

**CITY OF PARK RAPIDS
CITY COUNCIL MEETING
JANUARY 28, 2020, 6:00 PM
Park Rapids City Hall Council Chambers
Park Rapids, Minnesota**

1. CALL TO ORDER: The January 28th, 2020, Regular Meeting of the Park Rapids City Council was called to order at 6:00 p.m. by Mayor Ryan Leckner, and the Pledge of Allegiance was recited.

2. ROLL CALL: Present: Mayor Ryan Leckner, Councilmembers Tom Conway, Erika Randall, and Liz Stone. Absent: Councilmember Robert Wills. Staff Present: Administrator Ryan Mathisrud, Treasurer Angela Brumbaugh, Fire Chief Terry Long, Police Chief Jeff Appel, Public Facilities Superintendent Chris Fieldsend, Planner Andrew Mack, and Clerk Margie Vik. Others Present: Sue Tomte, Kathy Peterson, Tom Stursa, Steve Peloquin, and Robin Fish from the Park Rapids Enterprise.

3. APPROVAL OF AGENDA: A motion was made by Conway, seconded by Randall, and unanimously carried to approve the agenda with the additional information presented for Item #6.6.

4. APPROVAL OF MINUTES:

4.1. City Council Special Meeting Minutes-January 10, 2020: A motion was made by Conway, seconded by Randall, and unanimously carried to approve the January 10th, 2020, City Council Special Meeting minutes as presented.

4.2. City Council Workshop Minutes-January 14, 2020: A motion was made by Conway, seconded by Stone, and unanimously carried to approve the January 14th, 2020, City Council Workshop minutes as presented.

4.3. City Council Regular Meeting Minutes-January 14, 2020: A motion was made by Conway, seconded by Stone, and unanimously carried to approve the January 14th, 2020, City Council Regular Meeting minutes as presented.

5. FINANCE:

5.1. Payables & Prepaids: A motion was made by Randall, seconded by Stone, and unanimously carried to approve the payables in the amount of \$13,979.64, and the prepaids in the amount of \$229,884.62, for a total of \$243,864.26.

6. CONSENT AGENDA: A motion was made by Conway, seconded by Randall, and unanimously carried to approve the following consent agenda items:

- 6.1. Resolution #2020-37 Approving Ordinance No. 598 Amending the Park Rapids City Code of Ordinances, Chapter 151 Zoning, Section 151.003 Definitions and Section 151.243 Conditional Use Permits.**
- 6.2. Ordinance No. 598 Amending the Park Rapids City Code of Ordinances, Chapter 151 Zoning, Section 151.003 Definitions and Section 151.243 Conditional Use Permits.**
- 6.3. Approve Golf Cart/Class 2 ATV License to Drive on Streets in the City of Park Rapids in 2020 for Brad Lee-Golf Cart, and Brad Lee ATV.**
- 6.4. Approve Plumber's Permits to Work in the City of Park Rapids in 2020 for Park Rapids Plumbing, Heating, & Supplies Inc., Esser Plumbing & Heating Inc., Mid State Refrigeration d.b.a. SCR, Greens Plumbing Modern Heating, and Northland Septic Maintenance Inc.**
- 6.5. Approve Backhoe Operator's License to Work in the City of Park Rapids in 2020 for Qwest Corp d.b.a. Centurylink QC-restricted, Racer Construction Inc., and LarMac LLC.**
- 6.6. Resolution #2020-38 Authorizing Proper City Officials to Execute the 2020 Outdoor Recreational Grant Program Grant Application on Behalf of the City of Park Rapids.**
- 6.7. Approve Purchase and Installation in the Amount of \$1,064.00 from Girtz Tire and Implement for Two (2) Tires for the Motorgrader Using the Minnesota State Bid Price.**
- 6.8. Approve Contracting with Cummins NPower for the Annual Servicing of the City's Generators from Various City Departments, in the Amount of \$2,246.77.**
- 6.9. Resolution #2020-39 Appointing Ellen Albee as Part Time Rapids Spirits Liquor Store Clerk for the City of Park Rapids.**
- 6.10. Authorize Staff to Post the Vacant Full Time Liquor Store Clerk Position for Ten (10) Working Days In-House, as per the UFWC #1189 Union Contract, Advertise, and Interview for the Vacant Position.**

6.11. Resolution #2020-40 Approving the Renewal of On-Sale/Sunday Liquor License for Royal Bar in the City of Park Rapids.

6.12. Proclamation Celebrating the 100th Anniversary of the League of Women Voters of the United States in the City of Park Rapids.

END OF CONSENT AGENDA

7. COMMENTS FROM CITIZENS: There were none.

8. CITY ADMINISTRATOR COMMENTS: Mathisrud stated in your packets is a summary of the Council Workshop and the priorities that the Council indicated that staff should be working on. I will be working with each department head to complete those projects over the next several years.

