

DANUBE CITY COUNCIL
Regular Council Meeting
Wednesday, December 14, 2016 6:00 PM
Danube City Council Chambers

A regular meeting of the Danube City Council was conducted on December 14, 2016 at 7:00 p.m. with Mayor Alex presiding.

The following Councilmembers were present: Sharon Krogman, Dave Maurice, Phil Standfuss and Al Strunc

Councilmembers absent: None

Others Present: Dalles Schneider, Cathy Malvin, Public Works Director Dan Kaufenberg, Police Chief Les Schneider, City Clerk-Treasurer Dotty Schnobrich, and media.

Approval of Agenda

Councilmember Standfuss moved and Councilmember Maurice seconded a motion to approve the Agenda. The motion carried unanimously.

Approval of Consent Agenda

Councilmember Maurice moved and Councilmember Standfuss seconded a motion to approve the consent agenda as listed below. The motion carried unanimously.

Consent Agenda – please see notes to agenda items below

The following items are considered routine or non-controversial by the Council and will be approved with one motion. There will be no separate discussion of these items unless a council member, city staff or citizen so requests, in which case the item (s) will be removed from the consent agenda and be considered in its normal sequence on the agenda.

- Minutes of Regular Meeting of November 9, 2016
- Minutes of Special Meeting of November 22, 2016 – Employee Health Insurance
- Building Permit – Audrey Kortz – Dog Fence
- Bar Door Open Saturday, January 28, 2017 – Renville Health Services Party

Truth In Taxation (TNT) Public Hearing

Dalles Schneider asked the Councilmembers why his taxes went up so much. The Councilmembers informed Dalles that due to the water tower, street repairs, manhole repairs and other capital improvements that the City of Danube is planning for down the road so money needs to be put away for those items. The City has also raised the water rates in 2017 to help pay for some of the water towers expenses.

The Councilmembers reviewed the updated 2017 budget. After the review of the 2017 budget a resolution was made to adopt the 2017 budget.

Councilmember Strunc moved and Councilmember Standfuss seconded a motion to pass resolution 06-2016 adopting the final 2016 tax levy collectible in 2017 in the amount of \$240,829.00. The motion carried unanimously.

Open Forum

None

Employee Report – Public Works Director

In the council packets, Councilmembers received a monthly report for Public Works Director Dan Kaufenberg. The report is below

- School – Now the two small safety relief valves are leaking on the boiler #1. Dan has already contacted Chappell Central and had them order them since we have to have properly working relief valves to operate. The price for the valves and labor will be \$1100.00. Dan has started going through rooms and there are some that need new thermostats and valves. Dan has some on hand but will probably need to order a few more. Thermostats are \$125.00 each and valves are \$150.00 each. Steve's Hearting from Renville will be putting in a valve and pipe going outside for the roof run off to stop it from going down into the sewer system.

Councilmember Standfuss moved and Councilmember Maurice seconded a motion to approve hiring Chappell Central for valves and labor of \$1,100.00 and also to approve Dan purchasing thermostats for \$125.00 and valves for \$150.00 as needed. The motion passed unanimously.

Mayor Alex informed Dan that the room upstairs the Little Lambs is using is cold and Dan said he would check on it since that room is usually very warm.

- Wastewater – Dan did an extra pond discharge this fall in November to make room in the primary pond. There was extra testing done to go with the discharge. Dan has to do several pre-discharge samples to check for levels in order to meet requirements before discharging. The lift station averaged 50,000 gal/day for the month of November. Still higher than average due to excess moisture but dropping. Sump pumps are still running outside in December. Dan talked with Tim at MRWA about smoke testing our sanitary system. He thought it would cost about \$500-750 to do a ten block area around park. This would be done in Spring/Summer 2017.

The Councilmembers discussed the pump calculations from the month of November. The Councilmembers discussed possible issues that would be causing the large spikes including more manholes in need of repair and sump pumps running directly into the sewer system.

Councilmember Maurice moved and Councilmember Standfuss seconded a motion to approve MRWA to do smoke testing based on the estimate of \$500-\$750 per ten (10) block area and to use that amount going forward do the whole town. The motion passed unanimously.

