



City of Grand Island

Tuesday, September 23, 2003

Council Session

Item G1

Approving Minutes of September 9, 2003 City Council Regular Meeting

*The Minutes of September 9, 2003 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

September 9, 2003

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 September 9, 2003. Notice of the meeting was given in the Grand Island Independent on September 3, 2003.

Mayor Jay Vavricek called the meeting to order at 7:00 p.m. The following members were present: Councilmembers Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Hornady, Walker and Haase. Councilmember Meyer was absent. The following City Officials were present: Interim City Administrator David Springer, City Clerk RaNae Edwards, Public Works Director Steve Riehle, and City Attorney Doug Walker.

PLEDGE OF ALLEGIANCE was said followed by the INVOCATION given by Pastor Terry Brown, Calvary Assembly of God, 1424 North Eddy Street.

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

PRESENTATIONS AND PROCLAMATIONS:

Recognition of Jerry Shalberg, Utilities Line Department for 35 Years of Service with the City. Mayor Jay Vavricek and the City Council recognized Jerry Shalberg for his 35 years of service with the City as an Electric Distribution Crew Chief with the Utilities Line Department. Utilities Director Gary Mader commented on his service.

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

Motion by Pielstick, second by Hornady, carried unanimously to approve the following Resolutions:

#2003-BE-9 – Determining Benefits for Street Improvement District No. 1226.

#2003-BE-10 – Determining Benefits for Street Improvement District No. 1227.

#2003-BE-11 – Determining Benefits for Street Improvement District No. 1228.

#2003-BE-12 – Determining Benefits for Street Improvement District No. 1229.

#2003-BE-13 – Determining Benefits for Street Improvement District No. 1235.

#2003-BE-14 – Determining Benefits for Street Improvement District No. 1236.

#2003-BE-15 – Determining Benefits for Business Improvement District No. 3.

#2003-BE-16 – Determining Benefits for Business Improvement District No. 4.

#2003-BE-17 – Determining Benefits for Business Improvement District No. 5. Bill Francis representing Cedar Street properties and Richard and Arlene Baasch spoke in objection. Mr. Francis stated he felt the district was not created legally and that there was no benefit to the property owners.

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

PUBLIC HEARINGS:

Public Hearing on Request of Mert Nietfeld, 4934 Fort Kearney Road for a Conditional Use Permit for an Auto Sales Lot Located at 322 West 5th Street. Craig Lewis, Building Department Director reported that Mert Nietfeld, 4934 Fort Kearney Road had submitted a request for a conditional use permit to allow for the continued operation of a used car establishment at 322 West 5th Street. The City Council earlier this year amended the City Code to require that existing vehicle sales establishments without improved hard surfaced lots receive approval in the form of a conditional use permit from the City Council. Section 36-49(A) allows for a waiver approved by the City Council for businesses that were operating at the same location prior to March 9, 1999. This request appeared to be in compliance with the established City Code and approval was recommended. No public testimony was heard.

Public Hearing on Request of Alltel Communications for a Conditional Use Permit for a Telecommunications Tower Located at 2818 South Locust Street. Craig Lewis, Building Department Director reported that Alltel Communications and the Alpha Corporation had submitted an application with the City Clerk's Office for a Conditional Use Permit to allow for the placement of a telecommunications tower located at 2818 South Locust Street. The Grand Island Zoning Code Article X required that all towers be approved by the City Council in the form of a conditional use permit. This request had been reviewed by the Building, Legal, Utilities, Planning, and Public Works Departments.

Ron Depue and Kevin Lockhorn representing Alltel, spoke in support. Dan Naranjo, 424 East Dodge Street and Jack (Bud) Rasmussen, 557 Stagecoach Road spoke in opposition on behalf of Business Improvement District #3. No further public testimony was heard.