Mathisrud stated I'm working on conducting department head performance evaluations, which are 25% complete. I expect to have those done in the next couple of weeks. My six-month performance evaluation is coming due and we'll have a closed meeting of the Council scheduled for February 11th.

Conway questioned do we have a schedule for department heads to do evaluations of their employees? Mathisrud stated today I gave them a directive to get that done. I expect they will all be complete, some are doing them on an annual basis, those that aren't I expect them to be done within the next month.

Randall stated looking at next year, for the department heads, I think those updates should be done in front of the Council at a closed session, so think about that for the future.

9. DEPARTMENT HEAD UPDATES: Brumbaugh stated I have provided you with a memo, which is in the packet. Fieldsend stated we have completed some cosmetic repairs at the new and the old liquor store. Both the entry and exits are done now. We've been working on snow equipment. The head gasket on the big blower went out and should be fixed by tomorrow. I've been upgrading the police computers and our website.

10. MINUTES/REPORTS/INFORMATION: There were no comments.

11. COMMENTS FROM COUNCIL: Stone stated the Planning Commission met last night and we have finished going through the matrix. We'll be looking at definitions coming up next month. It took about four months of work to get through it. There is a Trestle Bridge Steering Committee meeting tomorrow night at 5:00 p.m. and then a meeting on Friday morning to discuss the proposals for the mural that will go up on the Aunt Belle's building.

Conway stated as chairman of the Personnel Committee I'd like to report that we have completed our investigation in the mechanical failure of Unit 5, which is the 2006 F350. It was determined that there were some failures in management that caused, at a minimum, significantly contributed to the incident. The Council has a closed meeting scheduled on the agenda immediately following these comments to discuss appropriate actions concerning the results of that investigation.

A motion was made by Conway, seconded by Stone, to direct the City Administrator to also review the reporting structure of the departments involved and make a recommendation to the Council no later than February 25th, 2020, on any reorganization that he sees fit.

Discussion: Randall stated maybe this is a little premature. A lot of the underlying information about that is going to come out at the closed session. I think I understand what you are referring to.

The vote was called.

The motion carried unanimously.

12. CLOSED SESSION:

12.1. INTRODUCTION: Preliminary consideration of allegations against a City of Park Rapids Employee under Minn. Stat. 13D.05, subd. 2(b): Mayor Leckner stated we have scheduled a closed session to discuss that investigation. The employee involved has submitted a written request to keep the meeting open. The meeting will stay open at this point, as per the employee's request. Pursuant to Minnesota Statute Section 13D.05, Subdivision 2(b) Chris Fieldsend requested in writing that this portion of this meeting be open to consider the allegations detailed in the investigation drafted by City Administrator Mathisrud. The Councilmembers recommend that we do the following:

- A. City Administrator's presentation of background on the allegations against Fieldsend.
- B. Councilmember Conway will present an update from the Personnel Committee of our findings.
- C. Mr. Fieldsend will have an opportunity to respond to the allegations.
- D. Council will discuss the allegations and the potential actions.

A. City Administrator's presentation of background on the allegations against Fieldsend: Mathisrud stated the Council has a copy of the report that was provided to the Personnel Committee summarizing the findings of the investigation. This is for a preliminary discussion of the allegations against Chris Fieldsend. Comments related to the investigation should be limited to Mr. Fieldsend, since this agenda item specifically relates to him and his actions.

At the November 26th, 2019, City Council meeting a motion was made by the Council related to the engine failure of Unit #5. That motion stated that the City Administrator is to conduct an investigation to determine how the oil was lost, whether

there is any accountability that needs to be looked at, if any disciplinary action is warranted, and then a Personnel Committee meeting would be scheduled to discuss the results of the investigation. I did complete that investigation and I delivered the results to the Personnel Committee in a confidential memo dated January 16th, 2020.

Mathisrud stated the Personnel Committee met and discussed the results of the investigation. I will let them speak to those findings. I will discuss what I found during the course of the investigation. Mr. Fieldsend is a department head. The primary objective of his position is to manage the maintenance of the city fleet. Under his duties he supervises the maintenance of all city equipment. He maintains logs of repair and maintenance and administers the maintenance programs. He is also responsible for coordinating operations with all the other city departments.

Mathisrud stated to answer the first question how was the oil lost, I found that it was likely lost due to consumption over time, instead of a mechanical failure like a leak, or a thrown piston rod, which would have drained the oil. When reviewing the service records starting in 2015, the service interval on that specific piece of equipment started to decrease significantly from an average of once every 6,000 miles to an average of once every 9,500 miles. The last two service intervals specifically were 14,006 miles, and the last one was 17,366 miles at the time that the engine failed. The exact cause of failure cannot be determined, however, the recognized service interval by everyone that I interviewed in public works department is 3,000 miles. Based on the service records that I received from Fieldsend there was a lack of maintenance on that piece of equipment starting in 2015, which is when he took over the maintenance.