- Water – The wells averaged 25,000 for the month of November.
- Snow Removal – Dan ordered a new blade for the plow truck. The hoist on the Grain truck is extremely slow going up and coming down. Dan is going to check into it but it may need to go in for repairs. It takes about 10 minutes to complete a full up/down cycle. With Randy out for the season Dan is in need of a driver for snow removal. Dan has talked with his dad about doing it and he has not said for sure. Dan will talk to him again about driving. If anyone has any suggestions let Dan know. Zach Kopel will run the skid loader again this year.

- Hartford Steam Boiler Inspection – Dan told the Councilmembers that all the items on report have been addressed.

Employee Report – Chief of Police

Chief of Police Les Schneider was present to give his monthly employee and Police Department report. Statistics for November 2016 were higher compared to last year at the same time with 59 calls, 28 reports, 34 traffic stops, 15 citations, 38 mutual assists and 2 home security checks. Additional business discussed:

- School Building Schedule – Schneider reported the fall play was postponed because of snow and was held on the 2nd and 3rd of December. Junior high basketball and youth sports are scheduled through February and March. Santa closet has been there the last few weeks. On November 8th Winfield held their election in the lobby at the school.
- BCA Annual Reporting – Schneider reported that the report submitting the statistics was completed last week.
- Tire Purchase from Danube Auto Works – Schneider reported that the squad car is in need of 2 17” tires for winter. Les said he talked to Brian at Danube Auto Works and the tires would cost about \$140.00 a piece. Les will take the squad car in tomorrow and get the new tires put on the back and the back tires moved to the front of the car. Every two (2) years two (2) new tires are put on the squad car.
- First Response Information – Schneider reported that in 2016 there were 36 calls which are up from 24 calls last year. The payroll was also up this year to \$2,090.00 from \$1,500.00 last year.
- Ridgewater -- Ridgewater now bills after the classes are held instead of paying for the whole year at once.
- School Door Glass – Les reported that he spoke with the individuals about the window and it was turned into their insurance company and should be taken care in the next couple of weeks.
- Christmas Lights – Les reported that the Christmas lights are going to be just left on until after Christmas. Any of the lights that are not working are due to an electrical issue on the poles not the decorations not working. Mayor Alex asked Les if the street lights have been turned in yet to be fixed. Les reported that they have been turned in and fixed. Mayor Alex said the light over by the church half way down the block is still out. Les will talk with Dan to see if he has turned that one in and will take care of it if it hasn't been turned in. The Councilmembers discussed possible new decorations but do to the cost of them the Councilmembers decided to wait on replacing them.
- 5:30pm Whistle – Councilmember Strunc asked about the 5:30pm whistle. Les reported that he talked with Zieske about getting a set of keys to have access to the timer for the siren but Zieske said no to giving Les a set of keys to his building. Les will get together with Zieske next week to get the siren switched back to the correct time.

Employee Report – City Clerk

- Garza Water Bill – Dan has checked on the Garza water meter twice since the initial reading and both meters are reading close. The inside meter is reading slightly higher than the outside meter. Now after monitoring the water meter should Dotty send the Garza's a bill for the difference in the billing since we are seeing that the meters are

reading correctly? The original bill was \$347.29 but it was reduced per Council decision and they were billed \$132.86, which is a difference of \$214.43.

The readings are:

	Inside	Outside
10/16/16	966,510	963,100
11/8/16	967,840	964,400
11/28/16	969,270	965,800
Difference of	2,760	2,700

Since the last reading the usage is 43,600 gallons as of November 28, 2016.

The Councilmembers discussed the water bill and agreed that the \$214.43 needs to go back on the Garza bill to be paid by them. Dotty will add that amount to the water bills that will be going out the end of December or beginning of January.

- Snow Removal Contracts – Dotty has received the contract back from James Nyquist but is still waiting on Kopel Farm’s contract (Bob Kopel).
- OSHA Meetings for 2017 – The OSHA safety meetings for 2017 are January 5th – AWAIR, ERTK, BBP, HAZ COMM; March 2nd – Record Keeping and OSHA Inspection Procedures; May 4th – Chainsaw and Lawnmower Safety; June 21st – Seasonal Employee Training; September 7th – Welding, Cutting and Hot Work & Fire Extinguisher Safety; November 21st – End of the Year – Safety Review.
- Office Closed – The City Office will be closed on Thursday, December 15, 2016, Monday, December 19, 2016, Monday, December 26, 2016 and Monday, January 2, 2017.
- League of MN Cities Safety Bills – Dotty informed the Councilmembers that there were two (2) bills from the League of MN Cities for the safety classes that the Danube employees have been attending. Dotty did contact the League regarding one of the bills because Danube left that safety group at the beginning of the year and only attended two (2) meetings with the old safety group. The League adjusted the bill from \$600.00 to \$300.00 due to Danube not attending their safety classes. Dotty asked the Councilmembers to give permission to pay the League of MN Cities \$900.00 for the safety classes.

