

**RUGBY CITY COUNCIL MEETING MINUTES
MONDAY, MAY 15, 2023 – 7:00 PM
COUNCIL CHAMBERS AND MICROSOFT TEAMS**

Mayor LaRocque called the meeting to order at 7:00 pm.

Council members recited the Pledge of Allegiance.

Roll call was taken by Mayor LaRocque.

Council Members present: Schneibel, Lotvedt, Gannarelli, Brossart, Larson, Nelson, and Zachmeier.

Council Members present by TEAMS: none.

Absent was Kraft.

Also present were Mayor LaRocque, Attorney Murray, Officer Hurly, Public Works Director Munyer, and Auditor Stewart.

The council considered the agenda. There was a motion by Lotvedt to approve the agenda as presented. Second by Schneibel, all voting yes, motion carried.

The council considered the May 1, 2023, meeting minutes. There was a motion by Nelson to approve the May 1, 2023, meeting minutes. Second by Brossart, all voting yes, motion carried.

The council considered the April 2023 Rugby Police Department report. Officer Hurly explained the department had 75 calls for service, 12 citations, 3 arrests, and 10 medical assistance calls in the month of April. There was a motion by Brossart to approve the April 2023 Rugby Police Department report. Second by Larson, all voting yes, motion carried.

Portfolio Holder Reports

Buildings: Portfolio Holder Lotvedt explained that there had been a leak on the Armory floor. He has met with one vendor for camera installation at the Armory for the gymnasium area. He will be meeting with a second vendor next week. He explained that the council table is ready to be put together. It should be moved and ready by the second June meeting.

Finance: The council reviewed the 2024 Budget Timeline.

Ordinance: Portfolio Holder Zachmeier explained that she and Attorney Murray are working on a couple of ordinances for future presentation.

Personnel: Portfolio Holder Gannarelli had nothing to report.

Public Safety: Portfolio Holder Larson reported that at the next meeting he will discuss the current part-time officer and job status.

Public Works: Lotvedt reported that Public Works Director Munyer has been putting together a weekly schedule of tasks and that has been going well. Munyer asked if he should be sending this out to all council members and Mayor LaRocque agreed that he should.

Recreation: Portfolio Holder Schneibel explained that the recreation summer sign up will be happening this week. He reported that things are on track for the recreation and swimming pool.

Unfinished Business

Murray explained that the State Fire Marshall confirmed that Backroads Bar LLC's occupancy is less than 100 people. She explained that the correct deed, required inspections, ND Secretary of State registrations, and the construction is complete. Schneibel explained that he had spoken to Ms. Quick and completed the Fire Safety Inspection. Schneibel explained the local fire department's authority to inspect daycares, bars, and other buildings regarding fire safety/regulations. He explained the occupancy number and exit capacity numbers listed on the inspection document. He found no deficiencies. There was a motion by Lotvedt to accept that Backroads Bar LLC has met all the conditions required for the local license. Second by Schneibel, all voting yes, motion carried.

The council considered Resolution 2023-1 for filing an application with the North Dakota Department of Environmental Quality for assistance performing a lead service line inventory in compliance with the Lead and Copper Rule Revisions. There was a motion by Brossart to accept Resolution 2023-1. Second by Larson, all voting yes, motion carried.

New Business

The council reviewed an email received from Jamie Wald regarding property that Peter and Chelsey Wyatt owned. Lotvedt addressed items in the email that referenced himself. Murray explained that a City Attorney advises the city government only, not private citizens. She explained that the email requested that she give a legal opinion on the property and Murray explained that it is for the property owner's private attorney to **give private citizens a legal opinion**. Nelson questioned if there is an outbuilding that is too close to a property line. Murray explained that there had been a citizen concern about a garage/shop that stands alone on the property in a violation of zoning laws, and a violation of the covenants for the property. Under Rugby Ordinance 19.02.040 the covenants must be followed and would make it a zoning violation, as the ordinances are a minimum standard. Wyatts questioned if it is still a zoning issue after the sale of the of the home without the garage. Murray and LaRocque both stated that a private garage is defined as an accessory building, and it is still a zoning violation because the garage cannot be the primary building on the property because it is defined as an accessory building.

Lotvedt read aloud the accessory building definition and explained that the private garage is an accessory and a violation of the ordinances.

Rugby City Ordinances

19.04.040 defines "accessory" as a subordinate building and is incidental to the main building.

19.04.160 defines "accessory building" as subordinate structure or incidental to the main building.

19.04.430 defines “private garage” as an accessory building and used by the occupants of the building to which it is an accessory.

19.34.020 provides that there is a main building for the accessory building, and that an accessory building is not to be used for dwelling purposes.

19.02.040 provides that the ordinances are the minimum requirements, but that the deed restrictions and covenants that impose a higher standard shall govern.

Chelsey and Peter Wyatt appeared before the council to discuss their property in question. Wyatts explained how they purchased the lot that has the structure in question on it. They also explained the process they went through to build the shop. They explained the issue they had with their former residence and the lot lines of that property. Chelsey explained that they had a signed purchase agreement for the house and the shop in question, but due to the lot line issue taking a lengthy time to resolve, the sale fell through. She explained that now they are trying to sell the shop and they are very frustrated; they just want to sell the shop.

