

**ARLINGTON CITY COUNCIL
MEETING AGENDA
AUGUST 5, 2019 AT 6:30 PM
COUNCIL CHAMBERS**

The City Council is provided background information for agenda items in advance by city staff, committees and boards. Many decisions regarding agenda items are based upon this information, as well as: City policy and practices, input from constituents, questions or information that has not yet been presented or discussed regarding an agenda item. If you have a concern or question, please ask to be recognized by the Mayor during the "Citizens addressing the Council" portion of the agenda— state your name and address for the record. Please keep comments under 5 minutes. Individuals wishing to speak for more than five minutes should ask to be included on the agenda in advance. All comments are appreciated, but please refrain from personal or derogatory attacks on individuals.

1. Call Meeting to Order and Pledge of Allegiance
2. Roll Call
3. Approve the Agenda and any Agenda Additions

CONSENT AGENDA

The items listed for consideration will be enacted by one motion unless the Mayor, a member of the City Council, City Staff or a person in attendance requests an item to be removed from the Agenda.

4. Approval of Consent Agenda.
 - A) Approval of the July 15, 2019 Council Meeting Minutes.
 - B) Approval of the July 22, 2019 JOINT Council, EDA and PZ Meeting Minutes.
 - C) Accept Resignation and Express Appreciation to Planning Committee Chairperson Jim Kreft.
 - D) Accept Resignation and Express Appreciation to EDA Committee Member Dick Thomes.
 - E) Approval of Bills.

PETITIONS, REQUESTS, & COMMUNICATIONS

5. Addressing the Council
 - A) Council Addressing Kim Bade – Winner of the City of Arlington Logo Contest!
6. Announcements
 - A) Arlington Farmer's Market, Monday Evenings - September 23rd, Arlington Community Center Parking Lot, 4:00 p.m. – 6:30 p.m.
 - B) MN Municipal Utilities Association 88th Annual Summer Conference August 19-21st at Breezy Point Resort.
 - C) Arlington Night Out – Hosted by the Arlington Police Dept. – August 6th 5:00-7:30 p.m. @ the Four Seasons Park.
 - D) Ben Winchester Presentation – Moving In, Moving Out, Moving Over – August 7th 5:30-7:00 p.m. @ Arlington Community Center.
 - E) Leading Sibley Together is Recruiting Participants for the 2019-2020 Leadership Program, Applications can be found on the County website at www.co.sibley.mn.us. Submit application by August 9th.
 - F) MN DOT Presentation Regarding Latest Capital Highway Investment Plan – August 27th 9:30 a.m. @ Sibley County Board of Commissioner's Meeting, Sibley County Courthouse.
 - G) City Offices will be closed on Monday, September 2nd for Labor Day (Council Meeting will be Wednesday, September 4th)
 - H) U of MN Extension - Connecting Entrepreneurial Communities – 2019 Conference in Waseca – September 5-6, 2019. For details and to register visit: www.umn.edu/CEC_Conference.
7. Communications
 - A) Arlington SMIF presentation - Jennifer Nelson
 - B) PeopleService- June Water Operation & Maintenance Report

- C) June Financial Report.
- D) Minnesota Municipal Power Agency 2018 Annual Report

REPORTS OF OFFICERS, BOARDS AND COMMITTEES

- 8. Arlington Fire Department – Fire Department Report.
- 9. July Maintenance Department Update- Kirby Weckworth

ORDINANCES & RESOLUTIONS

- 10. Resolutions:
 - A) 37-2019(A) – A Resolution Approving Fence Variance at 401 W. Brooks St.
 - B) 37-2019(B) – A Resolution Denying Fence Variance at 401 W. Brooks St.
 - C) 38-2019(A) – A Resolution Approving Deck Variance at 401 W. Brooks St.
 - D) 38-2019(B) – A Resolution Denying Deck Variance at 401 W. Brooks St.
 - E) 44-2019- A Resolution Authorizing the City of Arlington to Work with Minnesota Valley Cooperative (MVEC) for Financing the 2019 Street Light Replacement Project.
- 11. Ordinances:
 - A) First Reading of Ordinance 326- An Ordinance to Regulate Student Truancy, Being an Addition to the Arlington City Code, Chapter 5, as Section 5.07.

UNFINISHED BUSINESS

- 12. Review of correspondence from Hemp Heaven with proposal to purchase 22 acres of land owned by the EDA.
- 13. Approve/Deny Bid for Repair of Service Pump 2 at the Water Treatment Facility by McCarthy Well Co. in the Amount of \$11,697.50. Secondary quote from Hydro Engineering is \$7,831.30.
- 14. Approve/deny bids for Concrete Work at the Substation NE of Town along Hwy. 5. **Revised Bid** from Widmer Masonry of Le Sueur is \$28,897. CMC Construction of Arlington is \$31,655.
- 15. Approve/deny Extending the Application Deadline for Council Member Recruitment.

NEW BUSINESS

- 16. Approve/deny request from Ross Bergs, to consider SAC/WAC Waiver for New Home To Be Built on Lot Purchased at 501 West Lynch Street.
- 17. Approve/Deny Request of Scott Equipment Co. for a Business Subsidy in the Amount of \$40,000.
- 18. Approve/Deny Partial Pay Estimate No. 2 from Wm. Mueller & Sons, Inc. in the Amount of \$415,026.62 for Work on the 2019 Street & Utility Improvement Project.
- 19. Approve/Deny Contract for Prosecution Services Between the City of Arlington and the Sibley County Attorney's Office.
- 20. Discussion About Property on the West End of the Former Seneca Building.