Councilmember Maurice moved and Councilmember Krogman seconded a motion to pay the League of MN Cities \$900.00 for the OSHA safety classes the employees attended. The motion passed unanimously.

School Building Updates

Councilmember Strunc stated that Tri-Valley is happy and they will be ending soon for the winter. Mayor Alex reported that he willing be working with Sullivan’s this week to put up the scoreboards. Councilmember Strunc informed the Councilmembers that they may want to address the AC units on the north side of the school. Councilmember Strunc suggested putting sloped cement slabs there between and under the units to help with the runoff from the roof and to help prevent further damage to the bricks.

Community Center Updates

Mayor Alex stated that he is supposed to be working with Thomas on doing the floors at the Community Center the next couple of days. Mayor Alex will look to see if there is some floor tile in the closets to replace the tiles that were damaged below the dishwasher. Mayor Alex will also look for the operator’s manual for the dishwasher to read about the valve on the back of the

dishwasher. While Thomas and Mayor Alex are over there they will clean the inside of the dishwasher due to the lime and calcium build-up on it. Councilmember Krogman reported that they keys for the toilet paper and paper towels are still missing. Thomas is still able to refill the paper towels and toilet paper. Dan plugged in the heat tapes at the Community Center.

Unfinished Business

Water Tower – Funding – There was no new issues to discuss on the water tower funding but to continue to carry this item forward on each agenda until further notice.

Water Tower Partial Pay Estimate #5 – Lee Elfering – The Councilmembers received in there packets an email from Lee Elfering.

Lee Elfering Email – Partial Pay Estimate #5

December 8, 2016

File No. 160002E-0071

Honorable Mayor and City Council

City of Danube

400 Main St. PO Box 397

Danube, MN 56230

RE: 50,000 GALLON WATER TOWER

PARTIAL PAY ESTIMATE #5

Dear Council Members:

Please find attached Partial Pay Estimate No. 5 for the above-referenced project. As you are aware, the Contractor for the project is Maguire Iron. The total amount earned by the Contractor on this partial pay estimate is \$372,874.00. Subtracting 5% retainage of \$18,643.70 and previous payments of \$349,005.30, the amount due the Contractor is \$5,225.00.

This pay estimate includes payment for the major construction and installation of the water tower to 80% completion. The project is now on hold over the winter and the contractor will start up next spring when temperatures will allow for painting of the tower and final restoration of the site. We have inspected the work performed by Maguire Iron and find it to be in compliance with the plans, specifications, and contract documents. Therefore we would recommend approval of Partial Pay Estimate No. 5 in the amount of \$5,225.00.

If you have any questions regarding this issue please feel free to call.

Sincerely,

ELFERING & ASSOCIATES

Lee Elfering, P.E.

City Engineer

The Councilmembers reviewed the Partial Pay Estimate #5.

Councilmember Standfuss moved and Councilmember Maurice seconded a motion to approve the Mayor to sign the Partial Pay Estimate #5 of \$5,225.00 from Maguire Iron for the water tower project. The motion passed unanimously.

