



# City of Grand Island

Tuesday, December 23, 2003

Council Session

## Item G2

### **Approving Minutes of December 9, 2003 City Council Regular Meeting**

*The Minutes of December 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

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

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

PLEDGE OF ALLEGIANCE was said followed by the INVOCATION given by Pastor Mike Benischek, First United Methodist Church, 4190 West Capital Avenue.

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

MAYOR COMMUNICATION: Mayor Vavricek commented that City Clerk RaNae Edwards was out of town due to an illness in the family and that the City's thoughts were with her at this time; and that Executive Assistant Jean Goss would be filling in for this meeting, and was also relocating out of the area in the near future. Mayor Vavricek also encouraged residents to enjoy the holiday lights in Stolley Park in support of the Humane Society. He also informed those watching on GITV that Channel 56 was back on the air and that microphones in Council Chambers were being tested during the meeting.

PRESENTATIONS AND PROCLAMATIONS:

PRESENTATION: Mayor Vavricek recognized Steve Fosselman and the Library Staff for receiving the Jane Geske Award.

ELECTION OF COUNCIL PRESIDENT: Councilmember Whitesides nominated Jackie Pielstick to continue as Council President. Councilmember Cornelius nominated Mitch Nickerson. Councilmember Whitesides made a motion, seconded by Councilmember Gilbert to close nominations. Motion was adopted unanimously. Upon tally of votes by Deputy City Clerk Jean Goss, it was reported that Pielstick had received 6 votes and Nickerson received 3 votes. Councilmember Pielstick remarked that she was honored to represent her colleagues and honored to serve in this way.

PUBLIC HEARINGS:

Public Hearing on Request of Copas de Oro, Inc. dba Copas de Oro, 413 West 4<sup>th</sup> Street for a Class "C" Liquor License: Deputy City Clerk Jean Goss reported that Copas de Oro, Inc. dba Copas de Oro, 413 W 4<sup>th</sup> Street had submitted an application with the City Clerk's Office for a Class "C" Liquor License. A Class "C" Liquor License allows for the sale of alcoholic beverages on and off sale within the corporate limits of the City. Ms. Goss presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on November 17, 2003; notice to applicant of date, time and place of hearing mailed on November 18, 2003; notice to the general public of date, time and place of hearing published on November 29, 2003; and Chapter 4 of the City Code. No public testimony was heard.

Public Hearing on Request of Perez, Inc. dba El Rodeo, 106 East 3<sup>rd</sup> Street for a Class "C" Liquor License: Deputy City Clerk Jean Goss reported that Perez, Inc. dba El Rodeo, 106 East 3<sup>rd</sup> Street had submitted an application with the City Clerk's Office for a Class "C" Liquor License. A Class "C" Liquor License allows for the sale of alcoholic beverages on and off sale within the corporate limits of the City. Ms. Goss presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on November 26, 2003; notice to applicant of date, time and place of hearing mailed on November 26, 2003; notice to the general public of date, time and place of hearing published on November 29, 2003; and Chapter 4 of the City Code. No public testimony was heard.

Public Hearing on Request of Roger Roscoe for a Conditional Use Permit for a Used Car Lot Located at 1021 East 4<sup>th</sup> Street: Craig Lewis, Building Department reported that Roger Roscoe, 1021 East 4<sup>th</sup> Street had submitted a request for a Conditional Use Permit to allow for the operation of a used car establishment at 1021 East 4<sup>th</sup> Street. The City Council last 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) allowed for a waiver approved by the City Council for businesses that were operating at the same location prior to March 9, 1999. No public testimony was heard.

Public Hearing on Acquisition of Utility Easement Located at 1304 West 2<sup>nd</sup> Street. (James A. Martinez) Gary Mader, Utilities Director, reported that acquisition of a utility easement located at 1304 West 2<sup>nd</sup> Street was required in order to have access to install, upgrade, maintain and repair power appurtenances for a pad-mount transformer and underground cable. No public testimony was heard.

Public Hearing on Acquisition of Utility Easement Located along the South Side of Capital Avenue, East of Highway 30. (Michael Baxter) Gary Mader, Utilities Director, reported that acquisition of a utility easement located along the south side of Capital Avenue, East of Highway 30 was required in order to have access to install, upgrade, maintain and repair power appurtenances. This easement would be used to relocated the overhead power lines due to the expansion of East Highway 30. No public testimony was heard.