Randall stated that date can't be right. Mathisrud stated he took over in 2013, so it was when he took over the department. This is when the maintenance started to decrease, which was in 2015.

Mathisrud stated question #2, is there any accountability that needs to be looked at. I found that several failures occurred that resulted in this engine failure. Most of these could have been avoided at the management level if maintenance processes and procedures were in place. During the interviews I received conflicting statements from Fieldsend and his direct report on how services were reported and whether or not proactive maintenance is done. There were no documented processes or training in place at the time, and those would have been the responsibility of Mr. Fieldsend to implement. There was not a time-based service schedule in addition to a miles or hours-based schedule for all of the equipment in the fleet. Some had it but some did not. Had that been implemented that would have been able to prevent this major component failure. This particular piece went 899 days since it's last service or two and a half years. Regardless of operators recording of when service was due, it's standard to have a three month or six months, or an annual inspection on fleet equipment like this. That wasn't done.

Mathisrud stated when equipment is in the shop for other work, I also found that it isn't consistent to be inspected for service due as a matter of standard operating procedure. This piece was in the shop at least twice for other repairs and it could have been serviced at either time. At both those times it was at roughly 10,000 miles past service due. Both of the times that the equipment was in for repairs where that could have been done, those repairs didn't have accurate service records kept either. I also found that the service due date, or service stickers, that you would normally find in the windshields in a piece of equipment, were not consistently applied on all pieces of equipment. Some

equipment relies on service indicators, the ones inside of the dash to display when service is due. Those rely on the operator to report it. Some will have stickers placed in there and some will not. When you have variations like that you have opportunities for operator errors to occur. That type of thing should be done in all pieces of equipment.

Mathisrud stated documented training of operators on maintenance expectations of them was never done after the transfer of maintenance responsibilities to him (Fieldsend) from another department head. This was something that I recognized when I first started as city administrator. I asked Fieldsend to prepare a memo to develop a set of written directives, based on that memo, when I found that there weren't any processes in place, I asked for him to develop written service procedures, policies, checklists, etc. for both his department and all operators to prepare. I found that basically there were not policies in place.

Mathisrud stated, also, during the course of the investigation I found that service records were incomplete, not entered into the computer consistently and not performed immediately after service in all cases. These are all problems that represent failures that are simple to correct. They cause problems, but they do require management to implement and make sure they are done consistently. Lastly, there were other failures that occurred with other individuals in this, however, if maintenance was managed better, many of those would not have been factors and could easily have been mitigated, if those processes and procedures were in place. Ultimately, I concluded that lack of service at the appropriate intervals on this piece of equipment and failure to have adequate maintenance processes in place were the primary contributing factors to the failure of the engine on Unit 5.

Mathisrud stated the Personnel Committee was provided a copy of this report. It summarizes all of the details, and Conway will speak to their process on discipline. I did not make a recommendation on discipline since I prepared the report and my directive was to send that report to the Personnel Committee. I did consult with the city attorney on this and was advised that process-wise here tonight, it's not recommended that the Council makes a formal decision or motion on discipline. However, based on what I hear in terms of feedback from the Council on their thoughts on the matter, I'll carry out the appropriate level of progressive discipline for the authority granted to me under our personnel policies. Are there any questions at this point? There were none.

B. Councilmember Conway will present an update from the Personnel Committee of our findings: Conway stated we reviewed the personal policies and they state that the city administrator has at his discretion the authority to take any disciplinary action short of termination. If there was to be a termination it's my understanding by reading the policy that it is to be recommended by the city administrator and then approved by the Council for a termination. That's why we don't take formal action at this meeting. Per our policy, the discretion lays with our city administrator.

Conway stated the Personnel Committee requested the closed meeting to give the Councilmembers the opportunity to be able to give the city administrator their input prior to his making that determination. I will walk through the committee's process. I generally approach this type of situation by using the seven tests of just cause. Our personal policies do call for just cause be the reasoning behind the disciplinary actions. After reviewing the report that has just been summarized, I will walk through the seven tests of just cause.

1. A reasonable rule of work order. Is the rule reasonably related to the orderly efficient and safe operation of the business? It was the committee's finding that the lack of a maintenance system to manage proper vehicle maintenance definitely caused inefficiency in the operation of some equipment, as well as unnecessary expense. Vehicles that are improperly maintained, and vehicles that are broken down on the side of the road are also unnecessary safety risks.
2. Did the employee receive adequate notice of the work rule for performance standard and the possible consequences of the failure to comply? Overseeing maintenance of the fleet is the primary function of Fieldsend's job description. That would lead me to believe that he's on notice that that is a function that he's supposed to be doing.
3. Did you do a sufficient investigation? Did you conduct an investigation before making a decision about taking disciplinary action? The investigation was conducted by the city administrator and the results were provided here at this meeting.
4. Was there a fair investigation? Was it fair and objective? I have no reason to believe that there was any impropriety concerning the investigation.
5. Proof. During the investigation did you find proof of misconduct or performance discrepancy? There was a definite lack of maintenance on the equipment in question. There was contradictory information from Mr. Fieldsend's impression of the process as opposed to how his report believed the process was to work and there was a lack of follow up to ensure that the work was being completed.
6. Equal treatment. Have you dealt with your employees equally without discrimination? It's the Personnel Committee's understanding that it has been an extended period since any incidents warranted discipline of any staff member. We have no precedence to use as a standard.
7. Whether or not we come to an appropriate level of discipline for the crime.: I believe that is what we are here to discuss.

