

**SPECIAL CITY COUNCIL MEETING MINUTES  
MAY 5, 2016**

**CALLED TO ORDER**

Pursuant to due call and notice thereof, the Special City Council Meeting was called to order by Mayor Deiss at 5:30 p.m. in the Council Chambers located in the City Administrative Center.

**MEMBERS PRESENT**

Mayor Deiss, Council Members Uselman, Niles, Wiese & Kempf.

**OTHERS PRESENT**

City Administrator Brad Swenson, Dave Evans, Dan Kovar, Dean Uselman and City Attorney Jeff Pederson.

**MEMBERS OF THE PUBLIC PRESENT**

Dan Lawson representing Dry Wall Supply.

**K-LINE SPUR PROJECT**

Dean Uselman gave a history of the project stating that back in 2008/09 this all started when we acquired the PB building and did the demolition. At that time Mann Lake Limited was interested in building a business there and they need rail service to provide them service. The project at that time would have been about a \$100,000 project to upgrade the rail next to the property. This business would have supplied about 18 jobs. After the tornado in 2010 the City tried to get a new rail spur for Leaf River Ag for the industrial park. City Officials met with Congressmen Oberstar in Washington, DC to try to get funding for the rail spur through the Federal Rail Administration. They were successful and received funding in the amount of \$1,469,556. Funding was also received from MN DEED in the amount of \$350,000. The City agreed to spend \$150,000 and Wadena County agreed to spend \$150,000 as matches to these grants for a total of \$2,119,556. Back in about 2012/13 it was determined that the cost of the project was a lot more than we had grant funding for so the size of the project was reduced to about half.

Leaf River Ag decided they didn't want the rail service and that they were ok if the City backs this up. At that time the end of the spur was planned to stop behind the Ready Mix and not go out to the Industrial Park. In 2016 plans were finally completed and bids were opened and the bids came in favorable. The group then tried to work with BN to purchase the land and finally received a Purchase Agreement on Friday, April 29, 2016.

Don Niles asked about the age of the existing spur and the cost of the project for stakeholders. It was stated that the new track would add more footage, which we presently have, which would end up behind the Ready Mix, it would double the capacity of the north fork by the old Peterson-Biddick Property.

Drywall Supply owns their own track, which is about 10 years old, the remainder of the track is quite old. It was also mentioned that the curvature of the track from the main line to the spur would be built different to help get the newer longer cars around the curve easier. There was discussion about who uses this and it was mentioned that Drywall Supply, Timber Roots and Buck Wheat Growers gets some small quantities supplied by rail.

Dan Lawson from Drywall Supply was present and stated that the rail works just fine the way it is now and that this project is a lot of money and is wondering for what. He says he owns the track by their building to the switch north of Colfax. He is concerned about fees for spotting cars if we add to that cost. If it gets too expensive they might not use it and they would use trucks to haul in their merchandise.

George Deiss stated that Timber Roots would change to truck delivery as well if the costs went up too much.

Dean Uselman talked about the original thoughts about how land would be purchased or given to the City except for the track value and then as negotiations went on BN basically would not negotiate or deviate from the appraisal price. The amount of the purchase of the rail is at this time \$175,116. We would have to pay the 2<sup>nd</sup> half of the property taxes for this year estimated to be about \$5,000 and possibly taxes for next year. Special Assessments for the 2<sup>nd</sup> half this year would be about \$6,000. It was stated that the City would lose about \$10,000 in taxes per year if the City buys this versus the railroad owning it.

There was also discussion about time constraints. We have a bid hold with the low bidder and the 60 day bid hold is up on May 10, 2016. Dean stated that he talked to this contractor and they are willing to extent to the end of May and they will honor their price. They may go longer and they need to consider that. There was a question if we could go to the 2<sup>nd</sup> bidder and negotiate and Jeff Pederson stated that probably not and that we would have to rebid. In the rail contract they are stating that their soonest closing date would be June 23, 2016 which is a month past the date of the bid hold. It doesn't look like we can even get the land purchased in time to even award the bid. Dean stated that the DEED Grant was extended to the end of this year and then it has to be closed out. At this time they are saying that they will not extend it.

