



City of Grand Island

Tuesday, July 13, 2004

Council Session

Item G2

Approving Minutes of June 22, 2004 City Council Regular Meeting

The Minutes of June 22, 2004 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

June 22, 2004

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 June 22, 2004. Notice of the meeting was given in the Grand Island Independent on June 16, 2004.

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

PLEDGE OF ALLEGIANCE was said followed by the INVOCATION given by Pastor Onamae Waddel, Trinity United Methodist Church, 511 North Elm Street. Pastor Waddel then sang "God Bless America".

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

ADJOURN TO BOARD OF EQUALIZATION: Motion by Hornady, second by Cornelius, carried unanimously to adjourn to Board of Equalization.

#2004-BE-9 – Consideration of Determining Benefits for Street Improvement District No. 1248, Faidley Avenue from Moore's Creek Drainway Easterly Towards Diers Avenue. Public Works Director Steve Riehle stated that work had been completed on Street Improvement District No. 1248 and action was required by the Council to set the assessments for this district. Motion by Pielstick, second by Hornady, to approve Resolution #2004-BE-9, carried unanimously.

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

PUBLIC HEARINGS:

Public Hearing on a Change to the Grand Island Zoning Map for Property Being Proposed for Platting as Wal-Mart South Subdivision Located South of Highway 34 and East of South Locust Street from TA Transitional Agricultural to CD Commercial Development. Chad Nabity, Regional Planning Director reported that this change in zoning was for the Wal-Mart Super Center to be located on 36.19 acres at the southeast corner of U.S. Highway 34 and South Locust Street proposed for platting as Wal-Mart South Subdivision. Mentioned was that this item related to the Preliminary Plat and the Final Plat and Development Agreement for Wal-Mart South

Subdivision before council. Mr. Nabity explained two changes to the Development Agreement that City Administration recommended. Recommended changes were: a 10' Hike/Bike Trail instead of 5' and a 20" water main instead of 10" to be paid by Wal-Mart.

Ken Bunker, Attorney representing Wal-Mart spoke in support of the zoning change, annexation, and plat, but was opposed to the extra expense to Wal-Mart for the 20" water main. Mike Morrow and Gary Franz representing the owners at this location requested that if the development agreement were not approved, that Council wait with the annexation of this property. Don Day and Brett Martinez representing Olsson Associates on behalf of Wal-Mart were present to answer questions and encourage the city to pay for the increased size of the water main. No further public testimony was heard.

Public Hearing on Request of Mongolian Grill of Omaha, LLC dba Mongolian Grill Restaurant, 1816 Webb Road for a Class "J" Liquor License. City Clerk RaNae Edwards reported that Mongolian Grill of Omaha, LLC dba Mongolian Grill Restaurant, 1816 Webb Road had submitted an application with the City Clerk's Office for a Class "J" Liquor License which allows for the sale of wine and beer, 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 June 7, 2004; notice to applicant of date, time, and place of hearing mailed on June 7, 2004; notice to the general public of date, time, and place of hearing published on June 12, 2004; and Chapter 4 of the City Code. No public testimony was heard.

Public Hearing on Acquisition of Utility Easement Located at 2719 South Locust Street. (William and Sandra Lawrey) Tim Lusinger, Utilities Assistant Director reported that acquisition of a utility easement located at 2719 South Locust Street was required in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers. This easement would be used to locate underground electrical cables and a pad-mounted transformer to serve the new Harley Davidson Central Store. No public testimony was heard.

Public Hearing on Request of CXT/LB Foster Company for Renewal of Conditional Use Permit for Temporary Buildings Located at 710 East Highway 30. Craig Lewis, Building Department Director reported that CXT/LB Foster Company had submitted a request for renewal of a Conditional Use Permit for temporary buildings located at 710 East Highway 30. Mr. Lewis stated these buildings were initially intended for a five year period, but have extended to eight. It was recommended that Council approve the two year renewal as requested, but no future approvals were recommended. No public testimony was heard.

Public Hearing on Acquisition of all Real Estate Property Located in the Block Bordered by Walnut, Cedar, Koenig, and Charles Streets. Doug Walker, City Attorney reported that this was the site for construction of Fire Station #1 as discussed at the June 15, 2004 Study Session. This public hearing was required for Council approval to proceed with the acquisition of the real estate.

Jerry Benker, 1710 West Oklahoma Avenue stated that he realized that a new station was needed and that if this was the only location for Fire Station #1, he wanted to be treated fairly. Gene

McIntosh, 424 West Charles spoke regarding response times and coverage areas. No further public testimony was heard.

Public Hearing on Acquisition of Approximately 90 Acres of Real Estate Located South of Capital Avenue, East of Nebraska Central Railroad, North of Lincoln View Estates Subdivision, and West of Geddes Street. Doug Walker, City Attorney reported that this was the site for construction of the Fire Training Facility as discussed at the June 15, 2004 Study Session. This public hearing was required for Council approval to proceed with the acquisition of the real estate.

