719 Stanley Road, was present and addressed the Council regarding recent issues concerning Mayor Swanson. She told of an experience with Mayor Swanson when he encouraged her to continue working with the Friends of the Edna G. on a recent fundraising project even though she had met with some complications. She complimented Mayor Swanson on his imagination and the courage to introduce and do new things.

Jean Sewell, 1810 Tenth Avenue, was present and addressed the Council regarding Mayor Swanson. Sewell stated that she believes that the patterns of appearance of impropriety in addition to the “well-documented and ever-surfacing” serial violations of City Charter are a problem. She stated that the citizens, too, have a vision for Two Harbors which is just as valid as his, and announced that the residents of the City do not celebrate mediocrity, they are not coming from a place of angry ignorance and they are not jealous. She declared that the citizens will not entertain exchanging investments for special voting privileges, nor will they explore changing to a statutory City to allow him to avoid the recall authority that home charter cities have.

Toni Wangen, 1627 Seventh Avenue, was present and addressed the Council expressing that she is a concerned citizen of the City with a personal message for Mayor Swanson. She noted that the news has been full of stories regarding his inappropriate and possibly criminal business practices. She stated that she is a member of a task force whose mission is to ensure that he will no longer be mayor of Two Harbors and went on to state that whether he resigns or is recalled is up to him. She expressed her opinion that as Mayor, he is held to a higher accountability than the average citizen and called on him to step down from the job.

Administrator Report:

Interim Administrator, Pietila, reported that Representative Julie Sandstede has reached out to her regarding a Polar Vortex Bill identified by number MN HF3944 which would provide relief for those affected by last year’s extreme gas prices in February of 2021. Pietila reported that Councilor Passe has been asked to testify at the State Capital representing the City in favor of that bill. She also reported that the City received notification will receive \$159,000 each year for the next five years for the Airport through the FAA Bi-partisan Infrastructure BIL.

Attorney Costley, was present and addressed the Council, now that he has delivered his opinion regarding the matters concerning Mayor Swanson, asking them to consider setting a timeline for addressing the matter.

Swanson inquired if there is to be a recall, would these issues become a mute-point? Costley responded that the City has not received a petition yet, once we do have one, there will be ten days for the certification as to the validity of the petition, and there are some guidelines regarding when municipalities can and cannot have elections. If we get to that point, he will let the Council know.

President Redden asked if the Council would be agreeable to consider the attorney's opinions regarding Mayor Swanson at the regular meeting scheduled for April 25, 2022. It was agreed by consensus that they would hold off on consideration of this matter until April 25.

Clerk Nordean reported that an error had been discovered in the recent municipal ward boundary redistricting due to incorrect data used. She advised the Council that City staff has worked with representatives of Lake County to ensure that the correct data was used to draft the proposed redistricting ward boundary map that was on the agenda for council consideration.

Public Affairs Committee:

Councilor Rennwald reported that at their meeting of March 15, 2022, they discussed public appearances at City Council meetings and recommended that the proposed changes be reviewed by the City Attorney. The group also discussed audio visual equipment for City Hall.

Edna G. Commission:

Councilor Woodruff reported on the March 16 meeting of the Edna G. Commission where Paul Lamar's crew as present and they learned that it would not be feasible to get the tugboat running on steam once again. They discussed use of the dock by the Tall Ships group and a request by Friends of the Edna G. to purchase lumber for construction of a ramp, and the installation of LED lighting on the dock.

Finance Committee:

Councilor Woodruff reported on the March 17 meeting of the Finance Committee, where they discussed the TH Golf Association and plans to meet with them in April, the dates for the upcoming audit, adding to the 2022 Street Improvement Project, a utility rate study and the proposal by the Costin group to provide lobbying services for the City.

Ad Hoc Committee on Ethics:

Councilor Woodruff reported on the April 17 meeting of the Ad Hoc Committee on Ethics where they discussed the issues which had been referred to them. He noted that since Attorney Costley has stated that he believes that the Attorney General would likely not consider the issues that they recommended that the council consider referring to the Public Affairs Committee, a recommendation to no longer allow email accounts as elected officials of the City; and that the committee had recommended that the Council request an opinion from the State Attorney General on the concerns expressed by Mark Johnson and the Duluth Monitor Article regarding Lou's Fish and Brian Entzion, however, since the meeting, City Attorney Costley has recommended that these items not be forwarded to the Attorney General as he believes that they are unlikely to provide an opinion on these matters.