C. Mr. Fieldsend will have an opportunity to respond to the allegations: Mayor Leckner stated before we get into our deliberations with the Council, I'll ask Mr. Fieldsend, and his representative, if they'd like to speak or do they have anything they'd like to bring up. Fieldsend stated I have no comments.

D. Council will discuss the allegations and the potential actions: Leckner stated we will now discuss the allegations against Mr. Fieldsend and potential actions. We brought this to the whole Council to give Mathisrud direction as to what would be appropriate discipline. The Personnel Committee came up with the recommendation of a written reprimand, with the duties of being in charge of the maintenance taken away.

Conway stated I would say that Fieldsend has a fiduciary and a managerial responsibility to the city in overseeing the equipment and personnel. That being said the reporting structure itself is a separate issue. I don't know anything with the reporting structure would be determined because of the incident there. I think that the reporting structure itself goes to the design of the city. That's something we should view not as being punitive but as, do we have the right structure in the city for it to function properly.

Leckner stated I do agree with that to some extent. Randall stated we just made a motion and approved for the city administrator to make a recommendation. Leckner stated I don't know if we want to do that immediately, to change duties down there to make sure things are happening, or that we get plans in place and it's being maintained or do we want to wait depending on what our actions are tonight.

Stone stated I'm unclear as to why it in essence stopped. It was so sporadic. Why did we quit checking the oil on this vehicle? Once in two and a half years? Randall stated there was a lack of a program to maintain the vehicles. Stone stated from reading this it sounds like there was a program in place and it was fairly regularly utilized. Then all of a sudden it just stopped. Randall stated there was a division, Fieldsend used to work under Burlingame, and then that division occurred. It appeared that's when things changed.

Stone stated my other question is it talks about when Mr. Simpson..... Mathisrud stated we can't speak about other employees. That is private data. We're only speaking of Fieldsend today.

Stone stated an employee informed other employees above them that maintenance was needed on these vehicles and it still wasn't completed by the individual who technically should have changed the oil. Conway stated it's my understanding, that when Mathisrud spoke to the employee, it was reported they believed that the employees that operated the equipment were supposed to bring any concerns about the equipment to the employee that reported to Fieldsend. It was Fieldsend's belief that his report should have been actively tracking the equipment to make sure that maintenance was being done correctly and timely. The fact that there's two separate ideas of how the function was going to work would tell me there is no system in place. Mathisrud stated that is an accurate statement.

Randall stated because there is no system in place. That's the direct responsibility of management. Conway stated right.

Randall stated I'm confused about this procedure to go about discipline. You're supposed to take time and come back to us with a recommendation? This is different than what we were informed about what would be happening today. Mathisrud stated process-wise, my understanding is that the city administrator has the authority to carry out the first three levels of discipline, and recommend discharge to the Council. It was not recommended that Council actually make a formal motion regarding what they recommend what would happen. I need to get a sense if the Council thinks this rises to the level of discharge or not so that I can make an appropriate recommendation.

Conway stated, as Mathisrud's supervisors, he is asking for input from his supervisors on our thoughts before he makes his decision. Leckner stated we can give him our suggestions of what we'd like done. We just don't do it in a formal motion. Stone stated I'm clear on that. What I'm not clear on is one employee reported to the employee above him, and it says here that it's documented. It's documented on the maintenance log on a different employee's maintenance log, and nothing was done about it. I'm saying that Fieldsend shouldn't have assumed anything. I think it was responsible to trust this individual, but he still needed to verify. In that sense I think he failed in his position, but I do think there's a weak link here.

Mathisrud stated what I was trying to get at is this individual does report maintenance due fairly consistently. Randall stated it's not saying that when he does report it's not getting done. Mathisrud stated yes, I didn't say it's not getting done. Randall stated

he's saying he reports it and presumably it's getting done. This employee didn't ever report anything about this truck being low on oil either. It's trying to establish his track record that if he sees something, he does say something. Stone stated I didn't interpret it that way, it makes it sound like he does it on a regular basis. Coming from my background, I just don't understand how this could happen if it's being reported.

Leckner stated our conclusion is the system isn't working. We do know that Fieldsend is in charge of that department and nothing was working as far as we can see with maintenance. My biggest thing is as soon as possible to get something changed.

