



City of Grand Island

Tuesday, March 12, 2002

Council Session

Item G2

Approving Minutes of February 26, 2002 City Council Regular Meeting

The Minutes of the February 26, 2002 City Council Regular Meeting are submitted for approval. See attached MINUTES.

Staff Contact: RaNae Edwards



OFFICIAL PROCEEDINGS

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

February 26, 2002

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Grand Island, Nebraska was conducted in the Council Chambers of City Hall, 100 East First Street, on February 26, 2002. Notice of the meeting was given in the Grand Island Independent on February 20, 2002.

Mayor Ken Gnadt called the meeting to order at 7:00 p.m. The following members were present: Councilmembers Pielstick, Ward, Seifert, Larson, Hornady, Whitesides, Haase, Murray, Walker and Sorensen. The following City Officials were present: City Administrator Marlan Ferguson, City Clerk RaNae Edwards, Finance Director David Springer, Public Works Director Steve Riehle and City Attorney Charlie Cuypers.

PLEDGE OF ALLEGIANCE was said followed by the INVOCATION given by Councilmember Jackie Pielstick.

PRESENTATIONS AND PROCLAMATIONS:

Recognition of Police Officer Scott Arnold for 20 Years of Service. The Mayor and City Council recognized Police Officer Scott Arnold for 20 Years of dedicated service to the City of Grand Island.

Presentation of the "Howard Eakes Community Awards" by Betty Curtis Representing Clean Community Systems. Betty Curtis representing Clean Community System presented the "Howard Eakes Community Awards", a new community award for beautification efforts in Grand Island. Dan Eakes and Ron Eakes presented the awards to: Harry Houch, H & H Distributing; Mr. Ramsey and Ms. Miller, Bar Middle School and Youth on Trac.

Proclamation "Read Across America/Grand Island" March 4, 2002. The Mayor proclaimed March 4, 2002 as "Read Across America/Grand Island". Deb Harder, Principal of Gates Elementary School and five students were present to receive the Proclamation.

RESERVE TIME TO SPEAK ON AGENDA ITEMS: 5 individuals reserved time to speak on agenda items.

BORAD OF EQUALIZATION: Motion by Sorensen, second by Whitesides, carried unanimously to adjourn to the Board of Equalization.

#2002-BE-2 – Board of Equalization to Determine Benefits for 2001 Weed Abatement Program. City Attorney Charlie Cuypers reported that Chapter 17 – Garbage, Refuse, Waste and Weeds, Article III – Weeds, sets forth the procedure for levying special assessments against real estate

on which the City has performed mowing operations during the preceding year. There were only five properties subject to special assessments for mowing during calendar year 2001. Each of these properties was owned by persons residing outside the community of Grand Island. Motion by Murray, second by Sorensen, carried unanimously to approve.

#2002-BE-3 – Board of Equalization to Determine Benefits for Street Improvement District #1237, Wortman Drive. Steve Riehle, Public Works Director, reported that work had been completed and special assessments had been calculated for the District. The Certificate of Final Completion was approved by Council on January 22, 2002. The total to be assessed, including Engineering Services equals \$399,311.75. All costs of this District would be assessed to Central Community College. Motion by Pielstick, second by Larson, carried unanimously to approve.

RETURN TO REGULAR SESSION: Motion by Hornady, second by Sorensen, carried unanimously to return to Regular Session.

PUBLIC HEARINGS:

Public Hearing on Request of Richard and Pat Hartman for Conditional Use Permit for Gravel Pumping Facilities at 5075 South Locust Street. Craig Lewis, Building Department Director, reported that Richard and Pat Hartman had submitted an application with the City Clerk's Office for a Conditional Use Permit for a gravel pumping facility located at 5075 South Locust Street. This request had been reviewed by the Building, Legal, Utilities, Planning and Public Works Departments. No public testimony was heard.