Oak Street Rescinding of Motion to Restrict Use – Councilmember Strunc asked Mayor Alex for an explanation for rescinding the motion at the November 9, 2016 Council meeting. Mayor Alex stated that the City Attorney Aaron Walton informed the Councilmembers at the special meeting in November (in which Councilmember Strunc was not present) that he spoke with the League of MN Cities and they both agreed that the in order for the city to have restrictions on the use of the road both parties (the City of Danube and the Coop) would have to agree on the

changes and make an amendment to the contract. Councilmember Strunc said is not a contract it is only an agreement on who pays for future damage. Councilmember Maurice stated that at the special meeting he asked Aaron Walton if there was a difference between an agreement and a contract and Aaron stated there is no difference. Councilmember Strunc said all we were asking them to do was to put into writing what they verbally agreed to what they verbally said they would do. In October there was a vote of four (4) to one (1) in favor, even the Mayor said it was a good idea. In November he decided it wasn't a good idea. Nothing changed the facts to the whole situation, other than a threat to file a lawsuit. Putting it into writing something they said verbally. I don't fear a lawsuit, it sounds frivolous to me. Let them sue us for what putting into writing what they said already. Mayor Alex said it is a contract between us already how are you going to get rid of that. Councilmember Strunc responded I'm not talking about getting rid of it; I'm talking about defining what seasonal traffic is. Seasonal by their own verbal saying Craig said at the meeting in front of 100 people two (2) weeks in the spring and four (4) weeks in the fall. Councilmembers Maurice added in ideal conditions. Councilmember Strunc said he didn't say in ideal conditions. I don't know how something that is a good idea in October can be a bad idea in November, explain that to me. Mayor Alex explained that when Strunc and Standfuss met with the elevator people he thought they agreed with this. It sounded like that to me. Both Strunc and Standfuss said they did not say that. Councilmember Strunc stated that they felt as though they own the street and they are in charge. Councilmember Standfuss added and they would give no money toward the by-pass and turning lane access. Councilmember Strunc told the Mayor that him giving Krogman legal advice and then voting on it when he wasn't there was an error it was four (4) to one (1) and nothing changed from one month to the next. You're not the president you can't make executive orders. Mayor Alex responded I am following the legal advice from our lawyer if you want to get different legal advice I'm alright with it if that's the way you want to go. Councilmember Strunc responded no you're not alright with it. Mayor Alex added our legal department told us that we had to rescind that motion because it was against the contract that we have with the elevator and the League of MN also said that. Councilmember Maurice added that is why Aaron Walton wanted to have that meeting right away because of the response from the league. Councilmember Strunc stated that you were elected by the voters to make the decisions not to have the attorney make the decisions, you make the decisions. Mayor Alex asked Councilmember Strunc so any legal matter you can take on and comfortably say that you're right because it's the legal way of doing it. Councilmember Strunc stated he would take their advice into consideration and that's all I would not let them make the decision. That's a poor way to make decisions to let the City Attorney make the decision, why even have a meeting, let's just send everything over to him and tell him to send it back to us, you're elected to make decisions and he is paid to give advice, doesn't mean it's correct. Mayor Alex commented how did he state it, well that was a confidentiality meeting we had with our attorney that night but I don't remember how he exactly how he stated it that night and I don't know if I want really it in the paper neither because that was a closed meeting. But if you're willing to listen to the whole meeting yourself, if you would like to, and hear the conversation that went on at that meeting and then come back and tell us what you think. Councilmember Strunc stated I'm not fearful of frivolous lawsuits. Dotty asked Mayor Alex if he was talking about how Aaron stated that in order to change the contract both parties would have to agree to the amendment. Mayor Alex commented that's right. Councilmember Strunc commented the reason we didn't vote at the special meeting was because I wasn't there, you don't vote on anything at a special meeting, you voted on it because I wasn't here at the last meeting and you needed to ram rod it through. That and in conjunction with telling Councilmember Krogman she's not suppose to vote, you're the one giving legal advice to her and she had a piece of paper that said from the City Attorney that she was allowed to participate

