

Canton City Council Regular Meeting Minutes January 13, 2021

The Canton City Council held its regular monthly meeting on January 13, 2021, at the Canton Town Hall. Members present: Mayor Nick Prestby, Carl Ernst, Randy Gossman, Cindy Shanks and Charlie Warner. City staff present: Brock Bergey, Barb Kerns, Jim Davis and Jon Nordsving. Visitors present: Fillmore County Attorney Brett Corson, Donivee Johnson, Robroy Kelly, Fire Chief Ryan Bill Richardson, Melissa Vander Plas and Kristy Ziegler.

Prior to the call to order, Oaths of Office were taken by Mayor Prestby and Councilmembers Gossman and Shanks.

Mayor Prestby called the meeting to order at 6 p.m. Motion by Warner, second by Shanks to approve the December 2020 meeting minutes; motion carried. Motion by Ernst, second by Gossman to approve the consent agenda (approval of monthly bills, waiver of town hall rental fee for American Red Cross Blood Drive on February 15, purchase of three folding chair storage carts for town hall totaling \$720 and purchase of six window blind units for town hall totaling \$348); motion carried.

Public comments: Resident Robroy Kelly expressed concerns regarding his December utility bill, which included charges for sewer services. He was billed for using 53 gallons, along with the monthly residential base fee. Mr. Kelly claimed he did not use any sewer services in the billing period, as his residence remains under construction. He was willing to pay the water-related charges for those 53 gallons. Motion by Warner to waive Mr. Kelly's sewer charges if he was willing to remove the abandoned vehicle on his property, which is a legal matter now in the court system. Mr. Kelly agreed to Warner's suggestion. Bergey asked Mayor Prestby for permission to provide additional consideration on the motion before the council. Bergey urged caution for the precedent that could be established if sewer fees were waived for Mr. Kelly. He noted other residents have also expressed similar billing concerns, stating that they are not returning all used water back into the sanitary sewer system. Additional discussion continued, with Mayor Prestby eventually calling for a second to Warner's motion; none was received, so the motion died. Bergey stated that if Mr. Kelly failed to make a full and timely payment, the service disconnection process, as outlined in the City's ordinances, would be followed.

Reports: In his clerk report, Bergey noted there were no pending water disconnections due to delinquent payments. Five pet licenses have been issued to-date in 2021. City-issued communications were sent to a resident regarding noise concerns and to regular users of the town hall regarding parking regulations. Bergey stated former city clerk/treasurer Lolly Melander has a settlement conference set for March 8, with her jury trial to take place March 24 to April 2, 2021. In nuisance property-related legal matters, Steve Popplewell, owner of the former Canton school, entered a guilty plea in Fillmore County District Court on January 12. Back in May, he was issued a citation for failing to comply with the City's building maintenance and appearance ordinance. Popplewell was placed on unsupervised probation for one year and ordered to become compliant with Canton's public nuisance ordinances by January 12, 2022; he was also issued a \$50 fine. Robroy Kelly has a pre-trial hearing scheduled on February 9, for an abandoned vehicle being stored on his property. It was noted Danny Whalen remains on unsupervised probation for his nuisance property conviction until February 10, 2021. Bergey remains in communication with Whalen to address recurring non-compliance issues. Bergey mentioned city hall would be closed January 18 for Martin Luther King Jr. Day. December

projects include training for the new computer software, office preparations for the new deputy clerk and year-end financial reporting. The town hall A/V system installation is set to wrap up in January. The month's major clerk projects include continuation on the Banyon software conversion, completion of 2020 year-end financial reports and preparations for the City's annual audit.

Public Works Director Jon Nordsving had nothing to report.

Fire Chief Bill Richardson asked for the council's approval to payoff the remaining balance (\$29,466 as of 1/1//2021) on the fire department's loan for the two tanker trucks and the pumper truck. It was noted the last quarterly loan payment was made in December, totaling \$1,289. Only \$97 was applied to the principal on the loan. Currently, the fire department checking account has a balance of almost \$60,500; a full loan payoff would deplete the account to approximately \$32,000. 2021 fire department revenues are expected to be \$30,800, with 2021 expenditures budgeted at \$26,350. Motion by Gossman, second by Warner to authorize full payoff of the fire department loan; motion carried. Richardson also requested an upgrade to the internet services at the fire hall. The current services are slow and no longer supported by Acentek. Current services are \$39.95/month; the upgrade services would be \$64.95/month. Motion by Gossman, second by Shanks to approve the internet upgrade at the fire hall; motion carried. Richardson mentioned that firemen interested in receiving their first round of the COVID-19 vaccine could do so in the coming days through Fillmore County Public Health.

There were 13 police calls reported in December, with no concerning trends.

There were no land use permit applications submitted for council review.