Stone questioned should others be looked at as far as not having done their job? Conway stated if you want another person looked at then we'd have to refer it back to the Personnel Committee and we'd have to go through another investigation. We'd have to go through that process for that person. We'd have to put them on notice of a closed meeting. This conversation should refer to whether or not you believe that Fieldsend had any responsibility and if he did to what level, and advise the city administrator to that fact.

Randall stated I think that 100% that there's a breakdown in many different people that had anything to do with these vehicles. Whether it was the operator and whether it was in charge of maintaining these on a day to day basis, ultimately goes to the fact that there was absolutely nothing in place to check that. There was nothing in place to check that vehicles were having, with the little sticker thing, as was discussed whether the vehicle goes 6,000 miles or 20,000 miles with nobody checking the oil. There needs to be at least a yearly inspection so at least that can be done, regardless of the oil changed so that there's an annual inspection that everything is checked over to make sure that the tires were still good. There's nothing in place. Nothing. That's the job of management.

Randall stated what stuck out to me is this issue occurred on August 5th, 2019. On August 5th this was an issue. That's when this happened. Presumably Fieldsend was aware of it on August 5th. I know he was because he was contacted about where to tow the vehicle. Then on August 29th, Fieldsend was asked for a memo describing the current maintenance program and provided something to Mathisrud about what that current maintenance program was. It was insufficient and pretty bare bones, and it didn't really address anything. Fieldsend received an email back from Mathisrud on September 11th saying maybe this program is lacking a bit and it needs to get worked on and he set out for him what needs to happen in this maintenance program. If this discussion happened without this truck breaking down in August 2019, to me that would be one thing, if the truck would have broken down on September 12th, 2019. But the fact is, everybody, except the Council, knew that it was going to be a major repair. This discussion was occurring from August to September and we still to this day don't have a maintenance program. That's what I'm frustrated with. I can't believe that. It was typed out for him after there was a major catastrophe on this vehicle any college kid could have avoided by checking some oil.

Leckner stated that's why we came to that conclusion about management. Conway stated if you have a systemic problem in a department it's generally who's responsible for the department, not the individuals in the department. Randall stated absolutely. That's the thing. Leckner stated if you had procedures in place and you had people who are supposed to check and log and they didn't do it then you can discipline them. Moving forward we want that to happen.

Randall stated the fact that it happened and it was a big enough event because it was so simple to avoid, I think that the fact that it was known about since August 5th, 2019, and there's been no change to that maintenance policy, really puts it over the edge for me. It's problematic. I don't have confidence that Mr. Fieldsend is able to be a manager and manage this department. I'm very concerned about that. Stone stated I agree with you there. I don't know that enough appreciation to the severity of something that could so easily be avoided. Randall stated the two times he was asked about it at meetings, I asked him at a Finance Committee meeting who's fault this was and Fieldsend's response was I don't know. At our meeting where this investigation was ordered we asked who's fault this was and it was a resuscitation of it's the operator's job to do this and the mechanic's job to do this. It was absolutely zero accountability for his role as a department head. And that's concerning to me as well.

Conway stated one thing that is troubling here is because it appears part of the reason, I was separating the reporting structure from the discipline was because of the statement that the operators are responsible for this and Fieldsend's department is responsible for overseeing the mechanical maintenance. Tying that together in one department or whether that reporting structure is correct to me was separate from the disciplinary conversation. I think that Fieldsend is responsible to this failure as a manager over the mechanical maintenance over the fleet and that mechanical maintenance was not managed. So, I think it's a direct failure. I can't speak to what all the department head's responsibilities are. So, to me it made sense to have somebody who's managing the city to look at those departments and say, what responsibilities belong in what department. I think that's a separate issue from the discipline that gets put down here. If we're looking at taking the duties away as part of the discipline, to me, I struggle with that. If you're making any more severe recommendation for discipline, I think that's an entirely worthy subject.

Randall stated I'm not making a recommendation today for duties to be taken away. I think that if people want to take duties away from my job and pay me the same amount, sure, I'll give it up. I'm not saying that today. I'm going to point out that the job description, sentence number 2 and 3, under primary objective, you're responsible for all facility fleet maintenance. I don't think a written reprimand is sufficient in this case. I would like to see the city administrator make a recommendation that is more severe than a reprimand. Conway questioned do you have a recommendation? Randall stated I do. I think there should be a termination. Again, I want to point out that the failure itself was a big deal. The fact that the failure occurred and a plan still has not been put into place leads me to make that recommendation.

Conway stated it's an interesting thought process because I'm not disagreeing with you on the face of it, but I would say that we don't have a precedent of discipline in the past on staff members. It's hard to gauge where it falls in the realm of everything. There is no realm there. Randall stated, again, I will point to the job description. Responsible for all facility fleet maintenance.