MISCELLANEOUS BUSINESS

- 21. Council Member/Committee Updates
- 22. Open Discussion

ADJOURNMENT

Reminders:

Budget – TBD

EDA- August 12 @ 5:30

Planning & Zoning- Sept. 5 @ 7:00 p.m.

**ARLINGTON CITY COUNCIL
MEETING MINUTES
AUGUST 5, 2019**

The regular meeting was called to order at 6:30 p.m., Mayor Richard Nagel presiding.

Members present: Mayor Rich Nagel, Michelle Battcher, Adam Cowell, Tom Hatlestad, Jim Heiland, Ben Jaszewski

Members absent: None

Also present: Derrick Bushman on behalf of Hemp Heaven; Dave Lucas on behalf of Scott Equipment; Dan Baker and Matt Nelson on behalf of FEN Biotech; Jennifer Nelson on behalf of SMIF, Howard Brinkman and Brandon Brinkman on behalf of Grand K, LLC; Dave Siwek and John Behnke, on behalf of Siwek Construction; Tim Haggemiller and Spencer Haggemiller, on behalf of the Arlington Fire Relief Assn.; Greg Stang and Lee Ortloff, on behalf of PeopleService; EDA Director Amy Newsom; residents: Kim Bade, Ross Bergs, Curt Reetz, Amy Berger, Lisa Pasvogel; local farmer Allan Dose; Kurt Menk.

Motion by Heiland, seconded by Hatlestad, and passed by unanimous vote of those present, to approve the agenda with the following changes:

Mayor Nagel requested that the Council:

MOVE UP Item 7.A. - Arlington SMIF presentation - Jennifer Nelson be moved up after the presentation to the Arlington City Logo winner, in order to allow her to attend an additional meeting this evening.

MOVE UP Item #12 - Review of Correspondence from Hemp Heaven with Proposal to Purchase 22 acres of Land Owned by the City of Arlington EDA.

Motion by Cowell, seconded by Jaszewski, and passed by unanimous vote of those present, to approve the consent agenda as follows:

- A) Approval of the July 15, 2019 Council Meeting Minutes.
- B) Approval of the July 22, 2019 JOINT Council, EDA and PZ Meeting Minutes.
- C) Accept Resignation and Express Appreciation to Planning Committee Chairperson Jim Kreft.
- D) Accept Resignation and Express Appreciation to EDA Committee Member Dick Thomes.
- E) Approval of Bills.

At this point, the winner of the City of Arlington Logo Contest, Kim Bade, came forward to accept her prize for being the winning artist in this contest.

Next, Jennifer Nelson, of the Southern MN Initiative Foundation (SMIF) came forward to make her presentation. Nelson gave background as to how the foundation started and what they do to help entrepreneurs, support communities, and invest in various regions in the form of loans, grants, and/or technical assistance. SMIF only does 30 loans a year, but they do give a lot of technical assistance. They fund both economic growth and quality licensed childcare training.

The next item considered by the Council as Item 12 from the agenda which was moved up - - Review of Correspondence from Hemp Heaven with Proposal to Purchase 22 acres of Land Owned by the City of Arlington EDA. Derrick Bushman came forward and answered questions posed by the Council, such as access to the site, smell associated with the growing and processing, utility use, and plans to put utilities in to the site. Bushman explained the site that they presently have in WI and what they envision for the City of Arlington. The site plan would utilize approximately 7 acres. They are aware of the wetland as a part of the site and feel they can work around that. They would be willing to work with either MN Valley

for electric or the City. When asked about how many employees there would be, Bushman compared it to the site they have in WI. He believed that for the indoor grow operation there would be 10 full time year round employees, which would increase at certain times of the year. There would be 2 to 3 supervisors. The regular employees would earn \$15 to \$20/hr. The outdoor crop comes in in October. They will structure the indoor crop to not come to harvest at the same time to try to maintain a more even workflow. The drying may be done at Northland, there is a dryer there that will work for this. Drying hemp is done at a low, slow temperature. The main market for their hemp product will be CBD oil. Bushman gave his opinion that he has connections due to his other business ventures which will be utilized to market the CBD oil. Melvin advised the Council and Bushman that he had sought the review of Planning and Zoning Director Smith Strack regarding the request by Bushman to change the zoning of the property from industrial back to agricultural and Smith Strack advised that she had not seen this done previously. Bushman would like to be able to use a portion of the land to also grow crop on the acreage, while utilizing some of the land for the greenhouses. The Council advised they would like to see a site plan where the buildings will be, where the utilities will be, access road. All of this could be part of the contingencies portion of the purchase agreement. The Council would like to see the City's building inspector be able to inspect the plans and the buildings and Bushman advised that he would see no issue with that. Bushman invited the Council to come to WI to alleviate their concerns as to smell. The Council requested contacts in WI to confirm what Bushman was telling the Council. When asked, Bushman confirmed that they are not yet licensed in the State of MN to grow and/or process, but that to obtain the licensing in MN is not difficult. They are between Edgar and Mosinee, WI and Bushman advised the City could contact them to see if they had any difficulties or issues. It is part of the Heil Ginseng operation there.