Public Hearing on Acquisition of Utility Easement Located at Gunbarrel and East Highway 30. (Eloy Uribe and Oralia Erives) Gary Mader, Utilities Director, reported that acquisition of a

utility easement located in the northeast corner of the trailer park located at Gunbarrel and East Highway 30 was required in order to have access to install, upgrade, maintain and repair power appurtenances. This easement would be used to locate a single phase pad-mounted transformer to serve trailers due to the Highway 30 expansion. No public testimony was heard.

Public Hearing on Acquisition of Utility Easement Located at 4305 East Highway 30. (Mettenbrink Electric Corp.) Gary Mader, Utilities Director, reported that acquisition of a utility easement located at 4305 East Highway 30 was required in order to have access to install, upgrade, maintain and repair power appurtenances. This easement would be used to relocate an overhead power line required by the East Highway 30 expansion. No public testimony was heard.

Public Hearing on Acquisition of Utility Easement Located at 4703 East U.S. Highway 30. (Wilbur Donald and Velman Hillman) Gary Mader, Utilities Director, reported that acquisition of a utility easement located at 4703 East Highway 30 was required in order to have access to install, upgrade, maintain and repair power appurtenances. This easement would be used to relocate an overhead power line required by the East Highway 30 expansion. No public testimony was heard.

Public Hearing on Acquisition of Utility Easement Located at 5<sup>th</sup> and Cleburn. (Walnut Housing, LTD) Gary Mader, Utilities Director, reported that acquisition of a utility easement located at 5<sup>th</sup> and Cleburn Streets was required in order to have access to install, upgrade, maintain and repair power appurtenances. This easement would be used to locate new cable on a pad-mounted transformer to serve the remodeled complex. No public testimony was heard.

Public Hearing on Acquisition of Utility Easement Located at 3311 West Stolley Park Road. (Home Federal Savings and Loan) Gary Mader, Utilities Director, reported that acquisition of a utility easement located at 3311 West Stolley Park Road was required in order to have access to install, upgrade, maintain and repair power appurtenances. This easement would be used to locate underground conduit, cable, enclosures and a pad-mounted transformer to serve the new bank building. 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:

#8875 – Consideration of Amendment to Chapter 2-61 of the Grand Island City Code Relative to Residency Requirements for the Community Development Advisory Committee

#8876 – Consideration of Amendment to Chapter 19-3 of the Grand Island City Code Relative to Residency Requirements for the Library Board

#8877 – Consideration of Approving Power Participation Agreement with Omaha Public Power District

#8878 – Consideration of Amendment to Chapter 19-4 of the Grand Island City Code Relative to a Library Board Quorum

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

Mayor: Is there any one in the audience interested in these Ordinances? No public comment was heard.

Deputy City Clerk: Ordinances #8875, #8876, #8877, and #8878, 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 for Ordinances #8875, #8877 and #8878. Councilmember Walker and Cornelius voted nay for Ordinance #8876. Motion adopted.

Deputy City Clerk: Ordinances #8875, #8876, #8877 and #8878 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 for Ordinances #8875, #8877 and #8878. Councilmembers Meyer, Whitesides, Pielstick, Gilbert, Hornady, Pauly and Haase voted aye for Ordinance #8876. Council members Walker and Cornelius voted nay for Ordinance #8876. Motion adopted.

#### CONSENT AGENDA:

It was noted that item G-28 Resolution #2003-364 – Approving Long Term Lease Agreement with Union Pacific Railroad for Property at Street & Transportation and Fleet Services Facilities had been removed from the agenda to the December 23, 2003 City Council meeting.

Motion was made by Councilmember Pielstick to revise the Minutes of the City Council Special Meeting of November 22, 2003 to reflect that the references on page 44 of the Council packet, paragraphs 1, 2, 3, 4, and 6 should be changed to reflect that the comments were made by Eric Swanson rather than Gary Greer as stated in the minutes. Motion was seconded by Hornady.

Motion was made by Councilmember Hornady, second by Cornelius to change Resolution 2003-361 to read “WHEREAS the result of such modifications will increase the contract amount by \$9,910.71 for a revised contract price of \$81,221.62” to correct a typographic error.

Motion by Hornady, second by Cornelius, to approve the Consent Agenda, excluding items G-10, G-12, G15, G-28, G34, G39, and G-40. Upon roll call vote, all voted aye. Motion adopted.

Receipt of Official Documents – Civil Service Minutes of November 5, 2003 and November 25, 2003.

Approving Minutes of November 18, 2003 City Council Special Meeting.

Approving Minutes of November 18, 2003 City Council Regular Meeting.

Approving Minutes of November 22, 2003 City Council Special Meeting. With corrections as noted above.

Approving Minutes of November 25, 2003 City Council Study Session.

Approving Minutes of December 2, 2003 City Council Study Session.

Approving Minutes of December 2, 2003 City Council Special Meeting.