in and vote on those matters, what a year two years ago and then you're giving her advice that she can't do it. Mayor Alex asked if Councilmember Strunc if he seen the letter that was sent from the City Attorney. Councilmember Strunc responded I saw the most recent one, you know what that means, he is flip-flopping just like you do all the time. It makes no sense. Mayor Alex stated I have to listen to him, what's the use of having him if he is going to direct in the wrong direction, I'm sorry. Councilmember Strunc stated that's fine then listen to him but don't let him vote for you, what's the use of having someone on the council who votes differently on an issue with no different facts depending on who knows what. We went through this beginning right. We had our original meeting it was voted to leave it a residential street, the vote was three (3) to two (2). A year or two later we voted again it was voted three (3) to two (2) at that same meeting it was voted four (4) to one (1) to turn it into a truck route. The we had that big brewha ends up over at the Community Hall and Craig says two (2) weeks in the Spring and four (4) weeks in the Fall, were trying to define that in writing and we are being crucified for it, for putting in writing what he already told us that's what they would do, the reason for that is obvious they are already stretching out for longer than what they said. The original agreement was about who was going to pay for the street, the reason that it says agronomy traffic is because we didn't want grain trucks to start going in and out of there, that was the reason for the agreement. It wasn't meant to be all encompassing and have everything that might possibly come up in the meantime. Mayor Alex stated when we voted on that, we voted to have the two (2) weeks and the four (4) weeks and I did vote for that because I thought it was agreeable with the elevator. Both Councilmember Strunc and Councilmember Standfuss both stated that they did not say that the elevator agreed to the two (2) weeks and four (4) weeks. Councilmember Maurice stated he didn't think there was anything frivolous about their lawsuit or the letter from their attorney, I think that is factual. Councilmember Strunc said oh I believe they will sue us, I'm not fearful of that. If I threaten to sue you guys because you don't agree with me are you going to roll over and cave into Al because I threaten to sue you. Both Mayor Alex and Councilmember Maurice responded yes. Mayor Alex stated if you got a leg to stand on yes. Councilmember Maurice stated if you got some teeth to it yeah. Councilmember Strunc stated and the truth is we didn't mean it when we said two (2) weeks and four (4) weeks. Councilmember Maurice stated they did say two (2) weeks and four (4) weeks but they're not talking about two (2) weeks in a row and four (4) weeks in a row and he has also said weather permitting, in other words ideal conditions well how many times is that. They never would have agreed to that, they would have never ever of agree to that. Councilmember Strunc stated the fact is we don't know what we agreed to because the fact is it changes all the time based on public pressure, for the same reason we made it into a truck route that night it was public pressure because Craig Hebrink was here and the other affected people were not here. It was a bad decision in the beginning just trying to put some parameters on it now and they're threatening to sue us because we are putting into writing what they have said verbally and all of a sudden we are the villains. It was a four (4) to one (1) vote to make it two (2) weeks and four (4) weeks and they threatened to sue us and you roll over. Mayor Alex stated Al if you were going to sue me and I knew for a fact you had a good leg to stand on, would I change my mind, I maybe would if I had to, to save a lawsuit. Councilmember Strunc stated I don't rollover during stress, let them threaten; I don't think they have a leg to stand on. Mayor Alex asked Councilmember Strunc so you don't think the contract we signed with them is legal at all. Councilmember Strunc responded I don't think we signed a contract with them. It was a construction agreement on who would pay for the street it was not meant to be all encompassing it was meant to say who has the financial responsibility for the upkeep of that street and it was meant to keep grain truck traffic off. They knew that, we knew that and that was the reason for the agreement because twelve (12) years from now when the street falls apart or whenever it

does it to be in writing that they would pay for it, that's what it was about. Councilmember Maurice responded you're right it was not meant to be all encompassing but it doesn't change the fact that to change the agreement both parties have to agree to it. Councilmember Strunc said we are just refining it. Councilmember Maurice responded it's more than that it's restricting. And they are not in agreement with it. Councilmember Strunc stated ok call it restricting. They're not in agreement with pretty much anything I guess. They said they couldn't get an access to the highway, that's why they needed Oak Street and that was lie number one (1) and that was the beginning of the big lie. They said they couldn't get an access and the fact is they never even asked for one and we have to decide tonight because you guys are going to do that street and has to be decided tonight because we can't get another access and we need another access. That was the beginning of the problem. Mayor Alex stated that we also tabled that for a month to get more input into it and nobody came back to the following meeting when we made that decision to make Oak Street that Al. Nobody came here and said don't do that, nothing, not a one (1) person. Councilmember Strunc stated that was not the previous meeting the previous meeting you decided to put it down and run it past the ball field and then down 2nd Street. It is just unfair to them as it is to the people who live on Oak Street. It is ridiculous. Mayor Alex stated it was unsafe there, because of the ball games. Councilmember Strunc stated it was unsafe and ridiculous then. So you agreed to Oak Street ah right but we have to have this in writing so we know who is going to pay for future damages and how do we know it's not going to turn into a grain truck street, those were the two (2) purposes of this agreement. It was voted on three (3) times, two (2) times it was voted on to leave it a residential street and the third (3) time it was voted on to turn it into a truck route. Now we come up with two (2) weeks and four (4) weeks and we go to a four (4) and (1) vote now a month later it's a bad idea because someone is threatening us, I'm just telling you poor decision making. Mayor Alex asked Councilmember Strunc do you think if we had the elevator come to a meeting that you could get them to change their minds on the two (2) and four (4) week thing. Councilmember Strunc no, I don't need them to change their minds, it's a Danube city street, they do not own the street, even though they may say they own the street, they don't own the street, it's a Danube city street we make the rules. If you don't want to make a rule because of some frivolous threat that's your call, I'm just saying its bad business, you made a poor decision and I'm going to make the motion again the same as I did at the October meeting and I want to bring it to a vote.

