

PROCEEDINGS: IDA GROVE CITY COUNCIL • DEC. 5 MINUTES

CITY OF IDA GROVE COUNCIL MEETING MINUTES MONDAY, DEC. 5, 2022 • 5:30 p.m. TEMPORARY CITY HALL 311 BARNES STREET

1. Call to Order: Mayor, Devlun Whiteing, called the meeting to order at 5:30 p.m.

2. Roll Call: Present: Gregor Ernst, Jason Schable, Ange Johnson, Jeff Miesner & Jared Bogue. Attorney, Justin Reininger was also present.

3. Approval of Agenda: Motion by Ernst to approve, second by Schable. Motion carried 5-0.

4. Lyle Trailer - Request for Refund of Utility Bill Payments from Feb. 2021 to Current: Lyle was not present; no decisions were made.

5. Justin Georg - Ida County Sanitation Refuse Agreement: Justin was not present; no decisions were made.

6. Consent Agenda: Motion by Ernst to approve the consent agenda consisting of the following: clerk's report, claims in the amount of \$97,316.35, financial reports, minutes of the 11/21/2022 & 11/30/2022 meetings, class C liquor license effective 1/27/2023 for Veteran's Memorial, class B liquor license effective 12/22/2022 for Dollar Stores of Iowa and correspondence, second by Johnson. Motion carried 5-0.

7. Discuss Implementing Rental Property Inspections: Council reviewed documents that were drafted in 2020 for implementation of rental property standards. The committee on Property Protection will meet to further review and make a recommendation back to council. Council intends to hold a public meeting in 2023 to gauge feedback from property owners.

8. 2023 Council Meeting Schedule: Motion by Ernst to approve, second by Miesner. Motion carried 5-0.

9. 2023 Standing Committees: Motion by Bogue to approve, second by Johnson. Motion carried 5-0.

10. Resolution 2022-57 Approving Salaries: Motion by Bogue to approve Resolution 2022-57, second by Schable. Motion carried 5-0.

11. City Hall Construction Bid
a. Review & Award City Hall Construction Bid: Discussion of the City Hall bids continues after further legal research. City Hall bids were due and opened on Nov. 16, 2022 as follows: HCl

Construction base bid \$2,160,000, alternate #1 \$3,200, alternate #2 -\$18,000; Haselhoff Construction base bid \$1,973,300, alternate #1 \$7,500, alternate #2 -\$11,100; L & L Builders base bid \$1,744,000, alternate #1 \$2,200, alternate #2 -\$11,500; Ladwig Construction base bid \$1,639,798, alternate #1 \$3,750, alternate #2 - \$12,892. HCl, Haselhoff and L & L's bids all included a bid bond as their form of bid security as noted as a requirement within the bidding documents. Ladwig's bid was accompanied by a company check rather than a bid bond security or certified check. Chapter 26 of the State Code requires the City to award the bid to the lowest responsive, responsible bidder. Lack of a bid bond or certified check does not meet the requirements of a responsive bid. Upon extensive research from multiple attorneys over the course of a couple weeks, it was explained that the lack of a bid bond or certified check at the time of bid opening is considered a material deviation. Attorney Reininger explained a material deviation in bidding is when the deviation is substantial and provides the bidder an advantage over their competitor. Reininger cited court cases that involved material deviations. Reininger further explained that lack of a bid security is a material deviation that cannot be waived and is prohibited from being accepted by law. Reininger further explained that council does have full discretion and could vote to award Ladwig, however, that option comes with the highest risk of litigation against the City. Reininger's recommendation to council is to re-bid or accept the second lowest bidder. Council members thoroughly discussed possible outcomes/ramifications of re-bidding the project, including possibly not receiving any bids, more costly bids, project delay, additional architect fees, etc. Council members all agreed that re-bidding the project is not in the best interest of the citizens of Ida Grove. Schable questioned the extent of possible litigation if council chose to move forward with awarding Ladwig, despite the bid irregularity. Reininger explained that another bidder wouldn't be able to sue the City for damages, but they could sue for an injunction which would stop the project. Depending how far the litigation went, it could stop the project for years, costing the City legal fees for the defense

and potentially legal fees of the claimant. Motion by Schable to award the project to Ross Ladwig despite the material deviation of bid bond. Mayor Whiteing called for a second to the motion several times. Motion died for lack of second. Council all expressed they would like to see the project awarded to a local contractor but not at the high risk of litigation against the City. Motion by Johnson to accept the 2nd low bidder (L & L Construction) not to exceed \$1,744,000 based on the material deviation of the low bidder, second by Ernst. Ayes: Miesner, Ernst, Johnson, Bogue. Nay: Schable. Motion carried 4-1. The alternates listed in the project are as follows: #1 for contractor to install tin ceiling and #2 a deduction for stucco on the East and South facade rather than brick as called out for in the base bid. Motion by Bogue to accept alternate #1 and reject alternate #2, second by Miesner. Motion carried 5-0.

b. Construction Testing & Inspection: Council reviewed two quotes for third party testing and inspection work for the City Hall project. The testing covers items such as ground compaction, concrete, inspection of steel & anchor bolts, etc. Certified Testing Services estimated costs between \$4,500 - \$5,000 and TEAM Services estimated \$15,501. Motion by Bogue to approve Certified Testing Services, second by Schable. Motion carried 5-0.

12. City Council as Planning & Zoning Commission - Set Public Hearing for Zoning Use Amendment (GOMACO Trolley) for Dec. 19, 2022 at 5:30 p.m.: Motion by Johnson to approve, second by Miesner. Motion carried 5-0.

13. City Council Member News & Notes: Johnson mentioned the Rural Route Ramble that took place this past weekend. The route comes to the city limits of Ida Grove, but local businesses were not included. Whiteing will discuss with the Ida Grove Economic Development Committee to see about local businesses being included in the future. Council again expressed how much the City Hall bid award decision weighed on each of them.

14. Adjournment: Motion by Johnson to adjourn, second by Ernst. Motion carried 5-0. Meeting adjourned at 6:54 p.m.

Heather Sweeden, City Clerk
Devlun Whiteing, Mayor