Approving Councilmember Appointments to Boards and Commissions.

Approving Appointments to the Community Redevelopment Authority Board.

Approving Request of Christian Solorio Perez, 516 North Sycamore Street, Apt. 2 for Liquor Manager Designation for Copas de Oro, 413 West 4<sup>th</sup> Street.

Approving Request of Silvia Perez Cervantez, 411 East 4<sup>th</sup> Street, Apt. 1 for Liquor Manager Designation for El Rodeo, 106 East 3<sup>rd</sup> Street.

Approving Request of Estela Ayala, 3720 West State Street, Apt. D12 for Liquor Manager Designation for El Toro Mexican Restaurant, 3425 West State Street.

#2003-352 - Approving Correction to Terms of Office for Members of the Community Redevelopment Authority (CRA) Board.

#2003-353 - Approving Acquisition of Utility Easement Located at 1304 West 2<sup>nd</sup> Street. (James A. Martinez)

#2003-354 - Approving Acquisition of Utility Easement Located Along the South Side of Capital Avenue, East of U.S. Highway 30. (Michael Baxter)

#2003-355 - Approving Acquisition of Utility Easement Located at Gunbarrel and East of Highway 30. (Eloy Uribe & Oralia Erives)

#2003-356 - Approving Acquisition of Utility Easement Located at 4305 East Highway 30. (Mettenbrink Electric Corp.)

#2003-357 - Approving Acquisition of Utility Easement Located at 4703 East U.S. Highway 30. (Wilbur Donald & Velma Hillman)

#2003-358 - Approving Acquisition of Utility Easement Located at 5<sup>th</sup> Street and Cleburn Street. (Walnut Housing, LTD)

#2003-359 - Approving Acquisition of Utility Easement Located at 3331 West Stolley Park Road. (Home Federal Savings and Loan) Councilmember Gilbert abstained.

#2003-360 - Approving Integrated Resources Plan, 2003.

#2003-361 - Approving Change Order #1 for Cooling Tower VFD with Capital Electric of Kansas City, Missouri for an Increase of \$9,910.71 for a Revised Contract Amount of \$81,221.62.

#2003-362 - Approving Final Plat and Subdivision Agreement for Westwood Park Eighth Subdivision. It was noted that Rudy Plate, owner, had submitted the final plat for Westwood Park Eighth Subdivision, located South of Faidley Avenue, and West of North Road for the propose of developing 20 lots on a parcel of land in the N 1/2 SE 1/4 Section 14-11-10.

#2003-363 - Approving Final Plat and Subdivision Agreement for Otto-Peters Subdivision. It was noted that Marlene Peters and Marilyn Otto, owners, had submitted the final plat for Otto-Peters Subdivision, located South of One-R-Road, and West of Gunbarrel Road for the propose of developing 1 lot on a parcel of land in the S 1/2 NE 1/4 Section 24-12-9.

#2003-365 - Approving Agricultural Deferral of Assessments for Sanitary Sewer District No. 512 for Gladys V. Schoel.

#2003-366 - Approving Bid Award for Solid Waste Transfer Trailer with Wilkins Industries, Inc. of Morris, Minnesota in an Amount of \$23,000.00.

#2003-367 - Approving Continuation of Street Improvement District No. 1250, Edna Drive from North Road to Mabel Drive (Asphalt Paving).

#2003-368 - Approving Continuation of Street Improvement District No. 1251, Grand West Fourth Subdivision.

#2003-369 - Approving Change to the Fee Schedule Relative to Parking Ramp Rental. It was noted that the monthly rental fee for the second and third levels of the parking ramp were amended from \$20.00 to \$15.00.

#2003-371 - Approving Bid Award for (1) 2003 Ford E-450 Type III, Class I Ambulance with MVP of York, Nebraska in an Amount of \$127,026.50.

#2003-372 - Approving Change Order #1 for Remediation of Lead-Impacted Soil at CHAAP Pistol Range with TCW Construction of Lincoln, Nebraska for an Increase of \$5,072.28 for a Revised Contract Amount of \$151,123.43.

#2003-373 - Approving Certificate of Final Completion for Remediation of Lead-Impacted Soil at CHAAP Pistol Range with TCW Construction of Lincoln, Nebraska.

#2003-374 - Approving Bid Award for Athletic Field Grading Project – Cottage Street Athletic Field with Hooker Brothers Construction of Grand Island, Nebraska in an Amount of \$28,662.00.

#2003-377 - Approving Intent to Annex, Adoption of Annexation Plan, and Schedule Public Hearing for Kennel Club Property.