Councilmember Strunc made a motion to approve Agronomy truck traffic will be restricted on Oak Street to two (2) weeks in the spring and four (4) weeks in the fall with the dates to be picked by the CEO of the COOP on an annual basis.

Mayor Alex asked for a second to the motion. Councilmember Standfuss asked so by making this motion and what was decided last month and the month before was all previously? Dotty responded that the City Attorney said that was an illegal motion so I don't know how you can make that motion because it would have to be an amendment to the agreement by both parties. Mayor Alex stated I think that's how he stated it. Councilmember Strunc responded if it ends up in court I can recommend a good attorney that specializes in city, county and state laws regarding any issues. I would recommend you would not use Aaron Walton. There are people that specialize in that area and could sort this out. If he says drop it, we're on bad ground, well then maybe we will take that into consideration. We're not the villains here; we're not the ones throwing rocks, Coop Country throwing the rock, not us. We have bent over backwards on this whole street, rolled over, backwards whatever you want to call it. Councilmember Maurice responded they didn't start throwing the rocks we threw the rock we tried to change the agreement, they didn't start throwing the rock. Councilmember Strunc stated they started out with the big lie. Councilmember Maurice responded I don't know about that. Councilmember Strunc Stated it's a matter of public record in fact I think you were on the Council then and they

said we tried to get another access to the highway and we couldn't get it and we need another access and the fact is they never tried for one. Councilmember Maurice responded that the DOT doesn't have any record of it but it was all verbal from Geri Vick that they turned them down. Councilmember Strunc asked what was all verbal from her; they have no record of them asking for another access. Councilmember Maurice responded that they turned them down for another access. Councilmember Strunc stated that was 3 years later the night they told us that was the night we were under the gun to make a decision on Oak Street. The fact is they never asked for another access for the highway. For the same reason they thought it was going to cost \$5,000.00 to apply for one and the reason they thought that is again is incorrect information, which is another proof that they never applied for another access, so that's how the whole misfortune of this thing started out, was misinformation on their part and we were under the gun to make a decision. When you get under the gun you make bad decisions. Just like when you're under the gun with a threat of a lawsuit you make bad decisions. I don't know why it had to be decided in thirty (30) days but his Excellency decided that thirty (30) days when is when it had to be done. Mayor Alex responded Al I postponed it because of you. Councilmember Strunc stated I wasn't here and Krogman was disqualified by you, that's why. Mayor Alex stated the attorney told me to do that and she got a letter stating why. Al I can't do nothing about that. Councilmember Strunc ask the letter stating why what. Mayor Alex replied that she can't vote on it. Councilmember Strunc stated its dated November 25th, when was the meeting. She had a letter saying that she was okay to do it. This one came after the fact. Mayor Alex stated that the elevator attorney also had a letter stating that he wanted her to abstain from it. Councilmember Strunc commented of course the elevator would want her to abstain from it; they would like me to abstain too. Mayor Alex asked Councilmember Strunc do you think we should get a different attorney then. Councilmember Strunc responded you wouldn't get an argument from me but I don't know if that's the solution to what's going on. Mayor Alex stated then here's another thing, the next question I have is if that's the case and you don't think he did his job with us that night, you go get your attorney and I want to hear his side of this contract and if we can do it or not and you say you can get it turned around the other way. Councilmember Strunc commented I never said I could get it turned around. Mayor Alex stated that's the way you're making it sound like to me. Councilmember stated Gene I never said that. You have a way of twisting things around in your head just like you heard that we heard about the two (2) and four (4) that they were in favor of that. I don't know you get it twisted. Mayor Alex commented I asked you and Phil when you guys met with them if they were okay with that. Councilmember Maurice commented we actually have a second opinion on that agreement already and the League of MN Cities attorney voiced in their opinion to Aaron about it and Aaron was in agreement with them, so actually we do have a second opinion on it already. Councilmember Strunc stated all I said was if you're fearful of going to court with Aaron, who has obviously rolled over already; you sure don't want to go to court with somebody like that. All I'm saying is if we adopt the motion I made and it passes and Coop Country decides to sue and they manage to sue us I recommend you get someone other than Aaron to represent you. I never said that you would win. I'm just saying you can pick people that would better represent you that specialize in areas like that. They would better represent the City than what Aaron would, that's my opinion. Mayor Alex stated that you don't think the correct way if we would have sat down I don't know how long ago it was now but instead of sending you guys over to met with the elevator to have them come here, made up a new contract and have them sign it with that in there, exactly the way you wanted it worded would they have signed it Al. Councilmember Strunc responded why are you asking me questions you already know the answer to. Mayor Alex stated they wouldn't. Councilmember Strunc stated you got that right tonight. Mayor Alex stated that's why we are going through this right now because they have a contract Al. You say it's not but two (2)