The Council then asked if there were members of the audience to speak under Addressing the Council . Resident Lisa Pasvogel came forward to speak. She said that she had concerns about the smell and whether there is truly going to be 30 FTE jobs created by Hemp Heaven. Ultimately what Pasvogel would like to see is that the EDA and the Council ask these questions and have a plan in place if things do not play out as the City is being told at this time.

Dave Siwek then came forward to speak regarding the access to the property. Siwek believes that the road behind Northland should possibly become a City street and that would then help address the access issues. Siwek also wants to know why a business that would be competing with Hemp Heaven which would be utilizing his property in the former Seneca Building is being given such a difficult time whereas it appears to him that Hemp Heaven is being given preferential treatment for their proposal.

(At this point Derrick Bushman left the meeting.)

Curt Reetz then came forward to speak to the Council about sewage backup in basements. He has been working in water/wastewater systems for over 40 years. Reetz said that he believes there needs to be a different approach taken when the City has significant rain. He believes that "relief/bypass pumping" needs to be done to help alleviate the issues that occur when there are heavy rains. Reetz feels that someone needs to be routinely assigned to check specific areas that are known problem areas. In specific he feels that there were things done when the school was remodeled that are adding to the issues that are now occurring. He had tried to speak to the engineers at the time of the school remodeling and the potential issues that may occur with the way in which it was done, but felt that the engineer discredited his thoughts even though he has experience with these matters.

Lisa Pasvogel then came forward to ask what is being done about the noise issues which are again significant from Northland Drying. Pasvogel feels that the building inspector is not doing due diligence regarding Northland Drying and that he has been too lenient with them.

The following announcements were reviewed:

- A) Arlington Farmer's Market, Monday Evenings - September 23rd, Arlington Community Center Parking Lot, 4:00 p.m. – 6:30 p.m.
- B) MN Municipal Utilities Association 88th Annual Summer Conference August 19-21st at Breezy Point Resort.
- C) Arlington Night Out – Hosted by the Arlington Police Dept. – August 6th 5:00-7:30 p.m. @ the Four Seasons Park.
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- H) U of MN Extension - Connecting Entrepreneurial Communities – 2019 Conference in Waseca – September 5-6, 2019. For details and to register visit: www.umn.edu/CEC_Conference.

Moving on, the next item was Communications from PeopleService and the June Water Operation and Maintenance Report. Additionally it was noted that the City had received another check due to the recycling that PeopleService is continuing to do.

Next on the list was the June Financial Report which Adm. Melvin requested be removed and moved to the next regular Council meeting.

There is a report provided to all Councilmembers from the Minnesota Municipal Power Agency 2018 Annual Report. Several Councilmembers attended the MMPA Annual Conference which occurred recently and it was felt that this had been a good tool for communication between the MMPA and the City.

At this point Spencer Haggemiller and Tim Haggemiller came forward to speak regarding the Fire Relief Assn. SC19 Form which was provided to the Council in their packets for review. Spencer spoke first regarding the form. He advised that this is the 3rd year of the 3 year plan which requires the Council to continue implementing fire fighter incentives as had been previously arranged and that this needs to be approved by January 1st of 2020. It has been around \$100 per firefighter that is contributed around the time of the State Aid checks. Tim Haggemiller then spoke about the firefighters who attended training for gambling and obtained 3 licenses. The Fire Dept. has put pull tabs into the Arlington Haus. The electronic pull tabs went "live" last week Wed. and has seen a significant amount of action in that short time frame (close to 1600 plays in less than 3 days). The Fire Dept. is presently fully staffed at 30, with 5 new guys.

For the next item on the agenda, Maintenance Dept. Supervisor Kirby Weckworth came forward to present his July monthly report. Weckworth advised that there has been a lot of weed spraying they have been doing, wood chipping, street sweeping, shrub pruning, mosquito spraying, painting of crosswalks and park benches, continuing to work on tree pruning/removal as time permits. There is some storm drain damage that needs to be repaired. In regard to the street light project, it appears that MVEC will approve the loan toward the end of August and we should be able to move forward with the lights at that time. He has posted some new "Children at Play" signs where needed. Weckworth gave an update as to the issues that have been continuing to occur at the Community Center regarding the dry sprinkler system. 3-4 leaks were found and plugged which should help the issues occurring with that. Stall mats were purchased for

the parks to put under the swing areas to be in compliance with regulations to prevent injuries. Weckworth is continuing to work on budget issues for next year's CIP. There were additional questions regarding the street lighting project and the Council was updated as to the fact that the cost has come down considerably since first considered, but the City is working on partnering with MVEC for a loan for the project.

Next up for discussion by the Council were Resolutions:

- A) 37-2019(A) – A Resolution Approving Fence Variance at 401 W. Brooks St.
- B) 37-2019(B) – A Resolution Denying Fence Variance at 401 W. Brooks St.
- C) 38-2019(A) – A Resolution Approving Deck Variance at 401 W. Brooks St.
- D) 38-2019(B) – A Resolution Denying Deck Variance at 401 W. Brooks St.

All of these resolutions are in regard to resident Jeanne Bearson's plans for a fence and deck at her residence. The recommendation from the Planning and Zoning Committee has now been changed to recommend that she be allowed to place her deck as requested, but again to continue denial of the fence she has requested.