Personnel Committee:

Vice President Glaser reported on the March 21 meeting of the Personnel Committee where the group discussed a request for increased compensation for the Community Development/Planner

position and referred that to Flaherty & Hood and the Finance Committee; discussed an interview with for the Interim Administrator, the Cable Television Coordinator Contractor, Labor Management Committee meetings, summer temporary employees.

Public Works Committee:

Councilor Passe reported on the March 24 meeting of the Public Works Committee where the met with Joe Rhein of Bolton & Menk to discuss their proposal for the 2023 – 2024 Street Improvement Project, heard from Darbie Eischenbacher regarding the 2022 Street Assessment and discussed how the 2022 Street project will fit with the comprehensive trail plan. They also received a report from the Interim Public Works Director which outlined a list of potential overlay projects. They noted that the cost of those projects would be higher than originally anticipated.

Trees & Trails Commission:

Community Development/ Planner, Sterbenz provided a review of the March 17, 2022 meeting of Trees & Trails, where they discussed the Odegard Trail Project, a proposal for a future fat tire bike trail, signage on trails and the proposed Arbor Day project which will be completed in coordination with the School District.

Recreation Board:

Councilor Erickson reported that on March 21, the Recreation Board met regarding a pony football league for 2022 – 2023, a project to provide financial assistance on a project for fencing at Odegard Park ball fields, winter swim lessons, a proposed recreational swim team. She also reported that registration for summer recreation programs has already begun, noting that registration is to be completed online and there is a link on the City website.

Motion by Woodruff and Glaser Approving the Consent Agenda Items:

1. Approving minutes from the March 14, 2022 City Council meeting.
2. **RESOLUTION NO. 3-84-22 ALLOWING CLAIMS AGAINST THE CITY OF TWO HARBORS, IN THE AMOUNT OF \$4,150,527.81.**
3. Approving payroll for the first half of March, 2022, in the amount of \$235,669.86.
4. A communication from Resign or Recall Committee representatives, Todd Ronning, Toni Wangen, David Popilek, Judith Olson and Thomas Koehler, providing a Certificate for Recall of Mayor Christopher Swanson and Petition to Recall Mayor Christopher Swanson.
7. **RESOLUTION NO. 3-85-22 APPROVING THE APPLICATION OF TWO HARBORS GOLF ASSOCIATION FOR AN ON-SALE AND SUNDAY ON-SALE LIQUOR LICENSE FOR 1349 HIGHWAY 61.**
8. **RESOLUTION NO. 3-86-22 ACCEPTING THE QUOTE FROM SONJU TWO HARBORS, FOR THE PURCHASE OF 2022 POLARIS RANGER SIDE-BY-SIDE UTILITY VEHICLE AND ACCESSORIES FOR AN AMOUNT OF \$25,447.50.**

9. **RESOLUTION NO. 3-87-22 ACCEPTING THE PROPOSAL OF WATER CONSERVATION SERVICES, INC. TO PROVIDE A WATER DISTRIBUTION LEAK SURVEY FOR AN AMOUNT OF \$3,210.**
10. **RESOLUTION NO. 3-88-22 ACCEPTING THE PROPOSAL OF NORTHERN ELITE EPOXY FOR EPOXY FLOOR COATING AT THE NEW CAMPGROUND BATHHOUSE FOR AN AMOUNT OF \$6,000.**
11. **RESOLUTION NO. 3-89-22 ACCEPTING THE PROPOSAL OF GREAT LAKES PIPE SERVICE TO PROVIDE ANNUAL SANITARY SEWER CLEANING AND TELEVISIONING SERVICES FOR AN AMOUNT NOT TO EXCEED \$30,000.**
12. **RESOLUTION NO. 3-90-22 ACCEPTING THE QUOTE FROM ELECTROFORGE CUSTOM WELDING FOR NEW TURNOUT GEAR LOCKERS FOR THE FIRE DEPARTMENT FOR AN AMOUNT OF \$12,000.**
13. **RESOLUTION NO. 3-91-22 APPROVING AN INTERIM EMPLOYMENT AGREEMENT BETWEEN THE CITY AND JOEL DHEIN AND AUTHORIZING THE EXECUTION OF SAID AGREEMENT BY THE MAYOR SUBJECT TO, CONTINGENT ON AND EFFECTIVE ON THE DATE OF COMPLETION OF A SATISFACTORY BACKGROUND CHECK AND DESIGNATING COUNCIL PRESIDENT BEN REDDEN AS THE CITY COUNCIL DESIGNEE UNDER THE AGREEMENT.**
15. Approving the request of David Ellquist to attend the Minnesota Municipal Beverage Association Annual Conference in Alexandria.
16. A communication from Julie Hukride of Silver Creek Township, expressing her opinion regarding a potential recall of Mayor Swanson.
17. **RESOLUTION NO. 3-92-22 APPROVING THE APPLICATION OF CASTLE DANGER BREWING FOR BREWER OFF SALE MALT LIQUOR LICENSE PENDING PASSAGE OF THE OMNIBUS LIQUOR BILL HF2767, WHICH WOULD AMEND MN STATUE 340A.28 SMALL BREWER OFF-SALE, WHICH WOULD PROVIDE AN ABILITY FOR THEM TO SELL GROWLERS.**
18. Approving the request of the Library Director for payment of conference registration fees to attend the 2022 American Library Association Conference in Washington, DC.