people, the League of MN and our lawyer both said that it is a legal contract. How are we going to get out of it. Councilmember Strunc commented it's our city street. We can put restriction on any city street in Danube. The contract calls for who pays for damages and the type of traffic they are allowed to have, the seasonal traffic they are allowed to have on there. I don't know what seasonal is. All I'm saying is let's define seasonal and let's use their definition two (2) weeks in the spring and four (4) weeks in the Fall. It couldn't be any more clearer, I'm taking them at their word. Councilmember Maurice stated you are taking the two (2) weeks and four (4) weeks and getting pretty liberal with how restrictive that is. There was more words to it than just that. Councilmember Strunc stated my opinion on how restrictive it should be is they shouldn't be allowed to have truck traffic and interfere with the people that lived there first. What's more important their convenience or the peace and tranquility of the folks that live on that street. Well the city on the original decision said their convenience was more important. All I am saying now is that seasonal should be defined. If they don't like the definition and want to sue use because of how we define our city streets, well then they can sue us and if they win then I guess they get to do whatever they want. What's the harm in that. I think what we are saying makes sense and it's something that they said. It's their own words, I didn't make up the two (2) and four (4). Councilmember Maurice stated you're leaving out words though. Councilmember Strunc asked what am I leaving out. Councilmember Maurice responded you're leaving out ideal conditions; you're leaving out weather permitting you're leaving out some very important words. Councilmember Strunc stated they never said that though Dave. Councilmember Maurice responded they said weather permitting for sure. Councilmember Strunc responded I never heard that. When I brought it up at the meeting and you know what Craig said I said the majority would be two (2) and four (4) weeks and I don't recall hearing it that way. What's seasonal. Like I said that agreement was not meant to be all encompassing for everything that might maybe be involved. We all know what the real reasoning was for that agreement. All I'm trying to do is put some definitions on it. It doesn't have to be part of the agreement. Its part of a restriction we put on the street. You can make any street in town, I guess, a truck route, vehicle route, 5 ton route, I think we have the authority to do that. It seems to me if they wanted to be good neighbors they would agree to it. I don't think it's an unreasonable request. Councilmember Standfuss I think the whole thing is we just want them to tune it down a little bit to use that street just for north bound traffic and everything else go out the East exit. Mayor Alex read the paragraph in the agreement pertaining to the seasonal traffic to the Councilmembers. Councilmember Strunc said it is being used for grain traffic there was corn spilt on the road the other day. Councilmember Maurice it wasn't from them. Councilmember Strunc asked where it came from. Councilmember Maurice named the individual that it came from and stated the gate was closed and they didn't get to go that way so he turned and went down 2nd Street, so he went illegally on the non-truck route. Councilmember Krogman asked what day and stated that the gates have been open every day this week and all day. It usually gets closed about 5 – 6 o'clock at night. Councilmember Maurice responded the day that corn got spilt there that gate was not open. Councilmember Krogman and Maurice had a conversation about what day and how long the gates were open. Councilmember Strunc stated Gene we all read the agreement we all know the meaning I made a motion and if it dies due to a lack of a second then I said my piece. I just think you have been making terrible decisions. You should make the decisions based on the facts and if no new facts come in you stick with it. You don't check which way the wind blows. Councilmember Standfuss stated I seconded the motion the last time because I felt like Al and I still feel the same way as Al but because of the vote and the way it went at the last meeting I wish you would have been here Al I think we are just going to keep beating our heads against the wall and I don't think we are ever going to get it through to the ones you want to get it through to the way you want it to be. Councilmember Strunc stated