Public Hearing on Request of Balz, Inc. dba Balz Sprots Bar, 3421 West State Street, for Addition to Premise to Liquor License "C-39140". RaNae Edwards, City Clerk, reported that Balz, Inc. dba Balz Sports Bar, 3421 West State Street, had submitted an application with the City Clerk's Office for an Addition to Premise Liquor License, in conjunction with their Class "C-39140" Liquor License presently held. The request would add an area of approximately 28' x 35' to the north portion of the main floor in the building located at 3421 West State Street. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on February 12, 2002; notice to applicant of date, time and place of hearing mailed on February 12, 2002; notice to the general public of date, time and place of hearing published on February 15, 2002; Chapter 4 of City Code and departmental reports as required by City Code. No public testimony was heard.

Public Hearing on Request of Dolphin Enterpirse NE, LLC dba Conoco 1 Stop, 2105 West 2nd Street for Change of Location to Liquor License "C-49918" from 2107 West 2nd Street to 2105 West 2nd Street. RaNae Edwards, City Clerk, reported that Dolphin Enterprise NE LLC, dba Conoco 1 Stop, 2105 West 2nd Street, had submitted an application with the City Clerk's Office for a change of location for their current liquor license "C-49918" from 2107 West 2nd Street to 2105 West 2nd Street. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on February 18, 2002; notice to applicant of date, time and place of hearing mailed on February 15, 2002; notice to the general public of date, time and place of hearing published on February 15, 2002; Chapter 4 of City Code and departmental reports as required by City Code. No public testimony was heard.

Public Hearing on Reconfiguration of Detention Cell at Eagle Run Including Acquisition of Real Estate. Charlie Cuypers, City Attorney, reported that the Robert M. Allen Family Limited Partnership, the owner of Eagle Run, had requested that Detention Cell B-6A previously dedicated to the City of Grand Island be reconfigured in order to accommodate future commercial development of Meadowlark West Fourth Subdivision. The Public Works Department had reviewed and approved the reconfiguration. Other than the cost of preparation of documents for presentation to the City Council and the publication of a notice of public hearing, the City of Grand Island could incur no other expenses in connection with the estrange transaction. Mike Yost, 201 East 2nd Street, requested that Ordinance #8721 and Resolution #2002-56 which related to this item be deferred to the March 12, 2002 City Council Regular Meeting. No further public testimony was heard.

REQUESTS AND REFERRALS:

Request to Reconsider Creating Street Improvement District #1240, Grand West 2nd Subdivision. Steve Riehle, Public Works Director, reported that creation of this District was considered at the February 12, 2002 Council meeting. Due to area resident's concerns regarding drainage in the area, the Ordinance to create the district failed on the 2nd reading. Councilmember Scott Walker, who voted against creation at the February 12th meeting, made a request for the issue to be brought forward and discussed again at this meeting. Several Councilmembers requested that Staff review the policies of other Cities regarding Street Improvement Districts.

Motion was made by Walker, second by Hornady, to reconsider Creating Street Improvement District #1240. Walker then made a motion to table this request to the March 19, 2002 Study Session for further review, second by Pielstick, carried unanimously.

ORDINANCES:

Councilmember Sorensen moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and that ordinances numbered:

- #8717 – Consideration of Creating Alley Improvement District #1242
- #8718 – Consideration of Creating Alley Improvement District #1243
- #8719 – Consideration of Establishing Assessments for Street Improvement District #1237, Wortman Drive
- #8720 – Consideration of Establishing Assessments for 2001 Weed Abatement Program
- #8722 – Consideration of Conveyance of Property Located at 1122 East 9th Street
- #8723 – Consideration of Conveyance of Property Located at 1119 East 9th Street
- #8724 – Consideration of Conveyance of Property Located at 1115 East 9th Street
- #8725 – Consideration of Vacation of Easement at Riverside Farm 3rd Subdivision
- #8726 – Consideration of Vacation of Easement at Meadowlark West 3rd Subdivision

be considered for passage on the same day upon reading by number only and that the City Clerk be permitted to call out the number of these ordinances on their first reading and then upon final

passage and call for a roll call vote on each reading and then upon final passage. Councilmember Seifert seconded the motion. Upon roll call vote, all voted aye. Motion adopted.