Public Hearing on Request of Rafael Orozco dba Rafa's Tacos, 811 West 2nd Street for a Class "T" Liquor License. City Clerk RaNae Edwards reported that Rafael Orozco dba Rafa's Tacos, 811 West 2nd Street had submitted an application with the City Clerk's Office for a Class "T" Liquor License. A Class "T" Liquor License allows for the sale of alcoholic beverages on sale only within the corporate limits of the City. Ms. Edwards presented the following exhibits for the

record: application submitted to the Liquor Control Commission and received by the City on August 26, 2003; notice to applicant of date, time, and place of hearing mailed on August 27, 2003; notice to the general public of date, time, and place of hearing published on August 30, 2003; and Chapter 4 of the City Code. No public testimony was heard.

Public Hearing on General Property, Parking District #2 (Ramp), and Community Redevelopment Authority Tax Request. David Springer, Finance Director reported that Nebraska State 77-1601-02 required that the City of Grand Island conduct a public hearing if the property tax request changed from one year to the next. The general property tax request increased from \$6,480,000 in FY2002-2003 to \$6,599,570 for FY2003-2004, or an increase of \$119,570. This represented a 1.8% increase in property tax dollars and no increase in the city of Grand Island's levy.

The property tax request for Parking District #2, also known as the Parking Ramp (Fund 271), decreased from \$30,018 in FY2002-2003 to \$28,000 for FY2003-2004, or a decrease of \$2,018. Parking District #2's levy decreased by 3.7%. The property tax request for the Community Redevelopment Authority increased from \$431,150 in FY2002-2003 to \$449,847 for FY2003-2004, an increase of \$18,696. This represented a 4.3% increase in property tax dollars and a 1.1% increase in the CRA's levy. Mr. Springer stated the City Council needed to pass a resolution by majority vote setting the property tax request for the general property tax at \$6,599,570, the Parking District #2 property tax at \$28,000, and the Community Redevelopment Authority property tax at \$449,847. This represented the final action to be taken on the FY2003-2004 Budget. No public testimony was heard.

ORDINANCES:

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

- #8838 – Consideration of Creating Sanitary Sewer District No. 511, Dale Roush 1st & 2nd Subdivisions (Indian Acres)
- #8839 – Consideration of Amending City Code Chapter 13-3 Relative to Tax Rate for Downtown Improvement and Parking District No. 1
- #8840 - Consideration of Creating Sidewalk District No. 1, 2003
- #8841 – Consideration of Assessments for Street Improvement District No. 1226
- #8842 – Consideration of Assessments for Street Improvement District No. 1227
- #8843 – Consideration of Assessments for Street Improvement District No. 1228
- #8844 – Consideration of Assessments for Street Improvement District No. 1229
- #8845 – Consideration of Assessments for Street Improvement District No. 1235
- #8846 – Consideration of Assessments for Street Improvement District No. 1236
- #8847 – Consideration of Assessments for Business Improvement District No. 3
- #8848 – Consideration of Assessments for Business Improvement District No. 4
- #8849 – Consideration of Assessments for Business Improvement District No. 5
- #8851 – Consideration of Amendment to Salary Ordinance Relative to Computer/GIS Technician

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 Walker seconded the motion. Upon roll call vote, all voted aye. Motion adopted.

Mayor: Is there any one in the audience interested in these Ordinances? Earl Hubbard, 07 Navajo Drive and Gerald and Berdena Leitschuck, 418 Arapahe Avenue spoke in opposition to Ordinance #8838. No further public comment was heard.

City Clerk: Ordinances #8838, #8839, #8840, #8841, #8842, #8843, #8844, #8845, #8846, #8847, #8848, #8849 and #8851 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. Motion adopted.

City Clerk: Ordinances #8838, #8839, #8840, #8841, #8842, #8843, #8844, #8845, #8846, #8847, #8848, #8849 and #8851 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. Motion adopted.