Warner mentioned the labor donation by Tom Davis as part of his work on the reconstruction of East Prairie Avenue last summer. The project total was \$15,075. Davis donated \$3,075 of the costs, making the total due to Davis \$12,000. The council expressed its appreciation to Davis. Motion by Warner, second by Gossman to send Davis a written thank you card; motion carried.

Unfinished business: Fillmore County Attorney Brett Corson was in attendance to address the legal options available to the City relating to nuisance properties. Attorney Corson reviewed the pros and cons of criminal action verses civil action. In 2020, there were five criminal cases for nuisance-related ordinance violations, with a couple cases still working their way through the legal system. The City has an annual prosecution agreement through Fillmore County. Attorney Corson noted that his office would not be able prosecute civil cases; however, he said the City may be able to recoup some of the costs associated with civil actions. This was an informational agenda item only, with no decisions being made about future courses of action. The council thanked Attorney Corson for his time. A memo from City Attorney Greg Schieber was also reviewed regarding the enforcement of public nuisance ordinances.

New business: Motion by Gossman, second by Ernst to approve the 2021 official appointments, as presented in Resolution 2021-01; motion carried.

Acting Mayor
Official Newspaper
Official Depository
City Attorney
City Auditor

Cindy Shanks
Fillmore County Journal
First Southeast Bank
Nethercut Schieber
Hawkins Ash

Authorized Signatures	Brock Bergey, Barb Kerns, Nick Prestby, Cindy Shanks, Charlie Warner
Fire Chief	Bill Richardson
Assistant Fire Chief	Kyle Ryan
Regular Meeting Night	Second Wednesday of the month
Regular Meeting Time	6 p.m.
Regular Meeting Location	Canton Town Hall, 107 N Ash St.
Polling Place	Balloting by mail precinct
Posting Place	Canton City Hall, 106 N Main St.
Personnel Committee	Randy Gossman, Cindy Shanks
Utilities Committee	Cindy Shanks, Charlie Warner
Streets Committee	Carl Ernst, Nick Prestby
Parks/Rec Committee	Carl Ernst, Nick Prestby
Finance Committee	Randy Gossman, Charlie Warner
Planning Committee	Jim Davis, Carl Ernst, George Hafner, Mike Shanks
Zoning Administrator	Carl Ernst
Animal Control	Carl Ernst
Standard Mileage Rate	\$0.56 per mile

Motion by Ernst, second by Gossman to approve Resolution 2021-02 to grant an off-site gambling permit to Canton American Legion Post 400 for calendar year 2021; motion carried.

Bergey was seeking council directives relating to late charges for delinquent utility payments. He explained current ordinances include language for monthly penalties; however, previously, those penalties have not been applied. With the start of a new calendar year and the implementation of a new billing system, Bergey noted now was a good time to review the business practice. After discussion, the council instructed staff to begin implementing the ordinance-specific late charge for services incurred in 2021. Failure to make full payment within 30-days of the printed invoice due date will result in a 10-percent late charge assessed to past due accounts. No vote was required since the ordinance language already exists. It was noted that utility customers will soon have the option of enrolling in monthly ACH payments to avoid the issue of late fees altogether.

Bergey also sought council guidance on utility billing practices for residents who spend the winter months elsewhere. He explained previously snowbirds were not being billed the monthly service fees for water, sewer or garbage. A survey of neighboring communities found that Canton was the only one not assessing at least partial charges for these services. Bergey noted that utility rates are established with the assumption that all account holders will be charged for 12 months of services. As for the practice of waiving monthly charges for vacationing snowbirds, Bergey was not able to speak to that effect, saying the practice was established when he assumed the clerk/treasurer position. Former mayor, Donivee Johnson, asked if she could elaborate. Johnson stated the practice was likely the result of the former clerk becoming frustrated with snowbirds who complained about the monthly fees. Citing the need to remain fair and consistent with billing practices, the council instructed staff to begin charging full monthly service fees for water, sewer and garage – effective with the January 2021 billing. Again, no vote was required since the ordinance language already exists. Bergey will send letters to snowbirds to outline the revised billing practice, with no retroactive fees being collected.

Bergey briefly outlined a refunding option for the USDA loans from 2005 for the wastewater treatment facility project. Under the current payment plan, the City is paying 4.25% interest on the two loans, through 2045. The proposed refinancing plan, as prepared by David Drown

Associates, would lower the interest rate to 2.2% with the existing USDA bonds being purchased by First Southeast Bank, the City's official depository. The payment schedule would continue through 2045; however, the savings to the City would result in approximately \$92,000. Issuance costs would be included in the proposed General Obligation Sewer Revenue Refunding Note, totaling around \$12,700. The council agreed to learn more about this option by inviting Mike Bubany, with David Drown Associates, to attend the February meeting.

Motion by Ernst, second by Shanks to adjourn at 7:41 p.m.; motion carried.