Mayor: Is there any one in the audience interested in this ordinance? No public testimony was heard.

City Clerk: Ordinances #8717, #8718, #8719, #8720, #8722, #8723, #8724, #8725 and #8726 on first reading. All those in favor of the passage of these ordinances on first reading, answer roll call vote. Upon roll call vote, all voted aye.

City Clerk: Ordinances #8717, #8718, #8719, #8720, #8722, #8723, #8724, #8725 and #8726 on final passage. All those in favor of the passage of these ordinances on final passage, answer roll call vote. Upon roll call vote, all voted aye.

Mayor: By reason of the roll call votes on first reading and then upon final passage, Ordinances #8717, #8718, #8719, #8720, #8722, #8723, #8724, #8725 and #8726 are declared to be lawfully passed and adopted upon publication as required by law.

Ordinance #8721 – Consideration of Conveyance of Real Estate in Meadowlark West Third Subdivision and Part of the SE1/4 NE1/4 of Section 13-11-10 Hall County, Nebraska to Reconfigure Detention Cell was deferred to the March 12, 2002 City Council Meeting.

CONSENT AGENDA: Councilmember Larson requested item G-12 be removed from the consent agenda. Councilmember Seifert requested that item G-8 be removed from the consent agenda. Motion by Pielstick, second by Whitesides, carried unanimously to approve the Consent Agenda minus items G-8, G-12 and G-14.

Receipt of Official Document – Civil Service Minutes of January 22, 2002.

Receipt of Official Document – Tort Claim Filed by Wayne A. and Norma G. Devine.

Receipt of Official Document – Tort Claim Filed by Jack D. and Annette L. Stratman.

Receipt of Official Document – Tort Claim Filed by Victor L. Gosda.

Approving Minutes of February 12, 2002 City Council Regular Meeting. Councilmembers Larson and Ward abstained.

Approving Minutes of February 19, 2002 City Council Study Session. Councilmembers Larson and Ward abstained.

Approving Appointment of Luris Calero to the Public Library Board Effective March 1, 2002 and Expiring June 30, 2004.

Approving Request of Balz, Inc. dba Balz Sports Bar, 3421 West State Street, for Addition to Premise to Liquor License “C-39140”.

Approving Request of Dolphin Enterprise LLC dba Conoco 1 Stop, 2105 West 2nd Street for Change of Location to Liquor License "C-49918" from 2107 West 2nd Street to 2105 West 2nd Street.

#2002-53 – Approving Bid Award for Galvanized Chain Link Fence and Gates to Hurricane Fence Company, Grand Island, Nebraska in the Amount of \$128,604.25.

#2002-55 – Approving Bid Award for 15.5kV 2000 A. Outdoor Circuit Breakers to Wesco, Grand Island, Nebraska in the Amount of \$370,851.60.

#2002-57 – Approving Agreement with Grand Island Amateur Radio Society for Project Impact Funding.

#2002-58 – Approving Discontinuation of Sanitary Sewer District #504, Dale Roush Subdivision and Dale Roush 2bd Subdivision.

#2002-59 – Approving Extension to Contract for Gas Recovery at the Landfill for EPA Testing Requirements with HDR Engineering, Inc., Omaha, Nebraska in the Amount of \$19,500.00.

#2002-60 – Approving Contract for (2) SelfCheck Workstations with Epixtech, Inc., Provo, Utah in the Amount of \$34,571.00.

Approving Request of Richard and Pat Hartman for Conditional Use Permit for Gravel Pumping Facilities at 5075 South Locust Street. Motion was made by Murray, second by Ward to approve the Conditional Use Permit. Councilmember Seifert mentioned his concern about feedlot run off into the sand pit and ground water contamination. John Amick, Attorney, 410 Amick Acres, representing the Hartman's was present and stated that these issues would be covered at the planning commission hearings. Future development was discussed by the Council. Mr. Amick stated that future building around the sand pit would be along time in the future. Craig Lewis, Building Department Director, stated that future development would need to have zoning changes. Councilmember Hornady asked whether the large equipment required for a gravel pumping operation would damage Mr. Hartman's already fragile house. No comment was made by Mr. Amick. Upon roll call vote, all voted aye. Motion was adopted.