Mayor: By reason of the roll call votes on first reading and then upon final passage, Ordinances #8838, #8839, #8840, #8841, #8842, #8843, #8844, #8845, #8846, #8847, #8848, #8849 and #8851 are declared to be lawfully passed and adopted upon publication as required by law.

CONSENT AGENDA: Items G-3, G-4, G-15, and G-18 were removed from the Consent Agenda. Motion by Pielstick, second by Walker, carried unanimously to approve the Consent Agenda, with the exceptions of G-3, G-4, G-15, and G-18. Upon roll call vote, all voted aye. Motion adopted.

Receipt of Official Document – Civil Service Minutes of August 12, 2003.

Approving Minutes of August 26, 2003 City Council Regular Meeting. Councilmember Cornelius abstained.

Approving Request of Rafael Orozco dba Rafa's Tacos, 811 West 2nd Street for a Class "I" Liquor License.

#2003-253 – Approving Final Plat and Subdivision Agreement for Park Island Square Sixth Subdivision. It was noted that Ray O'Connor, owner, had submitted the final plat for Park Island Square Sixth Subdivision, located along Diers Avenue and south of 13th Street for the purpose to resubdivide lot 1 Park Island Square Sixth Subdivision into 2 lots.

#2003-254 – Approving Final Plat and Subdivision Agreement for Firethorne Estates Second Subdivision. It was noted that Marlene Roush, owner, had submitted the final plat for Firethorne Estates Second Subdivision, located north of Midaro Drive and east of South Locust Street for the proposed development of 2 lots on a currently unplatted parcel of land in the SW 1/4 of Section 27- 11- 9. This plat would approve one 19+ acre lot and one 10+ acre lot. These lots

would be served by individual well and septic systems as public sewer and water were not available.

#2003-255 – Approving Bid Award for Construction of Water Main District #441 and #442T with Starostka Group Co. of Grand Island, Nebraska in an Amount of \$29,688.00.

#2003-256 – Approving Bid Award for Motor Control Equipment Installation for Platte Generating Station with Capital Electric of Kansas City, Missouri in an Amount of \$71,310.91.

#2003-257 – Approving Medical Director Contract with Saint Elizabeth Physician Network of Lincoln, Nebraska for the Period of October 1, 2003 through September 30, 2008 for an Amount of \$11,593.00 for the First Year and a 3% Increase Allowed for each Subsequent Year of the Contract.

#2003-258 – Approving Change Order #1 to the Contract for Sanitary Sewer District #505, Livengood Subdivision and Along Willow Street with The Diamond Engineering Company of Grand Island, Nebraska for an Increase of \$13,315.71 and a Revised Contract Amount of \$84,993.86.

#2003-259 – Approving Contract for HRA Benefit's 501 (c)(9) Veba Trust to Non-Union Employees with Security Benefit Group of Companies of Topeka, Kansas.

#2003-260 – Approving Contract for Employee Assistance Program (EAP) with Family Resources of Grand Island of Grand Island, Nebraska in an Amount of \$15,487.00 for the First Year and \$16,895.00 Annual Cost for the Following Two Years. Councilmember Walker abstained.

#2003-261 – Approving Wildlife Control Contract with the U.S. Department of Agriculture Wildlife Services for a Three Year Period in an Amount of \$2,632.00 per year.

#2003-263 – Approving Bid Award for Traffic Signals at the Intersection of 13th Street and Allen Drive with Kayton Electric, Inc. of Grand Island, Nebraska in an Amount of \$65,525.80.

#2003-264 – Approving Bid Award for Project 2003-P-1, Paving of 1/2 Block of Macron Street North of Norseman Avenue with The Diamond Engineering Company of Grand Island, Nebraska in an Amount of \$31,104.99.

#2003-266 – Approving Authorization to Rescind Resolution #2003-252 and Intent to Award Bid for Project 2003-WWTP-1 on October 14, 2003.