Motion by Battcher, seconded by Heiland, and passed by unanimous vote of those present, to recommend adoption of Resolution 37-2019(B) – A Resolution *Denying* Fence Variance at 401 W. Brooks St. There was some discussion among the Council as to whether Planning and Zoning is working on possibly changing the present Code in the City which does not allow for a fence in the front yard.

Councilmember Battcher introduced the following resolution and moved for its adoption:

RESOLUTION 37-2019(B)

**A RESOLUTION DENYING A VARIANCE FOR PLACEMENT OF A FENCE AT
401 BROOKS STREET WEST IN THE CITY OF ARLINGTON**

WHEREAS, Jeanne Bearson (the "Property Owner") is the fee owner of property at 401 Brooks Street West (the "Property"); and,

WHEREAS, the Property Owner has submitted a request for a variance to allow a three to four foot picket fence in the front, corner, and rear yard of the Property; and,

WHEREAS, the Property is legally described as Lot 1-3 EX W 10', Block 2, Hillman's Addition, City of Arlington, Sibley County MN with a parcel identification number of 31.0388.000; and,

WHEREAS, the property is zoned R-2 One and Two Family Residential; and,

WHEREAS, the variance request is to allow a fence in the front yard, street (corner) side yard, and encroachment into the rear side yard setback; and,

WHEREAS, Chapter 17 of the City Code prohibits fences in front and street side yards and requires a five foot setback for fences in rear yards; and,

WHEREAS the Applicant proposes a perimeter fence setback two (2) feet from the property boundary in the front, street side, and rear yards; and,

WHEREAS, notice of a public hearing to accept input on the variance request was published in the official newspaper on May 23, 2019 and sent to property owners within 350 feet of the property; and

WHEREAS, the Planning and Zoning Commission conducted a public hearing on the variance request on June 6, 2019; and,

WHEREAS, the Planning and Zoning Commission has reviewed the variance request and has made the following findings:

1. Chapter 17 requires a land use permit and, therefore, statutory requirements pertaining to variance issuance apply.
2. A three to four foot fence height at the intersection of Brooks Street West and 4th Avenue NW will inhibit motorist views, especially in low profile automobiles.
3. The subject parcel is a conforming lot uninhibited by irregular lot lines, lot shape, or natural features such as floodplain, wetland, or steep slopes or topographical fluctuations which would make the lot unique from other base lots in the city.
4. The Applicant has failed to demonstrate the variance is necessitated by practical difficulties unique to the subject parcel.
5. Although the proposed fence is attractive, the representations of the Applicant are based on desired placement of the fence and could apply to any lot in the City of Arlington.

WHEREAS, the City Council considered the variance request at a regular meeting June 17, 2019; and,

WHEREAS, the City Council again considered the variance request at a regular meeting July 15th, 2019; and

WHEREAS, the City Council once again considered the variance request at a regular meeting August 5th, 2019; and

WHEREAS, the City Council has reviewed the variance request and accepts the Planning Commission's findings.

NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF ARLINGTON THAT: The City Council hereby **denies** a variance to provide for a three to four foot perimeter fence setback a minimum of two feet from the property line at 401 Brooks Street West.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Heiland and upon poll being taken thereon the following voted in favor thereof: Battcher, Cowell, Hatlestad, Heiland, and Jaszewski; and the following voted against the same: None; and the following abstained from voting: None; and the following were absent: None.

Adopted by the City Council of the City of Arlington this 5th day of August, 2019.

Attest: /s/ Patrick Melvin
City Administrator

Signed: /s/ Richard Nagel
Mayor

Whereupon the resolution was declared duly passed and adopted and was signed by the Mayor whose signature was attested by the City Administrator.

Motion by Hatlestad, seconded by Jaszewski, and passed by unanimous vote of those present, to recommend adoption of Resolution 38-2019(A) – A Resolution *Approving* Deck Variance at 401 W. Brooks St.

Councilmember Hatlestad introduced the following resolution and moved for its adoption:

RESOLUTION 38-2019(A)

A RESOLUTION APPROVING A TWO-FOOT VARIANCE FOR PLACEMENT OF A DECK IN THE STREET SIDE YARD SETBACK AT 401 BROOKS STREET WEST

IN THE CITY OF ARLINGTON

WHEREAS, Jeanne Bearson (the "Property Owner") is the fee owner of property at 401 Brooks Street West (the "Property"); and,

WHEREAS, the Property Owner has submitted a request for a variance to allow a deck to encroach into the required street side yard setback of the Property; and,

WHEREAS, the Property is legally described as Lot 1-3 EX W 10', Block 2, Hillman's Addition, City of Arlington, Sibley County MN with a parcel identification number of 31.0388.000; and,

WHEREAS, the property is zoned R-2 One and Two Family Residential; and,

WHEREAS, Chapter 31, Section 8, Subd. 4(B)(2) of the City Code requires a 15 foot street side yard setback; and,

WHEREAS the Applicant proposes a 13 foot street side yard setback; and,

WHEREAS, notice of a public hearing to accept input on the variance request was published in the official newspaper on May 23, 2019 and sent to property owners within 350 feet of the property; and

WHEREAS, the Planning and Zoning Commission conducted a public hearing on the variance request on June 6, 2019; and,