Dean Uselman stated that he talked to Senator Klobuchar's Office to put pressure on the railroad to close on this property sooner.

City Attorney Jeff Pederson then reviewed the purchase agreement from BN to the City and discussed items from a list. The identity of the buyer needs to be the City instead of the Development Authority. Jeff stated that the procedure for payment are earnest money and purchase price that the rail wanted all the money up front rather than the earnest money to speed up the process. He thought maybe that was a problem. Jeff stated that would be a cost associated with the survey and legal description. We would have to hire a surveyor to come up with a legal description which would take time. Jeff stated there was a land lease with John Schedowski which has a quick claim deed issue that we would have to take over. He talked about the tax proration as far as the City paying the 2<sup>nd</sup> half of taxes and special assessments and possibly paying taxes next

year. Jeff talked about the costs and fees associated with this as far as survey costs and closing costs, etc. There is language in there about environmental hazard issues where we would be taking on all of the environment hazards and that we should probably do a phase one but he is pretty sure the railroad won't let us do that until we own the land. He talked about the reservations that BNSF is putting in here. They want to use the tracks as they do now. He talked about service continuation and that they aren't going to guarantee that service will be provided in the future. There is language about a jury trial waiver and administrative fees. The cost of the survey is estimated to be about \$10,000-15,000 and we would have to get that done before we could close. BN would give us a quick claim deed within 6 months of closing.

George Deiss asked if this will really help existing customers and if we really want to do this. George stated that he did research on moving cars and they may need to have a licensed engineer for safety issues.

Don Niles asked about that rail wanting a letter from us stating that we are contemplating condemning the property so they can get some tax benefits from the sale.

Bruce Uselman stated that Merickel's and Wadena Hide and Fur have their own spur and that is where they get their materials. He doesn't quite understand what the advantage is of this project.

George Deiss stated that we would have to own it or would have to give back the grant moneys.

Dan Kovar asked what is expected of his crews and if his crews would move the cars they would need to have training and licenses and inspections and asked if this would be year round. His crews are not able to drop everything to move cars especially when we have snow conditions and other things.

Brad Swenson stated that if this project were to not happen we have spent \$164,979.04 to date and that money would have to come out of either the Development Authority tax levy monies as originally planned or the city would have to take this out of the general fund to cover that cost unless there is some way we could get Federal Rail or DEED to give us some of the grant money to go towards this.

Don Niles stated that maybe we should drop the DEED Grant and try to refigure the FRA Grant with a new scope and that improvements to the rail would probably last 50-100 years. If we don't spend these grant monies they will be redistributed and somebody else will get those. There was thought that maybe Dean could see if BN could use the grant from Federal Rail to update their rail and then the City would not own it or have to maintain it.

Dean Uselman stated that another positive about this is there would be a second siding by the old PB Property and that he has tried to contact Mann Lake to see if they are interested but he hasn't received a response from them so there is no guarantees that they will be coming.

Brad Swenson stated that with the time line for the land purchase and the time line for the bids that he doesn't see how this will work out. He really questions if we want to be in the rail business

or not and if we should consider cutting our losses now and bring this project to an end. He doesn't see how this will all work out and get done within the grant timelines, etc.

Dean Uselman thinks we should table this and work with the railroad and work with Mann Lake and try to get some answers and leave this little open ended for a period of time to see if there is an answer to some of these questions and concerns.

Then it came down to the purchase agreement and if we should proceed or not.

Motion made by Niles, second by Kempf to have Dean Uselman contact the railroad and Federal Rail Administration to do this project and downscale if needed by using our engineering, railroad would own and operate their own spur in Wadena and also to check to see if the bid could be accepted.

### **ADJOURNMENT**

Motion made by Uselman, seconded by Wiese to adjourn the Special Closed City Council Meeting at 7:15 p.m.

Upon voting Mayor Deiss, declared the motion carried, all members voting aye.

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Bradley A Swenson  
City Administrator

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George Deiss  
Mayor