#2003-265 – Approving Modification to Humane Society Holiday Light Agreement at Stolley Park. Motion by Nickerson, second by Walker to approve Resolution #2003-265. Steve Paustian, Parks and Recreation Director reported that this modification would allow the City to provide up front payment for the electrical modifications at Stolley Park necessary to facilitate the lighting display. The Humane Society would then reimburse the City for the costs of the electrical installation at a rate of 15% of the net proceeds of the event until all monies were reimbursed. It

was anticipated the original cost of installation would be less than \$40,000.00. The Humane Society was also soliciting funds to help defray the cost of the electrical installation and so monies needed from the City may be substantially less than the \$40,000.00 estimate.

Questions were raised concerning stipulations of the pay back and controls for the outlets. Mr. Paustian stated there was no time limit for the pay back and the outlets would be locked. Upon roll call vote, all voted aye. Motion adopted.

Approving Request of Mert Nietfeld, 4934 Fort Kearney Road for a Conditional Use Permit for an Auto Sales Lot Located at 322 West 5th Street. Motion by Nickerson, second by Pauly to approve the request of Mert Nietfeld for a Conditional Use Permit at 322 West 5th Street. Councilmember Pielstick questioned why the car lot had been vacant until just recently. Mr. Nietfeld stated that some vehicles may have been in the building and others had been moved around.

Upon roll call vote, Councilmembers Whitesides, Gilbert, Nickerson, Cornelius, Pauly, Hornady, Walker, and Haase voted aye. Councilmember Pielstick voted no. Motion adopted.

Approving Request of Alltel Communications for a Conditional Use Permit for a Telecommunications Tower Located at 2818 South Locust Street. Motion by Pielstick, second by Gilbert to deny the request of Alltel Communications for a Conditional Use Permit.

Discussion was had concerning an alternate location, co-locating on other towers, and detracting from the beautification of South Locust. Craig Lewis, Building Department Director commented on City Code regulations and zoning requirements. Mr. Lockhorn representing Alltel submitted a picture of what the tower would look like at this location and commented on the importance of this location to supply quality service.

Upon roll call vote to deny the request, Councilmembers Pielstick, Pauly, and Hornady voted aye. Councilmembers Whitesides, Gilbert, Nickerson, Cornelius, Walker, and Haase voted no. Motion failed.

Motion by Whitesides, second by Nickerson to approve the request of Alltel Communications for a Conditional Use Permit at 2818 South Locust Street. Upon roll call vote Councilmembers Whitesides, Gilbert, Nickerson, Cornelius, Hornady, Walker, and Haase voted yes. Councilmembers Pielstick and Pauly voted no. Motion adopted.

#2003-262 – Approving Continuation of Sanitary Sewer District No. 510, American Independence and Western Heights 4th & 5th Subdivisions. Motion by Nickerson, second by Hornady to approve Resolution #2003-262. Steve Riehle, Public Works Director reported that Council created the district at the July 22, 2003 council meeting. Gary Valasek, owner of American Independence Subdivision requested the creation of this District. Public Works staff established a boundary for the District that made sense for the area. Properties in Western Heights 4th and 5th Subdivisions and part of Section 11-11-10 were included to make the proposed District larger. Property owners in Western Heights Subdivisions had expressed

concerns that their inclusion with the properties in American Independence Subdivision had unfairly stacked the deck against them.

Mr. Reihle stated many districts had been created and were unsuccessful in the Western Heights area. Some individuals were against the districts because they may have relatively new septic systems. They were not interested in city sanitary sewer till they get more useful life out of their investment. Some of those properties now supported a district because they may be having problems with their septic systems. Others had replaced their systems and now are against a district. The district completed the protest period at 5:00 PM on Thursday, August 28, 2003. Protests were filed by 16 property owners representing 2,189.08 front feet, or 38.96% of the total district frontage of 5,619.10 feet.