Doug Petersen, 1414 Capital Avenue and Brad Petersen, 2020 East Capital Avenue commented on a piece of property they owned north of Capital Avenue and east of McCain Foods that they would rather have the city look at for the fire training center. Bob Hines, 1304 North Geddes spoke in opposition. No further 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 ordinance numbered:

#8916 – Consideration of Change to the Grand Island Zoning Map for Property Being Proposed for Platting as Wal-Mart South Subdivision Located South of Highway 34 and East of South Locust Street from TA Transitional Agricultural to CD Commercial Development

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 this ordinance 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 this Ordinance? Ken Bunger, Attorney for Wal-Mart commented on the unfairness of having Wal-Mart pay for the increased water main and hike/bike trail. He stated that Wal-Mart would pay for the 10' hike/bike trail, but felt it was not fair to have them pay for the 20" water main. No further public comment was heard.

City Clerk: Ordinance #8916 on first reading. All those in favor of the passage of this ordinance on first reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

City Clerk: Ordinance #8916 on final passage. All those in favor of the passage of this ordinance 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, Ordinance #8916 is declared to be lawfully passed and adopted upon publication as required by law.

Motion by Pielstick, second by Nickerson to defer Ordinance #8888 to a later time to work out the Development Agreement.

#8888 – Consideration of Annexation of Property Located South of U.S. Highway 34 and East of South Locust Street – Proposed Wal-Mart South Subdivision an Addition to the City of Grand Island (Final Reading)

Ken Bunger, Attorney for Wal-Mart requested that approval be given at this meeting so the project could move forward. Mike Morrow representing the owners of the property stated that if the Development Agreement were not approved by Council, the owners would not want to annex this property at this time. Discussion was held with regards to the development agreement and the 20" water main.

Upon roll call vote, Councilmembers Meyer, Pielstick, Nickerson, Pauly, and Walker voted aye. Councilmembers Whitesides, Gilbert, Cornelius, Hornady, and Haase voted no. Mayor Vavricek exercised his Mayoral right to break the tie vote by casting his vote against referring this matter to a later time. Motion failed.

Motion by Whitesides, second by Gilbert to approve Ordinance #8888 on Final Reading.

Mike Morrow requested that Resolution #2004-150 the Development Agreement for Wal-Mart South Subdivision be approved before the vote on Ordinance #8888. City Attorney Doug Walker stated that Council could repeal this Ordinance if the Development Agreement was not approved.

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

Motion by Pielstick, second by Hornady, to approve Ordinance #8912 on Final reading.

#8912 – Consideration of Annexation of Property South of Airport Road and East of Shady Bend Road being Platted as Frauen Subdivision (Final Reading)

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

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:

#8914 – Consideration of Creation of Street Improvement District No. 1253, Island Circle – West of Webb Road in Lacy Subdivision

#8917 – Consideration of Assessments for Street Improvement District No. 1248, Faidley Avenue from Moore's Creek Drainway Easterly Towards Diers Avenue

#8918 – Consideration of the Sale of Excess Right-of-Way to Menard, Inc., Adjacent to the South Side of Menard's Property

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 Haase 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.

City Clerk: Ordinances #8914, #8917 and #8918 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 #8914, #8917 and #8918 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 #8914, #8917 and #8918 are declared to be lawfully passed and adopted upon publication as required by law.

CONSENT AGENDA: Item G-13 was pulled from the consent agenda. Motion by Hornady, second by Walker, to approve the Consent Agenda excluding item G-13. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of June 8, 2004 City Council Regular Meeting. Councilmember Pielstick abstained.

Approving Minutes of June 15, 2004 City Council Study Session. Councilmember Cornelius abstained.

Approving Request of Mongolian Grill of Omaha, LLC dba Mongolian Grill Restaurant, 1816 Webb Road for a Class "J" Liquor License.

Approving Request of Tri Nguyen, 3122 North 168th Street, Omaha, Nebraska for a Liquor Manager Designation for Mongolian Grill Restaurant, 1816 Webb Road.

Approving Request of CXT/LB Foster Company for Renewal of Conditional Use Permit for Temporary Buildings Located at 710 East Highway 30.

Approving Preliminary Plat for Wal-Mart South Subdivision

#2004-142 – Final Plat and Subdivision Agreement for Frauen Subdivision. It was noted that Karen Frauen had submitted a final plat for Frauen Subdivision, located on a parcel of land in the W1/2 NW1/4 of Section 1-11-9 South of Airport Road, west of Shady Bend Road for the purpose of creating 2 lots from an 80 acre tract of land. Councilmember Meyer voted no.

#2004-143 – Approving Acquisition of Utility Easement Located at 2719 South Locust Street. (William and Sandra Lawrey)

#2004-144 – Approving Discontinuation of Water Main District No. 448 – Stolley Park Road, Bellwood to Kingwood.

#2004-145 – Approving Bid Award for Horizontal Split-Case Pump with Electric Motor for Roger's Pumping Station Pump #3 Installation with Patterson Pump Company of Toccoa, Georgia in an Amount of \$113,00.00 Plus Sales Tax.