WHEREAS, the Planning and Zoning Commission has reviewed the variance request and has recommended denial of the variance based on the following findings:

1. The Applicant has not addressed why the variance should be granted in the application.
2. Positioning of the deck in the manner proposed purposely encroaches into the required street side yard setback requirement. The deck could be reduced to eight feet in width to achieve the required setback. The location of the proposed deck relocation is completely under the control of the Applicant.
3. The practical difficulty is created by the property owner, the attached garage could be reduced in size.
4. The subject parcel is a conforming lot uninhibited by irregular lot lines, lot shape, or natural features such as floodplain, wetland, or steep slopes or topographical fluctuations which would make the lot unique from other base lots in the city.
5. The Applicant has failed to demonstrate the variance is necessitated by practical difficulties unique to the subject parcel.
6. The variance request is based on desired placement of the deck and could apply to any lot in the City of Arlington

WHEREAS, the City Council considered the variance request at a regular meeting June 17, 2019; and,

WHEREAS, the City Council again considered the variance request at a regular meeting July 15, 2019; and

WHEREAS, the City Council once again considered the variance request at a regular meeting August 5, 2019; and

WHEREAS, the City Council has reviewed the variance request and has made the following findings:

1. The proposed project is consistent with the comprehensive plan, the subject parcel is planned for continued low density residential development.
2. The proposed deck is low-profile and will not impede motorist's visibility.

NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF ARLINGTON THAT: The City Council hereby **approves** a variance to provide for an encroachment of two feet into the required street side yard setback in the R-2 One and Two Family Residential District to allow placement of a deck thirteen (13) feet from the street side yard property boundary at 401 Brooks Street West subject to the following conditions:

1. The variance is only applicable to the property at 401 Brooks Street West and assigned to the current and/or future owner of the subject property. The "Use" of the property is single family residential.
2. The property owner shall be responsible for determining the property boundary.
3. A building permit is required.
4. This resolution of the City Council shall be recorded at the Sibley County Recorder's Office.
5. The variance approval shall expire with no further action by the City if the construction of the proposed addition has not been initiated within one year of variance approval by the City Council.
6. The variance shall be declared null and void if the conditions under which it is authorized are violated.
7. The variance shall expire when the need for the variance ceases.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Jaszewski; and upon poll being taken thereon the following voted in favor thereof: Battcher, Cowell, Hatlestad, Heiland, and Jaszewski; and the following voted against the same: None; and the following abstained from voting: None; and the following were absent: None.

Adopted by the City Council of the City of Arlington this 5th day of August, 2019.

Attest: /s/ Patrick Melvin
City Administrator

Signed: /s/ Richard Nagel
Mayor

Whereupon the resolution was declared duly passed and adopted and was signed by the Mayor whose signature was attested by the City Administrator.

There was then a move of Item #20 on the agenda – Discussion About Property on the West End of the Former Seneca Building. Adm. Melvin updated the Council as to the communications which have been occurring between our City Building Inspector and the State Fire Marshall's Office as to whether it is necessary for safety purposes regarding the proposed use of the building to install overhead sprinklers. John Behnke, a realtor involved in the matter, came forward to speak and asked if there was something short term that the City could do to allow this business to move forward. The business on the other end of the former Seneca Building, Northland Drying, has been allowed 2 years to comply with standards, and now FEN Biotech is being held to a different standard. Behnke said that their architect has supplied plans to the building inspector and again they don't understand why FEN Biotech has supplied everything the building inspector has asked for but they are being held, they feel, to a different standard than other businesses. Additionally coming forward were Dave Siwek and Dan Baker to answer questions from the Council. Siwek advised that the building is presently being used to store lumber and boats and other items and those things may not be to code either. Atty. Arneson interjected that the reason the State Fire Marshall has been involved is that hemp is a new industry and there are probably no Codes which deal with this specific product. Dan Baker then spoke regarding determination of the use of building and he