#2003-378 – Approving Transfer of \$686.40 to Pay for Sanitary Sewer Assessment for Property Located at 3423 East Seedling Mile Road.

Approving Request of Copas de Oro, Inc. dba Copas de Oro, 413 West 4<sup>th</sup> Street for a Class “C” Liquor License: Motion by Pielstick, second by Whitesides to send the application forward to the Nebraska Liquor Control Commission with no recommendation. Meyer asked if there were problems with the property. Craig Lewis, Building Department Director reported that no inspections had been completed at the property at this time. It was the owner’s responsibility to request inspections. Haase was concerned that communication with the property owner was not occurring. Lewis responded that the State Patrol was the regulating agency for these types of license. Gilbert questioned whether it was typical to send license applications forward with no recommendation. Lewis stated that it had been done before in other cases, or the license could be sent forward approved pending final inspections. Pielstick stated that this was the third license for the property in twelve months. Walker questioned if the Liquor Commission would still approve a license with a denial by Council. Lewis stated that Council’s decisions were not binding on the Commission. Upon Roll Call Vote, all voted aye.

Approving Request of Perez, Inc. dba El Rodeo, 106 East 3<sup>d</sup> Street for a Class “C” Liquor License: Motion by Pielstick, second by Whitesides to send the application to the Nebraska Liquor Control Commission with no recommendation. Hornady questioned whether the same inspections were missing for this property. Craig Lewis, Building Department Director, reported that inspections had been completed for the property and there were no life safety issues, to his recollection. Ralph Bradley, 132 Ponderosa, spoke as counsel for the owners. Bradley reported all inspections had been completed in five days and there was a need for additional Exit lights. Mr. Kallos, the owner, had to take the business back, and was finishing the housekeeping tasks required to open. The business was in the downtown area and they would like to be there for some time to come. Upon Roll Call Vote: Meyer, Whitesides, Pielstick, Pauly voted aye. Gilbert, Cornelius, Hornady, Walker and Haase voted nay. Motion Failed.

Motion by Hornady, second by Walker to approve the application of Perez, Inc. dba El Rodeo for Class “C” Liquor License. Upon Roll Call Vote: Gilbert, Cornelius, Hornady, Walker and Haase voted aye. Meyer, Whitesides, Pielstick and Pauly voted nay. Motion adopted.

Approving Request of Roger Roscoe for a Conditional Use Permit for a Used Car Lot Located at 1021 East 4<sup>th</sup> Street: Motion was made by Pielstick, second by Walker to approve the request of Roger Roscoe for a Conditional Use Permit for a Used Car Lot Located at 1021 East 4<sup>th</sup> Street. Pielstick asked the owner to explain why cars lined the street near the property each evening. Roger Roscoe, 3114 W 15<sup>th</sup> Street explained that the cars were not part of his business and he was not aware who the owners of those vehicles might be. Pielstick commented that vehicles on the street in that area created a dangerous situation for children. Walker asked for a recommendation from the Building Department. Craig Lewis, Building Department Director stated that he had no recommendation, but Mr. Roscoe had fulfilled the code requirements for the property. Upon Roll Call Vote: all voted aye. Motion adopted.



#2003-370 – Approving Bid Award for (7) 2004 – 4-Door Police Vehicles: Motion by Walker, second by Whitesides to approve the bid award for (7) 2004 – 4-Door Police Vehicles with Anderson Ford Lincoln Mercury, Inc. of Grand Island, Nebraska in an Amount of \$142,453.00. Gilbert questioned that the Police Department was trading in 6 and acquiring 7 vehicles. Police Chief Hetrick reported that one vehicle had been wrecked and was unavailable to be traded in. Upon Roll Call Vote: Meyer, Whitesides, Gilbert, Cornelius, Pauly, Hornady, Walker, and Haase voted aye. Pielstick voted nay. Motion adopted.

#2003 -375 – Approving License Agreement with CNH Relative to Access to Public Right of Way: Motion by Walker, second by Whitesides to Approve License Agreement with CNH Relative to Access to Public Right of Way. City Attorney Doug Walker reported that test monitoring wells were being sought to track pollutants, monitoring which should help determine if water pollution had progressed to the east. Pauly questioned if drilling had previously occurred. Gary Mader, Utilities Department Director, stated that CNH had asked permission to begin the process. Department Directors had discussed the issue and informed CNH that they could begin work with no objections from staff, but CNH should be aware they were working at their own risk pending Council approval.