Stone questioned could one argue that who was overseeing, evaluating Mr. Fieldsend on his job performance, and checking in with him? Conway stated my understanding is, of course this all took place prior to Mathisrud taking over the position, so it would have been the predecessor in that position. It would have been his responsibility to manage staff. I don't know if there were formal evaluations done. (to Mathisrud) Did you check personnel files as part of the investigation? Mathisrud stated I made a note in the

report that the last evaluation was in 2014 at the end of the probationary period when the job was created. There weren't very many documented performance evaluations in the file.

Leckner stated this comes down to the job description. You're correct the first two on there he was doing. Fieldsend had a lot of other jobs. I think we'd all come to the agreement that I don't think he's the person for that part of it. There are other things he does for the city, so if we're going to get into restructuring.

Randall stated so if I go to my job and I'm given a job description to be responsible for all facility and fleet maintenance, and I choose to completely ignore that part of my job, and I do a terrible job at it, I'm supposed to be able to keep my job, and you're going to take that away from me and still let me be a manager for a department. Leckner stated no, you wouldn't. Conway stated there are a lot of processes you can go through in that. If somebody is negligent to the point of, this is where you get to the degree, yes you can terminate people straight out of the box if their offense is egregious enough. In my mindset to be that egregious somebody would have had to purposefully have done something. Otherwise you would generally either have if you think it's disciplinary going down you would either do some system of warnings to make sure the person knew that the behavior, they were doing was unacceptable or you would have some kind performance improvement plan.

Conway stated generally, in my mind set, that goes to three questions, does the person understand what they are supposed to be doing, do they have the capability to do it. Because if they understand what they are supposed to be doing, and they have the capability to do it, and they didn't do it, then it becomes disciplinary. If they don't have the capability that's generally trying to improve performance or find something else. Or if they don't understand what they are supposed to be doing then that's also a performance improvement issue. But if they understand it, they have the capability, and they choose not to do it, then that's where you lead down the disciplinary road. I do think Fieldsend has the capability to put a system in place where this could be managed. I think he understood that he was responsible. But I don't know that it was purposefully done that way.

Stone questioned can't you argue that ignoring something is purposeful. You choose to ignore things. Unfortunately, he was well aware of what needed to be done in August. He knew it going forward to today. He knew something needed to be put in place. Leckner stated I would say that's true. Randall stated even before that he chose to purposefully, didn't do that, isn't doing other things instead of this, because maybe this is not the fun part so you put it on the back burner, so we're supposed to say that is not purposeful.

Conway stated that would get you to another question. Doing other things instead of this. Was he doing the other things and not have the time to get to this? Or is he doing other things because he doesn't like to do this and chose not to do it. Randall stated there's a lot of things that come into play, I get that. It's more of a hypothetical. Conway stated the more you get into that and say okay there was a responsibility that should have been done, right? But can we actually say that Fieldsend intentionally decided this wasn't important and I'm not going to do it? Randall stated sure, we can, because from August 5th to today, we can say that with 100% certainty.

Stone stated I feel like we can too. Also, prior to that, in 2014, I felt it was indicating that things were continuing under his supervision for a little while, some regular maintenance, and then it just kind of petered off, maybe after that final probationary

evaluation. He was in. Couldn't one argue that maybe at that point he made a conscience decision to assume that it was going to be taken care of and not fulfill his job duties by checking in? Conway stated I can't argue with any of the points you guys are making on this. I would tell you that when you step back and look at this, I don't know that termination is the first place you jump because we don't really say that this is the level that has gotten the city there prior because we didn't have any prior. But yes, all of your arguments are valid.

Randall stated I don't think we should be deciding this about what precedence it's going to be. I think if we set the precedence that we give a written reprimand for something this big then I'm a little worried about what employees think they are going to be able to get away with for a written reprimand. Conway stated there are stages in between. We do have a suspension stage in there. Randall stated I'm just saying but they are going to be expecting, oh the last one was a pretty big deal and they only got a written reprimand. That's what I'm saying. That's the precedent that I'm worried about.

Stone stated I can see us coming to a more of a middle ground. If we remove those job duties, and also recommended a pay cut. Because you can't keep the job and still get paid the same and not have to do all of the work. Randall stated I'm not okay with, I know this is somewhat separate but they are entangled here. I'm not okay with the job duties being removed and the pay not changing the same day. I'm not okay with people's jobs being taken away because again going back to you chose not to do it or you managed to do a terrible job. I'm going to say it again, if people want to take job duties away for me at my job, and I get to keep my same pay, I'll gladly give stuff up. That's not the way this is going to work, and it shouldn't be for one day. So, if we are going to say that we are going to trust him and go forward until this whole restructuring is done, you guys can say that, because I don't. I don't trust that to happen. This should have been done since 2014, 2015, 2016, 2017, 2018, 2019. And it sure as heck should have been done on August 5th. I get that there is no precedent here, but this is a big deal, and maybe that's the precedent that we set is that we expect people to do their jobs, and we expect managers to follow their job descriptions.