believes that there is no change of use and therefore they did not need any permission from the City or City Code to use the building as there is no "change of use". He called the architect recommended by the Building Inspector and he had not hired that architect, but that person told the Building Inspector that it would be a changed use. Atty. Arneson advised those present on behalf of FEN Biotech that the Building Inspector is doing a job that he has been hired by the City to do. Hatlestad advised that he does not believe that the Building Inspector is trying to prevent a new business coming in to town. Baker felt that it should not needed to have been escalated to a review by the State Fire Marshall. Baker advised that he feels they need to take some of the process out of the City to another location, but they are under tight timelines due to when the crop is going to be harvested, which is in the next 2 weeks. Baker advised that he has forwarded a copy of a variance from the City of Blaine regarding extension of timelines for a process such as this. Siwek feels that things could have moved quicker on the part of the City – the fire chief could have looked things over quicker, it should not have been needed to be escalated to the State Fire Marshall. Behnke said that the architect has determined that there has not been a change of use for the building and so no one should be overruling that determination. Baker said that if they are pulling the drying portion out of the building then there is nothing to be a fire hazard. Baker said he does not understand why there is even a discussion that is continuing. Hatlestad asked Atty. Arneson what would happen if the City allowed a variance for the installation of sprinklers and then a fire occurred, would the City be able to be held liable? Atty. Arneson said this was a very difficult question to answer. It would be possible for the City to be dragged in, but felt that the exposure was limited. City officials cannot be sued personally. Atty. Arneson said that the State Fire Marshall opined that the building would need to be classified as an "H-3" level which would be a hazardous classification. Battcher asked additional questions about what portions could they do if it could not be entirely done here. Baker advised that since they do not "own" the portion of the building that they intend on utilizing, they do not want to spend the money to do that. They would like to store the harvest in Arlington and begin the extraction process. They are trying to hire 14 people now, but potentially it could use 50 people. Matt Nelson then spoke up to say that he has been hired to be the plant manager for FEN Biotech. Nelson asked if what if for the 10 days of drying they hired someone to be "on fire watch". Would something like this alleviate the concerns of the City? Siwek said that when he bought the building there were 12 boilers in there processing stuff, there was a lot of heat, etc. which occurred. This new process is less invasive than what was there. Siwek also felt that he could not understand why the State Fire Marshall was even brought in. Siwek additionally advised that he owns 3 lumberyards and they do not have to sprinkle their buildings in those other cities. Baker gave a quick overview of what the operation would be. Moisture content as it goes into a bulk bag would be under 20%. It would be stored in bulk bags until it was processed. Baker said that some of the questions he was being asked at this meeting, had not been asked by the Building Inspector. It will take a building of that size to do the processing. Right now they are only doing CBD processing, but are looking to add fiber and grain processing. This year they have contracted the growing of hemp on 3000 acres, but are looking to expand that next year to 15,000 to 20,000 acres. In doing that, they will need a larger area, and the building would be large enough to allow that expansion. Baker was unwilling to explain in more detail the processing due to the proprietary nature of that process and he did not want to allow that information to be potentially used by a competitor. Baker said that there would be no hazardous waste, no exponential threat of flammability, no excessive water usage, at least for this year. Next year, as the plant could be expanded, there may be some of those concerns. This year would be a pilot year to see what works best. Hatlestad asked if they would be willing to put in a heat sensor which would notify the fire department in a more expedient fashion if there was too much heat being generated. There was discussion as to what could be a compromise that could be worked out between all parties. Baker does not necessarily believe that the State Fire Marshall would be willing to make compromises for the time being in order to get things moving. Baker said he would be available for a phone call at any time in order to get this accomplished. FEN Biotech would like a vote tonight since they feel that all the necessary parties are in the room at the present time. Adm. Melvin said that there was new information brought to light tonight and that it appeared that more conversations needed to occur before decisions could be made. Siwek again advised the Council that when Seneca used the building there were 12 very

large boilers in that area, which generated a significant amount of heat, and temperature, and that what they are proposing to do would not be nearly as fire hazardous as what had been there. Battcher said that she understands that FEN Biotech could do a compromise for a year until the building changed hands and at that time FEN Biotech would need to meet all State regulations. Atty. Arneson advised that the reason the City Building Inspector brought in the expertise of the State Fire Marshall was because this is a new type of business and he has no experience with it, and thus needed to tap the expertise of other individuals who do have greater knowledge than he has. The consensus of the Council was that they would like to obtain more information and find a way to come to a compromise so that FEN Biotech could process the crop in this building yet this year. FEN Biotech advised that they would not do drying in the facility this year, but there would be storage and/or processing. Baker reiterated that there is no dust created in the processing. Members of the Council volunteered who would be available for a non-quorum meeting to continue the learning and discussion process in order to formulate some compromise in order to make this work for FEN Biotech.

The Council next moved Item #17 on the agenda up for discussion - Approve/Deny Request of Scott Equipment Co. for a Business Subsidy in the Amount of \$40,000. At this point, Dave Lucas of Scott Equipment came forward to speak to the Council regarding the expansion they intend on doing. They have been working with Bolton & Menk on the engineering phase, and Jim Haugen as their architect, as well as City Building Inspector Darin Haslip. The plan would be to break ground this fall for a 46,000 sq. foot expansion, and then in 5 years or less there would be another 46,000 sq. foot expansion. The issue is that the storm water line as it presently lays needs to be moved to the edge of the property to allow for the expansion. The old line can stay where it is, but a new line will need to be put in, to allow for the expansion of the plant. Additionally, there will be a retention pond that will be put in as a part of the project. They have worked with the surrounding schools to bring students in to show them what they do at their facility, and they probably need to emphasize that even more. Lucas feels that Arlington is a good location, being along Hwy. 5, with people in the area who have a good work ethic, and the area where they are at in Arlington will allow for expansion. Motion by Battcher, seconded by Hatlestad, and passed by unanimous vote of those present, to APPROVE the request of Scott Equipment Co. for a Business Subsidy in the Amount of \$40,000.

Councilmember Battcher introduced the following resolution and moved for its adoption:

RESOLUTION 44-2019

A RESOLUTION AUTHORIZING THE CITY OF ARLINGTON TO WORK WITH MINNESOTA VALLEY ELECTRIC COOPERATIVE (MVEC) FOR FINANCING THE 2019 STREET LIGHT REPLACEMENT PROJECT.

