

The Cannon Falls City Council met in a regular session on Tuesday, November 12, 2024, in the City Council Chambers. Present were Mayor Matt Montgomery and Council Members Derek Lundell, Steve Gesme, Lisa Groth, Diane Johnson, and Laura Kronenberger; Council Member Ryan Jeppesen joined the meeting remotely at 6:31 p.m. Also present were Neil Jensen, City Administrator; Sara Peer, City Clerk; Shelley Ryan, City Attorney; Jed Petersen, Public Works Director; Zach Logelin, Permit & License Technician; and Jeffrey McCormick, Police Chief.

- Call to Order Mayor Montgomery called the City Council meeting to order at 6:30 p.m.
- Roll Call Roll call was conducted. Mayor Montgomery and Council Members Gesme, Groth, Johnson, Kronenberger, and Lundell were in attendance. Council Member Jeppesen later joined the meeting remotely.
- Pledge of Allegiance Mayor Montgomery led the recitation of the Pledge of Allegiance.
- Approval of Agenda A motion was made by Council Member Groth, seconded by Council Member Johnson and unanimously carried, to approve the Agenda as amended.

Public Input

Mayor Montgomery reviewed the public input procedure.

Chad Johnson, Cannon Falls, discussed proposed Ordinance 407 relating to private well sealing. He asked how this would impact farmers and businesses. He asked whether there has been any contamination to the water supply and whether the City regulations would be more strict than State regulations.

Kevin Nerud, Cannon Falls, also discussed proposed Ordinance 407. He referenced information from his realtor and letters from the State of Minnesota and Goodhue County. He cited language from the current City Code relating to wells and asked about the need for more regulation of private wells.

Brandon Allison, Pastor of Bethel's Rock Church, expressed appreciation for the process leading to the proposed Conditional Use Permit. He stated the church's intention to be an asset to the community.

Goodhue County Commissioner Brad Anderson congratulated recently elected officials and expressed appreciation to current Council Members.

Commissioner Anderson reviewed the process of registering and regulating cannabis businesses by Goodhue County, noting the

benefits of consistency. He discussed the need for City zoning ordinance changes.

Commissioner Anderson referenced the Tyler vs Hennepin court decision relating to tax forfeited properties. He discussed how State statutes and County procedures govern the process.

Commissioner Anderson discussed upcoming Truth in Taxation meetings, noting the purposes of these meetings. He encouraged residents to contact him about issues and referenced his contact information.

Public Hearing:  
Resolution 2785,  
Certifying Unpaid  
Utility Charges to be  
Collected with Taxes

Mayor Montgomery opened the Public Hearing for this item at 6:42 p.m. No one spoke during the Public Hearing. Mayor Montgomery closed the Public Hearing at 6:43 p.m.

A motion was made by Council Member Lundell, seconded by Council Member Johnson, to adopt Resolution 2785. A roll call vote was conducted, and the motion carried unanimously.

Consent Agenda

- A. Just and Correct Claims – Accounting Period Ending November 7, 2024
- B. Meeting Minutes for October 9, 2024, City Council Work Session
- C. Meeting Minutes for October 15, 2024, Special Session
- D. Meeting Minutes for October 15, 2024, City Council Meeting
- E. Resolution 2786, Canvass Returns and Declare Election Results for City General Election
- F. Approve 2025 State Building Code Administration Agreement with Goodhue County
- G. Approve Mobile Data Terminal User Agreement with Goodhue County
- H. Resolution 2787, Accepting a Donation of \$141,000 from Friends of John Burch Park
- I. Approve Change Order #3 for John Burch Park Wall Project
- J. Resolution 2788, Accepting a Grant of \$17,000 from Taylor Family Farms Foundation to the Fire Department
- K. Resolution 2789, Approving Conditional Use Permit for Bethel's Rock Church
- L. Resolution 2790, Authorizing 2025 City License Renewals
- M. Approve John Deere 325G Compact Track Loader Trade
- N. Approve Ash Tree Removal Quote
- O. Approve Well #5 Inspection and Repair
- P. Resolution 2791, Approving a Cooperative Snow Removal Agreement with MnDOT

#### Q. Approve City Administrator Employment Agreement

Council Member Johnson requested clarification of the ash tree removal quote and plans. Public Works Director Petersen provided additional information.

A motion was made by Council Member Lisa, seconded by Council Member Kronenberger, to approve the Consent Agenda as presented. A roll call vote was conducted, and the motion carried unanimously.