#2004-146 – Approving Discontinuation of Sanitary Sewer District No. 516, Along Stolley Park Road from Bellwood Drive to East of Kingswood Drive (Roush Subdivision).

#2004-147 – Approving Amendment to the Grand Island Employees Pension Plan.

#2004-149 – Approving Warranty Work for Burdick Station Combustion Turbines 2 and 3 with Donaldson Company, Inc. of Bloomington, Minnesota.

#2004-148 – Approving State Contract Award for Purchase of 20 Computers for the Public Library with Dell Computers of Round Rock, Texas in an Amount of \$24,971.08. Motion by Walker, second by Whitesides to approve Resolution #2004-148. Tim Victor, 4228 Springview Drive spoke in opposition. Upon roll call vote, all voted aye. Motion adopted.

RESOLUTIONS:

#2004-150 – Approving Final Plat and Development Agreement for Wal-Mart South Subdivision. Motion by Nickerson, second by Cornelius to approve Resolution #2004-150 with the modification that Wal-Mart pay for a 20" water main and a 10' hike/bike trail.

Ken Bunger, Attorney for Wal-Mart commented concerning the fairness of making Wal-Mart pay for the increased size of water main and hike/bike trail and requested that this item be deferred to a later date if the council were to require Wal-Mart to pay the full costs.

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

#2004-151 – Approving Resolution Proposing a Ballot Measure Banning Smoking from all Enclosed Public Places and Places of Employment within the City of Grand Island. City Attorney Doug Walker reported that at the June 1, 2004 Study Session, representatives of Tobacco Free Hall County made a presentation requesting a ordinance banning smoking in all public places within the City of Grand Island. The consensus of Council was to place this issue on the ballot for voters to decide at the next general election. With further study from City Administration, it was recommended that this issue be referred to the Central District Health Department for further study.

A lengthy discussion by council followed with comments made with regards to health issues, business owner's rights, and ballot issues. Teresa Anderson, Central District Health Department Director supported further study of a smoking ban and the establishment of smoke free policies.

Collette Shaughnessy representing Tobacco Free Hall County commented that they had not been notified or had any input in what was being presented to council, but stated they would support a ballot issue. Ms. Shaughnessy read a letter from Dr. Richard Fruehling supporting the smoking ban.

The following people spoke regarding this issue:

Russell Wing, 3125 Westside Street	opposed ballot – supported ordinance
Dean Burch, 407 East 18 th Street	opposed smoking ban
Robert Mahood, 123 North Locust	opposed smoking ban
Dean Pegg, 120 East 3 rd Street	opposed smoking ban
Richelle Cellar, 4258 Nevada Avenue	opposed smoking ban
Gene Dominick, 221 East 1 st Street	supported smoking ban
Cory Cameron, 3009 W. Stolley Park Road	opposed smoking ban

Motion by Nickerson, second by Meyer to refer this matter to the Central District Health Department for further study.

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

Motion by Whitesides to deny Resolution #2004-151. Motion died due to lack of a second.

Motion by Whitesides, second by Pauly to take the time necessary for further study of this issue and address ballot and/or ordinance language with the possibility of bringing this to an election. Upon on roll call vote, all voted aye. Motion adopted.

Council took a recess at 10:40 p.m. and reconvened at 10:50 p.m.

#2004-153 – Approving Acquisition of Approximately 90 Acres of Real Estate Located South of Capital Avenue, East of Nebraska Central Railroad, North of Lincoln View Estates Subdivision, and West of Geddes Street.

City Administrator Gary Greer commented on a discussion with the Petersen's of an alternate site. Mr. Greer recommended looking at the alternate site located north of Capital Avenue and east of McCain Foods. Doug Petersen, 1414 Capital Avenue commented on a preference for that site.

Motion by Pielstick, second by Meyer to approve Resolution #2004-153. Upon roll call vote, all voted no. Motion failed.

#2004-152 – Approving Acquisition of all Real Estate Property Located in the Block Bordered by Walnut, Cedar, Koenig, and Charles Streets.

Councilmember Gilbert stated she felt we were rushing this decision. Councilmember Haase supported the proposed site but had concerns about cost. Councilmember Meyer commented that

a Fire Station at Fonner Park solved no problems. Jerry Benker, 1710 West Oklahoma Avenue and Elaina Barber, 417 West Koenig Street spoke in opposition. Paul Jakubowski, 1511 Stagecoach Road commented on the lack of communication with regards to this issue.

Motion by Gilbert, second by Haase to refer Resolution #2004-152 to the July 20, 2004 Study Session meeting. Upon roll call, all voted aye. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Cornelius, second by Hornady, carried unanimously to approve the Claims for the period of June 9, 2004 through June 22, 2004, for a total amount of \$3,451,550.11. Motion adopted.

ADJOURNMENT: The meeting was adjourned at 11:30 p.m.

Respectfully submitted,

RaNae Edwards
City Clerk