Lyle Nelson, 1316 Branding Iron Lane and Harold Carmichael, 4246 Brand Iron Lane spoke in opposition. John Hiser, 1304 Branding Iron Lane and Darren Shenk, 1409 Branding Iron Lane spoke in support. Discussion was had concerning the cost of the district.

Upon roll call vote, all voted aye. Motion adopted.

REQUESTS AND REFERRALS:

Request for Approval to Construct a Single Family Dwelling on the South 20,500 Square Feet of Lot 50, Kuesters Lake. Motion was made by Nickerson, second by Pielstick, to deny the request of Dr. & Mrs. Van Wie. Craig Lewis, Building Department Director reported that Vince Dowding representing Dr. & Mrs. VanWie had submitted a request to construct a single family dwelling on the south 20,500 square feet of lot 50 at Kuesters Lake. The Grand Island City Code required council approval of this request as the property was a legal nonconforming use as several dwellings were located on one property.

Section 36-86 of the City code states any extensions or expansions of a nonconforming use must receive Council approval. Additionally City Code Section 8-22 provided that no permit should be issued until authorized by resolution of the City Council where the real property described in the application did not front upon a dedicated street or public road.

The basic request was to allow for an additional dwelling to be constructed on the Kuesters Lake property, the property was one tract with several dwellings and a social club built several years ago which did not comply with zoning restrictions imposed today. It would appear prudent to require the property to either comply with existing zoning restrictions or rezone the entire tract to a Residential Development zone which would allowed a more flexible regulation of land use. The approval of an onsite wastewater treatment system for this proposed location had been received from the State of Nebraska, Department of Environmental Quality. In reviewing that approval it did not appear that all the neighboring sites had been considered nor had their field and reserve spaces been identified. With the concerns and difficulties staff has had in the past locating building additions, wells, and replacement septic systems, it doesn't appear prudent to allow for additional dwellings to be constructed unless and until the entire site has been evaluated with respect to future needs.

Bruce Schreiner, 3535 Grassridge Drive representing the Van Wie's spoke in support. Bob Kutz, #20 Kuester Lake and President of the Kuester Lake Association spoke in support. Tim Plate, #33 Kuester Lake spoke in opposition stating the lots needed to be platted and was concerned about the well locations from the leech fields. Ron Rockwell, 1439 Howard Place was present to answer questions with regards to the NDEQ results.

Upon roll call voted, Councilmembers Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Hornady, and Haase voted aye. Councilmember Walker voted no. Motion adopted.

Request from Goodwill Industries to Serve Alcohol at the Skeet Range. City Clerk RaNae Edwards reported that the City Clerk's Office had received a letter from Goodwill Industries to hold its Platte River Charity Shoot at the Grand Island Skeet Club on September 27, 2003 and were requesting to serve alcoholic beverages. As this was City owned property, it had been the policy of the City to have Council approval. If approval was given they would be required to obtain a Special Designated Liquor License. Ken Fegter, 431 East Dodge Street spoke in opposition.

Motion was made by Whitesides, second by Pauly, to approve the request from Goodwill Industries. Upon roll call vote, Councilmembers Whitesides, Gilbert, Nickerson, Cornelius, Pauly, Walker, and Haase voted aye. Councilmember Pielstick voted no. Councilmember Hornady abstained. Motion adopted.

RESOLUTIONS:

#2003-267 – Approving General Property, Parking District #2 (Ramp), and Community Redevelopment Authority Tax Request. David Springer, Finance Director reported that this item related to the aforementioned Public Hearing.

Motion was made by Whitesides, second by Hornady, to approve Resolution #2003-267. Upon roll call voted, all voted aye. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Whitesides, second by Cornelius, carried unanimously to approve the Claims for the period of August 27, 2003 through September 9, 2003, for a total amount of \$2,800,804.01. Motion adopted.

ADJOURNMENT: The meeting was adjourned at 9:45 p.m.

Respectfully submitted,

RaNae Edwards
City Clerk