Leckner stated another option would be a leave without pay until we get to a certain date that we have a restructure. Then it gives us time to change the pay. That would be another option if we think we want that. Randall stated my understanding is that we don't have to come to a consensus but have to give Mathisrud what our thoughts are on this. At this point the ball's in his court. I do think it would be a very terrible precedent to send that this is the type of neglect that you can do in your job, that you can be so derelict in your duties at your job, and all you get is a written reprimand. Because that's the precedence that you will be setting if that's what happens.

Stone stated I agree with Randall. I don't want to set that precedence. My other question is has he demonstrated failure in other job duties? Is he strong in some areas? You were kind of indicating that he might be, and just not strong in this area. Leckner stated I don't know that. Stone stated while I don't disagree with what you are saying, he clearly failed when it comes to this. If he's doing well in other areas, is it fair to remove him from all areas? Randall stated I totally get that question. My concern there though is you can have a police officer that is doing wonderfully in everything that they do, and then they commit a major error. I don't know if you can look at that. I don't know if it should count.

Stone stated I feel like he is the department head of two very different, multiple things that are very different. So, he's paying attention and doing all of the other things he's supposed to be doing in the other department, other areas that he is in charge of, but not doing it here. Are we going to remove him from everything? Randall stated that's something that Mathisrud looks at when he's making his decision about what to do.

Conway stated I would say this was approached for an incident so when we asked the city administrator to look into it, we gave him specific instructions at the Council meeting as to what we wanted him to look into. It was an investigation into the incident of what happened to this vehicle. It wasn't an overall performance evaluation. Part of me wonders, I don't have anything to speak to this because it goes to there hasn't been any discipline in this city as a matter of record, at least in recent years. Part of me wonders how confident we can be as to whether the other department heads have gone into any areas that hasn't been caught.

Stone stated the one thing that we should all take away from this is what we've learned and that is that we need to put more regular evaluations in place, starting at the top and working our way down so these types of things aren't overlooked.

Conway stated the other piece to that is more than just performance evaluation you have to have some systems and standards in place as to how, there should be some regular reports on how these positions are being operated and what's going on in these departments. That's part of the reason where I lean to less than termination because I can't confidently tell you that you wouldn't find this in other departments because we don't have any information. I do think you could take this incident and consider it terminable. At this point I don't know how I would react if the city administrator came back with that recommendation, but I will tell you I would consider it. At the same time though I'm concerned about consistency if other departments are having like problems that haven't been managed.

Randall stated I understand that and I don't disagree, but the situation that is before us today is we did have a situation that occurred five months ago. That's what puts this in this position for me. I would hope that any other department head even if they haven't been having regular systematic checks when something does blow up and it's a major failure in your checklist and your job, that something would have been done in five months. I think he had that opportunity. My thoughts on this would be wholly different if this incident had occurred at the beginning of December, but it didn't. That's what bothers me. I understand that we want to be fair to all of the other department heads. Thankfully, no one has had something come before us that showed us this, but I would treat them the same. If they did have five months to put something in place to show, hey I recognize that this was a big thing and I'm going to work my butt off to get something in place so this doesn't happen again, but we have nothing in front of us today. And when we asked the question who's fault it was the answer was, I don't know.

Leckner stated we are to give Mathisrud direction on discipline, but if we wanted to make a motion for termination, the Council does that. Is that correct? Mathisrud stated ultimately, I would have to make a recommendation to the Council for discharge and provide the employee notice and then the Council would act on that at a future meeting. Randall questioned how fair is that to Fieldsend to sit here and wonder his fate. I don't understand this process at all. It makes zero sense to me. We're just supposed to wait. Leckner stated we could make a decision. Conway stated I want to give you fair warning if

you make a decision at would be contrary to the advice of the attorney. Randall stated I understand that but again, in practical terms it makes zero sense for Fieldsend to come to work and just wait for our next Council meeting. Conway stated you could suspend him until the end of the process. Stone stated that's what I was going to suggest next. Leckner stated I could see that. Conway stated this is a little unusual for me in private industry. Randall stated this was not the process that I anticipated that was happening today. I thought we were going to make a decision so everybody knew. First and foremost, it was Fieldsend's choice to open the meeting and he's hearing this. I think it would be fair for him and everybody to know what's happening today.

Conway stated when I was told what the advice of city attorney was, and we went back and took a look at how the policies are worded I understood what the attorney was saying. That's where we came with everything seems to be by policy and at the discretion of the city administrator including the recommendation for termination. If he makes a recommendation for termination it takes the Council to approve that, but everything else is within Mathisrud's discretion. I think it's of extreme value for Mathisrud to know where the Council stands and if we didn't have a closed meeting, he would not have gotten any input except from the Personnel Committee. Then we would be having these discussions at a public meeting when he made his recommendations. Randall stated it would have been a closed session because we would have been discussion discipline. Conway stated we don't have to wait for the next City Council meeting. We can call a special meeting in between.