Wyatt explained that she had obtained a separate address for the shop property. There was discussion between the Wyatts and the council as to who did or didn't tell them they could sell the shop separate from the home. City Attorney Murray explained that she was never asked if they were allowed to sell the shop separate from the home, and that she never gave the Wyatts or anyone else a legal opinion and/or legal permission to sell the property in violation of the zoning ordinances and in violation of the covenants with the land. They also discussed what could or couldn't be done at this time now that the house has been sold and the Wyatts still have the shop they would like to sell. There was extensive discussion regarding covenants and how they may or may not apply to the lot that Wyatt's own. City Attorney Murray explained that the covenants do apply to the property. The Wyatts also discussed other properties in town, that they believe have similar circumstances. City Attorney Murray told them that she was not aware of these “alleged” properties and if the Wyatts want to make a complaint that they would be investigated to determine whether or not there was a zoning violation for the other “alleged violations” that were vaguely stated by the Wyatts. The Wyatts did not provide a specific complaint and did not provide specific legal descriptions for alleged violations.

The council discussed ways that might be avenues to allow the Wyatts to sell the shop. Dana Odden, citizen, addressed the council regarding the city as a whole, coming up with a solution to allow them to sell the property. They continued to discuss if the neighbors were agreeable to the Wyatt's selling the shop. It was also discussed that the shop has 16' sidewalls that may not be allowed in that location as well. They discussed the option of filing a variance and the process for that. The Wyatts were willing to file a variance for the property and attempt to remedy the issue.

Peter and Chelsey Wyatt left the meeting.

Larson explained that he had complaints about City Wide Clean-Up and not having it on a weekend. He suggested Thursday, Friday, and Saturday in the future. Schneibel suggested having it Tuesday-Wednesday- Thursday, but having the hours extended on Wednesday until 7pm to allow people who work to utilize the service. They also discussed having a clean-up in the fall. Munyer explained that they had many residents utilize the service during the 8am-5pm hours. Nelson agreed that one of the days with longer hours would omit the need for a Saturday. Lotvedt

asked Munyer to present to the council if an evening would work at the next meeting. There was a motion by Larson to table the one-day City Wide Clean-Up. Second by Schneibel, all voting yes, motion carried. They will review the landfill surcharge revenues and expenditures to see what funds are available for a fall clean-up day.

Murray explained ordinances 19.02.040, 19.04.060, 19.34.020 to the council. She also explained the necessity for a title opinion and abstract to be completed when purchasing property. Murray explained that by their own admission, the Wyatts did not obtain a title opinion to the property before they purchased it, and this was their own decision and made at their peril because the deed restriction / covenant was in place long before they purchased the property. Murray advised that she did not recommend a variance for this property. They discussed if a variance could be granted if residents object.

The next meeting is scheduled for June 5, 2023, at 7:00p.m.

There being no further business to transact or come before the council at this time, there was a motion by Larson to adjourn the meeting. Second by Brossart, all voting yes, motion carried. The meeting was adjourned at 8:34 p.m.

Amendment to the minutes from the June 5, 2023, Council Meeting:

Attorney Murray wrote:

I explained that the Garage/Shop standing alone on the property is a violation of zoning laws, and a violation of the covenants for the property. Under Rugby Ordinance 19.02.040 the covenants must be followed and would make it a zoning violation, as the ordinances are a minimum standard. I said that the Wyatts were questioning if it is still a zoning issue after the sale the home without the garage and Myself and the Mayor all stated that a private Garage is defined as an accessory building, and it is still a zoning violation because the Garage cannot be the primary building on the property because it is defined as an accessory building. Then, Neil Lotvedt read the accessory building definition and explained that the private garage is an accessory and a violation of the ordinances.

Rugby City Ordinance 19.04.040 defines “Accessory” as a subordinate building and is incidental to the main building. Rugby City Ordinance 19.04.160 defines “Accessory building” as a subordinate structure or incidental to the main building. Rugby City Ordinance 19.04.430 defines a “private Garage” as an Accessory Building and used by the occupants of the building to which it is an accessory. Rugby City Ordinance 19.34.020 provides that there is a main building for the accessory building, and that an accessory building is not to be used for dwelling purposes. Rugby City Ordinance 19.02.040 provides that the ordinances are the minimum requirements, but that the deed restrictions and covenants that impose a higher standard shall govern.

I know that I did not specifically list all these statutes during the discussion, but I know that we specifically told the Wyatts that the Rugby Ordinances still defined the private garage as an accessory building and therefore, it is in violation of the Rugby City Ordinances related to zoning. I did not say that I questioned whether or not there was a violation.

Further, I specifically stated that I never gave them the legal advice that they would be allowed to sell the shop separate from the residence, and I want that specifically stated in the official meeting minutes.

Further, I believe that I specifically explained 19.04.160 regarding “accessory building” on the same lot, and that this meant the same owned property, such that if a landowner owns 3 lots, they could build a house on 2 of the lots, and the third lot could be the accessory garage as long as the property owner owned all of the three lots, but that the garage would not be allowed to be sold separate from the house that was the primary building on the lot.

End of Amendment

Frank LaRocque, Mayor

Attest: _____
Jennifer Stewart, City Auditor

Approved