Council Business:  
Introduction and First  
Reading of Ordinance  
407, an Ordinance of  
the City of Cannon  
Falls, Amending City  
Code Chapters 51  
and 52 Relating to  
Public Utilities

Public Works Director Petersen provided background information and discussed the proposed City Code language relating to the sealing of private wells. He stated that unused wells can build up bacteria that can contaminate ground water.

Council Member Johnson asked how many contaminated wells have been discovered. Director Peterson indicated that no contaminated wells have been discovered to this point. Council Member Johnson referenced State and County requirements and reviewed the current City Code language relating to private wells. She discussed the use of private wells for irrigation purposes. She suggested periodic inspections in lieu of well sealing requirements. Council Member Groth stated that she has no problem with private wells, as long as they are used. Council Member Gesme asked about the potential for cross-contamination, and Director Petersen provided information in this regard. Council Member Johnson reiterated her position to deny the proposed ordinance.

City Administrator Jensen referenced the Wellhead Protection Plan. He provided additional background information relating to private well sealing and contamination risks. He discussed grant funding toward well sealing costs. It was clarified that private wells would need to be sealed upon the sale of the property or upon connection to the City water system. The use of private wells for irrigation purposes was described as a currently permitted use. A private well underneath a Downtown building was discussed.

A motion was made by Council Member Johnson, seconded by Council Member Gesme, to deny the introduction and first reading of Ordinance 407. Upon call of the roll, Council Members Gesme, Groth, Jeppesen, Johnson, and Kronenberger voted aye; Council Member Lundell voted nay. Five ayes; one nay; motion carried.

Cannon Valley Fair /  
Racetrack

City Administrator Jensen referenced past Council discussion of this topic.

City Attorney Ryan further summarized past discussions and reviewed options for Council action at this time:

- 1) Take no action, which could lead to potential legal action by residents.
- 2) Negotiate a resolution with the Cannon Valley Fair Board to which all parties would agree, including potential zoning amendments.
- 3) Move forward with zoning amendments in the absence of an agreement with the Cannon Valley Fair Board and enforce zoning regulations if violations occur.
- 4) Proactively seek a legal process through which a court would clarify the nature of the Cannon Valley Fair in terms of exemption from local zoning ordinances.
- 5) Pursue full-on litigation to enforce the City Zoning Code prohibition of racetrack operations, with the costs borne by the City.

City Attorney Ryan reviewed each option and requested City Council guidance.

Council Member Lundell referenced a State statute that would prohibit this type of activity. City Attorney Ryan discussed the previously mentioned State statute, noting that this pertains to noise regulations.

Mayor Montgomery commented regarding the ongoing discussion and referenced upcoming changes in City leadership. He discussed the City's responsibility in this matter and recommended that the current City Council provide guidance prior to the end of 2024. He suggested determining whether the racetrack was allowed to operate legally or illegally. He stated that if the racetrack was allowed to operate illegally, steps should be taken to require the Cannon Valley Fair Board to initiate the proper procedure.

City Attorney Ryan reviewed legislative history and referenced State law distinguishing between fair associations and agricultural societies. She reiterated her conclusion that the Cannon Valley Fair Association is a fair association and not an agricultural society. She discussed the powers granted to fair associations by the State Legislature, noting that fair associations are not granted an exemption from local zoning ordinances. She reviewed the anticipated timeframe for the various options for Council action.

Council Member Kronenberger noted that the City Council was previously advised that the Cannon Valley Fair was exempt from local regulations. Council Member Lundell stated that the Fair Board should have know what it is and is not allowed to do.

Mayor Montgomery summarized past discussions and reviewed the timeline. He noted that the City Council relied on information provided by the Fair Board indicating that the Cannon Valley Fair Association is an agricultural society. He stated that City Attorney Ryan stated at that time that she did not have enough information to make a determination in this regard. Mayor Montgomery stated his opinion that the burden of proof lies with the Cannon Valley Fair Board. He noted that the Cannon Valley Fair Board moved forward with an outside agency to build a racetrack on their property within City limits more than two months prior to the initial Council discussion in May of 2024. Council Member Lundell noted that other businesses would not be allowed to operate in this manner. Mayor Montgomery stated that the issues revolve around the process and the regulatory authority of the City to hold the Cannon Valley Fair Board accountable for their actions.

Council Member Johnson asked about City Code enforcement procedures. Police Chief McCormick provided background information and discussed past and current enforcement procedures, with the goal of gaining compliance. He noted that a formal civil litigation process would be long and costly. Council Member Johnson commented that the current process is ineffective. City Attorney Ryan provided additional information relating to enforcement of City ordinances and civil processes. She referenced allocation of resources and the City Council's discretion to consider these matters on a case-by-case basis. Council Member Johnson suggested enforcing City ordinances consistently to encourage compliance.