Be adopted as read. Carried by the following vote: Yeas: Woodruff, Glaser, Rennwald, Swanson, Passe, Redden. Not Present for Vote: Erickson.

New Business:

Motion by Woodruff and Glaser that **RESOLUTION NO. 3-93-22 RESCINDING RESOLUTION NO. 3-80-22 AND RE-ESTABLISHING WARDS AND POLLING PLACES** be adopted as read. Carried by the following vote: Yeas: Woodruff, Glaser, Rennwald, Swanson, Passe, Redden. 6. Not present for vote: Erickson. 1.

Motion by Swanson and Woodruff that **RESOLUTION NO. 3-94-22 AUTHORIZING PAYMENT TO BOLTON & MENK IN THE AMOUNT OF \$19,624.50 FOR CONSTRUCTION ENGINEERING SERVICES FROM JANUARY 2, 2022 – FEBRUARY 4, 2022 FOR THE WASTEWATER TREATMENT PLANT PROJECT** be adopted as read. Carried by the following vote: Yeas: Woodruff, Glaser, Rennwald, Swanson, Passe, Erickson, Redden.

Motion by Glaser and Swanson that **RESOLUTION NO. 3-95-22 ORDERING THE 2022 SIDEWALK IMPROVEMENT PROJECT** be adopted as read. Carried by the following vote: Yeas: Woodruff, Glaser, Rennwald, Swanson, Passe, Erickson, Redden.

Motion by Woodruff and Rennwald that **RESOLUTION NO. 3-96-22 ACCEPTING THE QUOTE FROM PRIMETIME CONCRETE FOR THE 2022 SIDEWALK IMPROVEMENT PROJECT** be adopted as read. Carried by the following vote: Yeas: Woodruff, Glaser, Rennwald, Swanson, Passe, Erickson, Redden.

Motion by Glaser and Woodruff establishing the process for collection of City Council email for data requests with City IT representative being asked to retrieve the data from the server. Carried by the following vote: Yeas: Woodruff, Glaser, Rennwald, Swanson, Passe, Erickson, Redden.

Motion by Pietila and Swanson that **RESOLUTION NO. 3-97-22 ACCEPTING THE RECOMMENDATION OF THE COUNCILORS ASSIGNED TO NEGOTIATIONS TO AUTHORIZE THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TWO HARBORS AND TWO HARBORS CONFIDENTIAL EMPLOYEE'S ASSOCIATION REGARDING TEMPORARY COMPENSATION FOR MIRANDA PIETILA WITH APPROPRIATE SIGNATURES AS DIRECTED BY THE CITY CHARTER THROUGH DECEMBER OF 2022** be adopted as read. Carried by the following vote: Yeas: Woodruff, Glaser, Rennwald, Swanson, Passe, Erickson, Redden.

Motion by Glaser and Rennwald that **RESOLUTION NO. 3-98-22 ACCEPTING THE RECOMMENDATION OF THE COUNCILORS ASSIGNED TO NEGOTIATIONS TO AUTHORIZE THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TWO HARBORS AND TWO HARBORS CONFIDENTIAL EMPLOYEE'S ASSOCIATION REGARDING TEMPORARY COMPENSATION FOR PATRICIA NORDEAN WITH APPROPRIATE SIGNATURES AS DIRECTED BY THE CITY CHARTER THROUGH DECEMBER OF 2022** be adopted as read. Carried by the following vote: Yeas: Woodruff, Glaser, Rennwald, Swanson, Passe, Erickson, Redden.