Dave Springer, Interim City Administrator reported that the issue had been discussed by staff and it was thought there was advantage to begin the process due to the presence of work crews to do the work and the weather. The License Agreement would give future control of the process. Gilbert questioned if the locations would be in front yards and whether the agreement gave specific locations for test wells. Mader reported that wells may need to be drilled in front yards in the future. Gilbert questioned the amount of communication that would occur with the property owners. Walker stated that it could be made clear to CNH that community relations required notification to property owners. Mader reported that additional water testing had shown some positive tests west of the Castle Estates area. Pielstick questioned if the agreement created a “blank check” for CNH to drill. Walker stated that the license agreement does not have advance notice written in, but could be written to reflect notice to city utilities. Springer suggested discussing notification at the weekly meeting of the parties and a reiteration of concerns at that time. CNH had been very accommodating so far in working with the public. Whitesides questioned how many homes were in the area. Walker estimated 30-40 at most. Whitesides suggested a letter to the homeowners warning that drilling was a possibility in order to take care of any responsibility by the city to notify owners. Walker suggested adding a sentence in paragraph 2 of the agreement that states CNH agreed to notify City 24 hours before work commences. Walker asked what the city policy was for city work in the right-of-way. Mader stated that it depended on the size and scope of the project.

Motion was made by Hornady, second by Gilbert to amend the agreement for CNH to give 48 hour notice prior to drilling. Whitesides reiterated the need for a letter from the city to all area homeowners. Upon Roll Call Vote: all voted aye. Motion adopted.

#2003-376 – Approving Change Order Number 1 to the Contract for Street Improvement District Number 1246, South Locust from Stolley Park to Fonner Park Road with Diamond Engineering Company of Grand Island, Nebraska: Motion by Whitesides, second by Walker to Approve

Change Order Number 1 to the Contract for Street Improvement District Number 1246, South Locust from Stolley Park to Fonner Park Road. Steve Riehle, Public Works Department Director stated that the project would have a net increase of \$252,000 and the new concrete road would have a lifecycle of 30-40 years. Riehle indicated significant asphalt failures had occurred in the current roadway due to base failures and stripping. Riehle stated that the Public Works Department would like to try anti-stripping measures on lower volume streets before South Locust. Mayor Vavricek asked Riehle to comment on funding. Riehle stated that \$110,000 could come from a concrete repair account that would not be finished this year, a replacement bridge on Blaine Street would be pushed back to the following fiscal year, and a drainage project at the Platte Valley Industrial Park could be pushed back due to less development in the area that would make project more of a priority. Pauly asked if this was robbing one project to support another. Riehle stated that these funds would be unused this year and go to reserves if not used for this project. Vavricek asked if these projects would come up in the future. Dave Springer, Interim City Administrator stated that the \$110,000 for concrete repair was a true savings, while the other \$152,000 would be projects pushed forward, but that we typically under spend budgets for capital projects. Vavricek stated we would be prepaying a long term investment. Zachary Eaton, 1303 North Ruby, asked that the city consider polymer modified asphalts used by the Nebraska Department of Roads in the last few years. These new products worked well in high traffic areas. Eaton stated that he worked for a company that produces these materials so had an interest in seeing them in use in Grand Island. Riehle stated that the Department was aware of these products and would like to test them in other areas. Staff was aware that this project would push the limits for typical asphalt so asked in the specifications for Super Pave products. Walker stated that Council appreciated the information provided by Eaton, but believed South Locust Street should have continuity. Upon Roll Call Vote: all voted aye. Motion adopted.

#### RESOLUTION:

#2003-379 – Approving City Administrator’s Appointment and Employment Contract: Mayor Vavricek stated that this contract and offer were in the best interests of the community, which had benefited from the sound experience of a City Administrator in the last 4 years and which he hoped would continue. Brenda Sutherland, Human Resources Department Director reported on the process used to determine final candidates from the 286 persons involved in the process. Sutherland thanked the committee, made up of Council members and community representatives Bill Giddings, Gale Larson, Dee Price, Robert Briseno, and Bob Sorenson. Gary Greer, Incoming City Administrator remarked on the process and appreciated the assessment to make sure a correct fit was achieved. Greer thanked Sutherland for her efforts and Dustin Dodd from Kenexa for his hard work in the process. Greer stated that he had never felt so much support from a community and that he had received numerous calls from citizens welcoming him. Vavricek welcomed him home to Grand Island. Upon Roll Call Vote: all voted aye. Motion adopted.

#### PAYMENT OF CLAIMS:

Motion by Cornelius, second by Haase, carried unanimously to approve the Claims for the period of November 19, 2003 through December 9, 2003, for a total amount of \$4,508,338.79. Motion adopted.

ADJOURNMENT: The meeting was adjourned at 8:40 p.m.

Respectfully submitted,

Jean Goss  
Deputy City Clerk