WHEREAS, the City of Arlington purchased lights from Johnson Controls in 2008; and

WHEREAS, the Johnson Control lights are prone to various problems during cold temperatures; and

WHEREAS, the City of Arlington has been involved in a legal dispute regarding the functionality of street lights from Johnson Controls; and

WHEREAS, City Attorney Ross Arneson has advised the Council that he has exhausted all means to have Johnson Controls correct the problem and stand behind their lighting products; and

WHEREAS, the City of Arlington has determined the need to replace the street lights due to poor performance and difficulty finding replacement parts including those decorative lights on Main Street; and

WHEREAS, the City of Arlington has submitted an RFP and obtained quotes for acquiring new and more efficient LED street decorative lights on Main Street; and

NOW THEREFORE BE IT RESOLVED that the City of Arlington is appreciative and interested in working with Minnesota Valley Electric Cooperative to finance interest free over a period of ten years the acquisition and installation of new and improved efficiency LED street lights estimated to cost approximately \$120,000.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Hatlestad and upon poll being taken thereon the following voted in favor thereof: Battcher, Cowell, Hatlestad, Heiland, and Jaszewski; and the following voted against the same: None; and the following abstained from voting: None; and the following were absent: None.

The foregoing resolution was adopted by the City Council of the City of Arlington this 5th day of August, 2019.

Attest: /s/ Patrick Melvin
City Administrator

Signed: /s/ Richard Nagel
Mayor

Whereupon the resolution was declared duly passed and adopted and was signed by the Mayor whose signature was attested by the City Administrator.

The Council then spoke to Ross Bergs regarding Item #16 - Approve/Deny Request from Ross Bergs, to Consider SAC/WAC Waiver for New Home To Be Built on Lot Purchased at 501 West Lynch Street. Bergs advised that he has a preliminary design of the house at the present time, a 2 story, with a garage. Bergs believes that construction will start next year. Motion by Heiland, seconded by Jaszewski, and passed by unanimous vote of those present, to APPROVE the Request from Ross Bergs to Waive the SAC/WAC fees for the New Home to Be Built on the Lot Purchased at West Lynch Street. Bergs also advised that he has been approached by several people who live in the Lynch Street area who have concerns about the water drainage that occurs on the lot area that he has purchased. City Office personnel will provide the phone numbers for Engineer Femrite so that Bergs can discuss his concerns with the Engineer.

The Council then moved to Item #13 on the agenda - Approve/Deny Bid for Repair of Service Pump 2 at the Water Treatment Facility by McCarthy Well Co. in the Amount of \$11,697.50. Secondary quote from Hydro Engineering is \$7,831.30. Greg Stang and Lee Ortloff from PeopleService came forward to provide additional information to the Council regarding this matter. Adm. Melvin and Lee have done some negotiating with Tim from McCarthy Well Co. to reduce the original price they were quoting for repair. Stang and Ortloff spoke to the Council to provide explanation as to how and why things occurred the way in which they did. McCarthy Well Co. has worked on these pumps and done the yearly inspections for many, many years which is why they were the company called to look at it when it was found to not be working. Motion by Battcher to APPROVE Bid for Repair of Service Pump 2 at the Water Treatment Facility by McCarthy Well Co. in the Amount of \$11,697.50. The motion was duly seconded by Councilmember Hatlestad; and upon poll being taken thereon the following voted in favor thereof: Battcher, Cowell, Hatlestad, and Jaszewski; and the following voted against the same: Heiland; and the following abstained from voting: None; and the following were absent: None. On a vote of 4 to 1, the Motion is APPROVED. Additionally in regard to potential Capital Improvement Plans Stang advised the Council that Pump Nos. 1 and 2 were constructed in 1996, they are designed for 20 years, and the City should think about putting an upgrade on the CIP for the future for this.

Battcher asked if PeopleService could address the letter the Council received from resident Curt Reetz. Stang and Ortloff answered questions by the Council as to the steps they are taking to hopefully prevent something like the fair ground and farm property issues happening again. PeopleService has initiated a

monthly work order to do a monthly check of these areas. There were additional discussions about what can or should be done by the City and/or PeopleService to help alleviate the flooding issues.

The Council then went back to the Resolutions portion of the agenda, specifically 10.E). Resolution 44-2019 – A Resolution Authorizing the City of Arlington to Work with Minnesota Valley Electrical Cooperative (MVEC) for Financing the 2019 Street Light Replacement Project. Motion by Battcher, seconded by Hatlestad, and passed by unanimous vote of those present, to APPROVE Resolution 44-2019.

Next was agenda Item #14 - Approve/Deny Bids for Concrete Work at the Substation NE of Town along Hwy. 5. **Revised Bid** from Widmer Masonry of Le Sueur is \$28,897. Bid from CMC Construction of Arlington is \$31,655. Adm. Melvin advised that he has spoken with Curt Cordt of MVEC regarding payment for this and was told that there are some additional funds that MVEC has available from their budget to pay for this. Maintenance Supvr. Weckworth answered some questions posed by the Council regarding the bids and the reason for the revised bid received. Weckworth advised that after having reviewed Widmer's original bid, in discussion with them, it was realized that they were portions of the specs which they had not taken into consideration in their bid. They then submitted their revised bid. Weckworth then approached CMC to ask if they wanted to revise their bid at all. Motion by Cowell, to APPROVE the revised bid by Widmer Masonry of Le Sueur in the amount of \$28,897 for the Concrete Work at the Substation NE of Town Along Hwy. 5. The motion was duly seconded by Councilmember Jaszewski; and upon poll being taken thereon the following voted in favor thereof: Cowell, Hatlestad, and Jaszewski; and the following voted against the same: Battcher; and the following abstained from voting: Heiland; and the following were absent: None. On a vote of 3, 1 and 1, the Motion is APPROVED.