Attorney Costley advised the Council of his opinion that by providing in-kind of services, if the Mayor has a direct or indirect interest in First Day events, there would exist a conflict of interest with Mayor Swanson whether or not he participates in the vote, unless Mayor Swanson indicates that he has no interest in First Day Events.

Mayor Swanson assured the Council that he has no direct or indirect interest in First Day Events.

Motion by Rennwald and Passe that **RESOLUTION NO. 3-99-22 APPROVING THE SPECIAL EVENT PERMIT APPLICATION OF FIRST DAY EVENTS FOR THEIR PROPOSED BALD EAGLE WATERSKI SHOW EVENT TO BE HELD ON AUGUST 20, 2022 AT BURLINGTON BAY, REQUESTING ASSISTANCE FROM THE CITY IN**

COORDINATION OF GARBAGE AND RECYCLING AND PUBLIC RESTROOMS, CLOSURE OF PUBLIC PARKING AREA AT BURLINGTON BAY, ENHANCED WALKING PATH/SIGNS, ALLOWING PARKING ALONG PARK ROAD EXCEPT ALONG BEACH AREA be adopted as read. Carried by the following vote: Yeas: Woodruff, Rennwald, Passe, Erickson, Redden. 5. Nays: Glaser. 1. Abstain: Swanson. 1.

Motion by Rennwald and Erickson that accepting the recommendation of the Ad Hoc Committee on Ethics to refer to the Public Affairs Committee, a proposal to amend the City Code to prohibit social media accounts for City of Two Harbors elected officials. Caried by the following vote: Yeas: Woodruff, Rennwald, Swanson, Passe, Erickson, Redden. Absent from the vote: Glaser.

Motion by Swanson and Rennwald that **RESOLUTION NO. 3-100-22 AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AND DELIVER AN INDEPENDENT CONTRACTOR AGREEMENT WITH JOSE' LEON, TO PROVIDE PUBLIC ACCESS COORDINATOR AND CAMERA OPERATOR SERVICES FOR THE CITY TO HAVE THE CONTRACT SIGNED BY THE MAYOR AND THE CITY ADMINISTRATOR** be adopted as read. Carried by the following vote: Yeas: Woodruff, Rennwald, Swanson, Passe, Erickson, Redden. Nay: Glaser.

Motion by Swanson and Erickson that **RESOLUTION NO. 3-101-22 AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE AND DELIVER THE MN DEPARTMENT OF TRANSPORTATION AGENCY AGREEMENT FOR FEDERAL AIRPORT EXPENSE REIMBURSEMENT IN THE AMOUNT OF \$32,000** be adopted as read. Carried by the following vote: Yeas: Woodruff, Rennwald, Swanson, Passe, Erickson, Redden. Nay: Glaser.

Announcements:

Mayor Swanson provided comments regarding recent concerns which have been brought forward regarding his conduct. He apologized to the Council for the distractions, which he stated that accepts responsibility for. He noted that as a council, they haven't been getting things done with the many recent distractions and that he misses the times when the group worked together as a team.

He reported that he believes that in everything, he was doing the right things and following the rules, noting that he has sought legal counsel. Swanson described himself as an extremely curious person who sometimes "gets over his skis".

He addressed each of the concerns that were brought forth reporting that he has no conflicts of interest, clarifying that he knows what it means. He reported having spent a lot of time and energy keeping things separate. He communicated that he or his family have never taken grants from the City for anything.

He stated that he did, however, use the incorrect email account, by mistake when reaching out to Mark Johnson soliciting funds for the performing arts project.

Swanson reported meeting with Attorney Costley regarding the proposed Underwater Hotel where it was discussed that he was working with Mr. O. That statement was later contested by Attorney Costley.

The mayor reviewed many projects he has worked with the Council on in recent years and asked Councilors where they want to go next, requesting that they build trust and come back together.

Adjourn:

Motion by Woodruff and Passe that the meeting adjourn. Carried by the following vote: Yeas: Woodruff, Glaser, Rennwald, Swanson, Passe, Erickson, Rennwald.

Ben Redden, City Council President

Patricia D. Nordean, City Clerk