Conway questioned (to Mathisrud) do you feel you have enough input to be able to make a recommendation? Mathisrud stated yes, at this point I think I can make a decision on a recommendation.

Leckner stated we do need some more time. I don't know what everybody else is thinking, but I think a leave without pay. Stone stated if you were to terminate him and then there was a division of duties, you'd hire someone obviously. You're taking all of the maintenance duties away from his position, for the sake of discussion, former position, and we're making this new position available with all the duties he currently has without the maintenance piece of it, right?

Randall stated that needs to be discussed how it would be posted and whether it's a management position or not. We would have to make a determination as to how immediate the duties would be and whether we had anybody on staff to dole out some of the duties to until you had the position filled. I do think that before you advertise the position, you're going to want to know what that position is so if we are going to do any restructuring of the position it would have to be after Mathisrud makes his decision.

Stone stated I understand that, I'm just saying if Mathisrud decides termination is the answer, is it fair for us to terminate him because he just didn't perform in one area of his duties, but he's performing well in the other areas and now we decide we need someone to fill the position that he's currently filling without the fleet maintenance piece. Take the fleet maintenance away, still advertise for a facilities manager. We fired him because he didn't fulfill the duties of the fleet maintenance but he was fulfilling the duties of the facilities maintenance, is that fair?

Randall stated I understand what you are saying. I think its about an act of neglect against the city, misconduct overall that you'd have to look at that is before us. That's why it's important that at the very least that if there is going to be the recommendation from

Mathisrud is anything other I think than a leave until this all gets figured out. I see that for union positions there's a reassessment of job duties or a reassignment of the job duties, maybe that's a recommendation. Maybe he's not a department head. If facilities management falls under another umbrella and he's not a department head. That could be looked at too. Again, that ties back into the whole piece of looking at how these two things are structured.

Leckner stated I don't like either way the processes are, but that's the way it is. Is everybody thinking a leave without pay? Stone stated I would recommend leave without pay. Conway stated we can suspend him pending the rest of this investigation until we come to a conclusion. One piece of this I'm struggling with a bit is we hired a city administrator to manage the city. Part of me wants to say, let's manage the city, and let the city administrator make his decisions as he sees fit. Randall stated we didn't hire a city manager, we hired a city administrator. Conway stated we don't manage the city. On a day to day basis I have no clue what the employees are doing. Randall stated but his job abilities are different if he was a manager versus an administrator, his ability to hire and fire.

Conway stated I would tell you that for the most part I have confidence in what recommendation Mathisrud is going to make without knowing what that recommendation will be. Randall stated I do too. Leckner stated I do too. I don't know what everybody's thinking and I don't want Mathisrud going into this without knowing. It would be tough to make a decision. I want to know we are all on the same page and I want Mathisrud to know that. Stone stated I think it's pretty apparent what we are all thinking. Conway stated I could be convinced that termination is the right place to go.

Conway stated my concern would be more around whether we create any liability by doing that as opposed to something else. My concern in looking at that and I don't mean to be offensive to anyone in the room, my concern is not whether or not Fieldsend belongs in the position, but if by doing that do, we create a liability for the city. Leckner stated that would be the same position I would be in. Stone stated that is my hesitancy too. Randall questioned so you are saying that the liability issue is lessened if we leave this in the hands of Mathisrud at this point. Conway stated I think Mathisrud should take the input that we have given him and consult with our city attorney as to what he thinks the recommendation ought to be, whether they think that's going to create any liability to us.

Randall stated I thought we had already done that. I thought we were within our power to take any of the four options that were identified. That's the information that I received from the city attorney. I trust that this situation has been discussed with our city attorney and this is the advice that has been given. I have no problem giving this back to Mathisrud to make a decision. If we are going to do that there needs to be a special meeting set and that there is some finality to this issue and a decision made about whether there is going to be suspension pending that. You're concerned that even doing a temporary suspension is not something that we should be doing today? Conway stated I think you can do a suspension pending the finish of the investigation. Randall stated I think we are perfectly fine with that.

Leckner stated we are done with the discussion. We never went into a closed session so if we want to set a special meeting, we should do it now. We need three days' notice for a special meeting. Mathisrud stated I would need five working days. **The**

Council set a Special City Council Meeting for Wednesday, February 5th, 2020, at 6:00 p.m.

Conway stated Mathisrud will come back on the 5th and make his recommendation and we approve it if it's a termination, otherwise he just tells us what it is. Conway stated in my past I either suspend the person pending an investigation, the determination of whether they are paid for that or not is dependent upon what the discipline is at the end of the investigation. Mathisrud has the authority to suspend. That doesn't take Council action. Mathisrud stated it does not. I will take that action and we will move forward.

13. ADJOURNMENT: A motion was made by Conway, seconded by Stone, and unanimously carried to adjourn the meeting at 7:17 p.m.

[seal]

Mayor Ryan Leckner

ATTEST:

Margie M. Vik
City Clerk