The Council then moved to agenda Item #11 - First Reading of Ordinance 326 – An Ordinance to Regulate Student Truancy, Being an Addition to the Arlington City Code, Chapter 5, as Section 5.07. City Atty. Arneson addressed the Council advising them that he has been working with Chief Petterson, who has been working with the school, to address the increased truancy issues which have been occurring. The plan is to implement this before the new school year starts.

At this point, the Council dealt with agenda Item #15 - Approve/Deny Extending the Application Deadline for Council Member Recruitment. Adm. Melvin advised that there had been 1 application previously received, which was later withdrawn. Motion by Battcher, seconded by Hatlestad, and passed by unanimous vote of those present, to EXTEND the time an additional 2 weeks to apply for the Vacant Councilmember position.

Agenda Item #18 - Approve/Deny Partial Pay Estimate No. 2 from Wm. Mueller & Sons, Inc. in the Amount of \$415,026.62 for Work on the 2019 Street & Utility Improvement Project was reviewed by the Council. Motion by Battcher, seconded by Jaszewski, and passed by unanimous vote of those present, to APPROVE the Partial Pay Estimate No. 2 from Wm. Mueller & Sons, Inc. in the Amount of \$415,026.62 for Work on the 2019 Street & Utility Improvement Project.

The Council then reviewed agenda Item #19 - Approve/Deny Contract for Prosecution Services Between the City of Arlington and the Sibley County Attorney's Office. Atty. Arneson spoke to the Council regarding the negotiations that have been on-going between himself, the committee, and the County Attorney's Office. The process here is once the Arlington City Council has approved this, and the Green Isle City Council, it then goes back to the County Board for their review and approval. At that juncture, the County Attorney's Office would begin a job search for another assistant county attorney, as well as additional office staff. It is unknown exactly how long this search will take, but continues to hope that this can all come together by about the end of the year 2019. Although it is a 5 year contract, there is a 6 month out-clause which would allow a re-negotiation of the contract if there was a substantial change in files being referred for prosecution. The County Attorney's Office would handle all criminal

prosecutions. Atty. Arneson would continue to handle any administrative prosecutions, letters, etc. Motion by Battcher, seconded by Hatlestad, and passed by unanimous vote of those present, to APPROVE the Contract for Prosecution Services Between the City of Arlington and the Sibley County Attorney's Office.

Moving into the Open Discussion area, Mayor Nagel asked if there was anything that anyone on the Council wanted to comment on regarding the 2 recent resignations of Committee members from different committees. It was brought up that some of the issues that seem to be causing these resignations are the basic differences between the 2 committees and that those differences continue. It was questioned as to whether the 2 resignations could potentially help resolve some of those issues. Some of the Council members did not seem to think that the resignations would help. No one seems to be aware of what the answer to the problems is. Atty. Arneson opined that there should be some basic, natural conflicts between the 2 committees because of the nature of each committee. There should be respectful disagreements, but no open conflict. Is it possible to have a meeting of 2 Councilmembers and the mayor, or 2 Councilmembers and the Administrator, or 2 Councilmembers and the Mayor and the Administrator sit down with 1 member from each team at a time to find some way to get cooperation. There were thoughts expressed about what could or should be done that may have changed what occurred. In particular these differences between the 2 committees are more obvious with the new businesses that are thinking of coming in to town. In further discussions, the Council talked about the former Seneca building and where the access road is and what property is still owned by Siwek. Atty. Arneson also advised that when talking about "access" it is always possible for the City to obtain access via eminent domain, but then the City would be completely responsible for the costs of all roads. Discussions continued as to what could be put into a potential purchase agreement, whether it could be written in that the City would not share in the costs for the road(s) and utilities. There is hemp being grown north of town past Haggemiller Lumber and any members who wanted to could drive by. Additionally there are some fields by Winthrop that are closer to harvest and could be checked on by members to see if there are smell issues. Again it was brought up whether there should be a committee of 2 councilmembers and the Mayor and/or Pat to work on a solution to the disharmony between the 2 committees and their members. The consensus was that the employee relations Council members would be on the committee, along with the Mayor and the City Administrator. It was decided to try to proceed with Hemp Heaven and the 22 acre parcel, but they would like to see a site plan, a building plan, how the utilities will be run, hear from WI and see if there are issues there, and see how things proceed with them. It was brought up that FEN Biotech also expressed an interest in the 22 acres, but it was decided that since Hemp Heaven had approached the City first, the City would continue exploring things with them at this point. Atty. Arneson did offer additional information regarding the request by Hemp Heaven to change the zoning to agricultural as opposed to industrial which is what it is now. Atty. Arneson advised that it would be unusual to reverse the process from it being industrial back to agricultural as it is felt that as a part of the growth of a city it would be unusual to go backwards with that type of zoning. There are no legal restraints to this occurring but looking long term the question is whether it is it best for this to be done.

Motion by Cowell, seconded by Hatlestad, and passed by unanimous vote of those present, to adjourn the meeting at 10:34 p.m.

City Administrator Patrick Melvin

Mayor Richard Nagel