#2002-54 – Approving Bid Award for Water Main District #434T, #437, #438T and #439T and Sanitary Sewer District #499 to Starostka Group Company, Grand Island, Nebraska, in the Amount of \$1,197,212.71. Motion was made by Larson, second by Seifert to award this bid to Diamond Engineering instead of Starostka Group as recommended by staff. Councilmember Larson stated that there was only 2% difference in the bids and Diamond Engineering has a track record of completing jobs on time. Councilmember Whitesides questioned the bidding procedure. City Attorney Charlie Cuyper stated that both bidders were qualified. Staff recommended the lowest bidder and had followed procurement code. Councilmember Pielstick raised concerns about change orders that are sure to happen. Councilmember Walker asked whether there was a completion date for this project in the bids. Public Works Director Steve

Reihle stated that there was. Councilmember Hornady voiced concerns about not following staff recommendations an opening the City up to future problems.

David Plautz, 4063 Manchester Road, representing Diamond Engineering spoke about the bidding process and felt the re-bid was wrong and unfair. Councilmember Ward asked what liability the City would have if they awarded the contract to Diamond Engineering versus Starostka Group. Mr. Cuypers stated there would probably be no problem awarding the bid to the lowest bidder Starostka Group, but there might by problems if we awarded to the higher bider, Diamond Engineering. Dave Starostka, 429 Industrial Lane, representing Starostka Group stated his company is qualified to do this project and have done others in Grand Island.

Upon roll call vote to award the contract to Diamond Engineering, Councilmembers Seifert and Larson voted aye. Councilmembers Pielstick, Ward, Hornady, Whitesides, Haase, Murray, Walker and Sorensen, voted nay. Motion failed.

Motion was made by Pielstick to approve Resolution #2002-54 awarding the bid to Starostka Group, second by Whitesides. Upon roll call voted Councilmembers Pielstick, Ward, Hornady, Whitesides, Haase, Murray, Walker and Sorensen, voted aye. Councilmembers Seifert and Larson voted nay. Motion was adopted.

#2002-56 – Approving Reconfiguration of Detention Cell Including Acquisition of Real Estate and Approval of Exchange Agreement with the Robert M. Allen Family Limited Partnership. This item was deferred to the March 12, 2002 City Council Meeting.

PAYMENT OF CLAIMS:

Motion by Whitesides, second by Seifert, carried unanimously to approve the Claims for the period of February 13, 2002 through February 26, 2002, for a total amount of \$2,521,541.27.

EXECUTIVE SESSION: Motion by Hornady, second by Pielstick, carried unanimously to adjourn to executive session at 8:30 p.m. for the purpose of an update on the Hartman appeal.

RETURN TO REGULAR SESSION: Motion by Pielstick, second by Ward, carried unanimously to reconvene in regular session at 8:45 p.m.

#2002-61 – Consideration of Approving Security on Appeal. It was noted that Nebraska Revised Statute §25-1916 requires that during an appeal to the Nebraska Court of Appeals or Supreme Court, an appellant, such as the City of Grand Island, must file a bond or other security in an amount equal to the judgment and accrued interest to insure payment if the appeal is denied. In lieu of purchasing a commercial supersedeas bond, an agreement had been made with the attorney for Richard and Patricia Hartman to substitute a pledge of the funds available to pay the judgment. In order for the pledge to be executed by the Finance Director, the Mayor and City Council must approve the pledge and authorize the Finance Director to sign and file the document. A commercial supersedeas bond would require much the same approval on the part of the Mayor and City Council and would require payment of a premium in the amount of

approximately \$2,000.00. Motion by Whitesides, second by Hornady, carried unanimously to approve.

ADJOURNMENT: The meeting was adjourned at 8:50 p.m.

Respectfully submitted,

RaNae Edwards
City Clerk