so you're fearful of a lawsuit also. Councilmember Standfuss stated no I'm not fearful of a lawsuit, I told Gene point blank when he first time he told me about it what are they going to sue us over, there is nothing to sue, but the vote was taken last month and we didn't vote on it at the special meeting, it's not that I want to see the end of it and that I want to cave into it. Mayor Alex stated that we didn't vote on it the night we had our closed meeting with our lawyer because you weren't hear. Councilmember Strunc asked Dotty are they allowed to vote at a closed meeting like that. Dotty responded as long as you reopen the meeting to the public prior to voting. Mayor Alex stated but we didn't do that because you weren't here, so we waited for the next meeting for you to come and of course you weren't hear for that either. Councilmember Strunc stated so you felt as though it was urgent of course. Councilmember Maurice stated that the letter from their attorney said it had to be decided at the next meeting. Councilmember Strunc asked why do they sing the song and we do the dance, will you explain that to me. Councilmember Maurice stated because we are avoiding a lawsuit. I don't want to spend any money on attorney fees on a case we are going to lose. We already had two (2) opinions on it. Councilmember Strunc stated they don't do the voting they offer advice. We know Aaron Walton thinks he tells her one time she can vote and now he sent another letter saying she should think about it, he doesn't even tell her on this one that she shouldn't vote. He sits on the fence just like the Mayor does. He goes one way one time and another way the next time. There is no justice in it and that's what I'm saying. You should be consistent. Nothing has changed. If it dies from a lack of a second let's move on to the next item. I'm at my last meeting and you won't have to put up with me after this. Mayor Alex stated Al made a motion and due to a lack of a second we are going to move on. Councilmember Strunc stated is there a second call for a second. Mayor Alex stated I asked for a second before, I'll ask again. Due to a lack of a second we are going to move on.

Financial Reports

The Councilmembers reviewed the claims list from November 10, 2016 thru December 14, 2016. *Councilmember Strunc moved and Councilmember Standfuss seconded a motion to approve the bills as submitted in the amount of \$55,899.72 (checks) and \$14,993.59 (electronic fund transfers).* The motion carried unanimously.

The Councilmembers reviewed the Receipts List from November 14, 2016 thru December 6, 2016.

The Councilmembers reviewed the Actual verses Budget Comparison for 2016.

The Councilmembers reviewed the Bank Reconciliations for November 2016.

The Councilmembers reviewed the Quarterly Breakdown of the Garbage, School, Sewer and Water Funds.

New Business – None

Future Business – None

Correspondence

Office of the State Auditor – Volunteer Fire Relief Assoc. Investment Report Card
Mediacom Letter

Other

Councilmember Standfuss thanked Councilmember Strunc for all his time and work down at the school and stated that he wished that they could keep him in charge down at the school. Councilmember Strunc stated he would be happy to stay down at the school and report to the Council as necessary if they wanted him to but if the Council feels it should be a Councilmember then they should appoint someone. Councilmember Maurice voiced that there isn't anyone at this table that has a better idea on what is going on down there other than Councilmember Strunc does. The Councilmembers discussed having Councilmember Strunc staying in charge down at the school and how he could report to the City Council about school. Councilmember Strunc said he would be happy to stay in charge of the school but we will have to wait to see who the Mayor appoints to it.

Adjournment

There being no further business before the council, Councilmember Strunc moved and Councilmember Maurice seconded a motion to adjourn the meeting. With all members voting in favor, the meeting was adjourned at 9:59 p.m.

Respectfully submitted: Dotty Schnobrich, City Clerk

Gene Alex, Mayor

Dotty Schnobrich, City Clerk