City Attorney Ryan reiterated the options for Council action at this time.

Council Member Gesme asked about the end result of a legal process to seek clarification of the status and scope of authority of the Cannon Valley Fair Association. City Attorney discussed how the request to the court would be structured. Council Member Gesme recommended proceeding with this option.

Council Member Lundell commented that it has been made clear that the Cannon Valley Fair Association is not an agricultural society and is not exempted from City regulations.

City Attorney Ryan reviewed the enforcement actions available to the City, noting that a formal legal process may be necessary. Council Member Johnson asked about the anticipated timeframe for legal action. City Attorney Ryan provided information in this regard, stating that this may take a year or more to complete.

Mayor Montgomery asked about the regulatory authority for fair associations. City Attorney Ryan stated that fair associations are nonprofit organizations and, as such, are subject to all City, County, and State regulations. She reviewed the differences between a fair association and an agricultural society in terms of local regulation.

Mayor Montgomery requested a recommendation from City Attorney Ryan in terms of how to proceed. City Attorney Ryan reviewed the pros and cons of each option.

Council Member Kronenberger suggested working with the new President of the Cannon Valley Fair Board on an agreement to resolve the concerns.

Mayor Montgomery recommended trying to avoid initiating litigation and suggested acting in the best interest of the community.

Council Member Johnson asked about potential rezoning or zoning text amendments. City Attorney Ryan discussed zoning considerations, noting that this use is not currently allowed in any zoning district. Council Member Lundell commented that a zoning text amendment would apply to all zoning districts. City Attorney Ryan discussed the opportunity to establish a zoning overlay district. She further reviewed the public process that would be undertaken.

City Attorney Ryan indicated that while a formal motion is not being requested at this time, guidance from the City Council would be beneficial.

Council Member Johnson commented regarding potential regulations, and City Attorney Ryan provided additional information in this regard.

Council Member Gesme suggested asking the Fair Board for a declaration that the Cannon Valley Fair Association is a fair

association and not an agricultural society, in order to move forward with a resolution.

Council Member Lundell commented that there has been no Council consensus to allow racing in any form. He suggested asking the Fair Board to shut down the racetrack voluntarily or enforce the regulations by whatever means necessary.

Council Members Groth and Kronenberger suggested negotiating with the Fair Board as the next step. Council Members Johnson and Gesme suggested seeking a court declaration prior to negotiations with the Fair Board.

Mayor Montgomery asked Council Members to comment regarding racetrack operations. Council Members suggested potentially allowing limited track operations, but only with specific conditions. All Council Members agreed with the need to address noise concerns and other issues.

City Attorney Ryan discussed the negotiation process in terms of reasonable restrictions and reviewed the next steps.

Reports:  
Council Committees,  
Commissions, and  
Nonprofit  
Organizations

Cannon Falls Area Chamber of Commerce Director Maggie Wilson thanked Public Works for their assistance with holiday decorations. She reviewed Deck the Falls activities.

Commissioner Gesme reviewed topics of discussion during the most recent Planning Commission meeting, including the Bethel's Rock Church CUP request.

Council Member reviewed topics of discussion during a recent Joint Powers Trail Board meeting, including grant funding toward trail projects.

Mayor Montgomery reviewed topics of discussion during a recent EDA meeting, including an update on Hardwood Estates and lot sales, the resignation of EDA Board Member Jon Dahl, and a contract extension with Laura Qualey.

Council Member Kronenberger reviewed topics of discussion during a Public Works and Park Board meeting, including the proposed ordinance.

Staff

Public Works Director Petersen provided project updates. He reviewed street closures during a planned mill and overlay project.

Police Chief McCormick discussed street closures during the Deck the Falls parade.

City Clerk Peer discussed the recent election and thanked election judges for their hard work. It was noted that voter turnout was nearly 90%.

Mayor and Council Members


The Mayor and Council Members congratulated the new Council Members.

Council Member Gesme wished everyone a happy Thanksgiving.

Adjournment

A motion was made by Council Member Johnson, seconded by Council Member Gesme and unanimously carried, to adjourn the meeting. The meeting adjourned at 8:05 p.m.

Adopted by the City Council of the City of Cannon Falls on the 3<sup>rd</sup> day of December, 2024.

  
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Matt Montgomery, Mayor

ATTEST:

  
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Neil L. Jensen, City Administrator