



City of Grand Island

Tuesday, September 28, 2004

Council Session

Item G1

Approving Minutes of September 14, 2004 City Council Regular Meeting

*The Minutes of September 14, 2004 City Council Regular Meeting are submitted to approval.
See attached MINUTES.*

Staff Contact: RaNae Edwards

OFFICIAL PROCEEDINGS

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

September 14, 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 September 14, 2004. Notice of the meeting was given in the Grand Island Independent on September 8, 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 a moment of silence for fallen serviceman Eric Knott who was killed in Iraq. INVOCATION was given by Pastor Scott Jones, Third City Christian Church, 4100 West 13th Street.

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

MAYOR COMMUNICATION: Mayor Vavricek reminded everyone of the funeral services that were held today for Serviceman Eric Knott and for all to remember his family.

PRESENTATIONS AND PROCLAMATIONS:

Recognition of Michael Peterson from Fleet Services of the Public Works Department for 20 Years of Service with the City: Mayor Vavricek and the City Council recognized Michael Peterson for 20 years of service with the City. Public Works Director Steve Riehle commented on Michael's service with the City. Michael Peterson was present to receive a certificate.

Proclamation "Reducing Underage Drinking: a Collective Responsibility" Presented by Project Extra Mile: The Mayor presented the Proclamation "Reducing Underage Drinking: a Collective Responsibility". Lex Ann Roach representing Project Extra Mile and 3 students spoke with regards to underage drinking.

Proclamation "Walk to D'Feet ALS" September 19, 2004. Mayor Vavricek proclaimed September 19, 2004 as "Walk to D'Feet ALS". John and Diane Brownell were present to receive the proclamation and thank the City for their support. Mentioned was a walk to be held on Sunday, September 19, 2004 at 2:00 p.m. at Eagle Scout Park to raise funds to find a cure and assist those afflicted with the disease.

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

#2004-BE-15 – Consideration of Determining Benefits for Business Improvement District #3. Finance Director David Springer stated that the City Council in its' capacity as the Board of Equalization was required to determine the benefits for BID #3. Special assessments were for the amount of \$34,368.44. Motion by Pielstick, second by Hornady, to approve Resolution #2004-BE-15, carried unanimously.

#2004-BE-16 – Consideration of Determining Benefits for Business Improvement District #4. Finance Director David Springer stated that the City Council in its' capacity as the Board of Equalization was required to determine the benefits for BID #4. Special assessments were for the amount of \$17,324.59. Motion by Pielstick, second by Hornady, to approve Resolution #2004-BE-16, carried unanimously.

#2004-BE-17 – Consideration of Determining Benefits for Business Improvement District #5. Finance Director David Springer stated that the City Council in its' capacity as the Board of Equalization was required to determine the benefits for BID #5. Special assessments were for the amount of \$80,006.00. Mr. Springer stated that the City had received a protest from The Arter Group concerning assessments for residential and commercial being the same. This would be studied for future assessments. Motion by Pielstick, second by Hornady, to approve Resolution #2004-BE-17, carried unanimously.

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

PUBLIC HEARINGS:

Public Hearing on Public Utility Easement Along the Property of 3936 Hampton Road, Lot 27 of the Kentish Hills Subdivision. (Ron and Darla Sitzman). Steve Riehle, Public Works Director reported that an easement located along the easterly 20' of the westerly 28' of Lot 27 of Kentish Hills Subdivision was required to have access to install and maintain a sanitary sewer. No public testimony was heard.

Public Hearing on Public Utility Easement Along the Property of 3937 Dover Court, Lot 3 of the Kentish Hills Subdivision. (Ryan & Whitney Witt) Steve Riehle, Public Works Director reported that an easement located along the easterly 20' of the westerly 28' of Lot 3 of Kentish Hills Subdivision was required to have access to install and maintain a sanitary sewer. 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 state statutes requires the City to conduct a public hearing if the property tax request changes from one year to the next. Property tax request for the general property tax was \$4,708,194, the Parking District No. 2 at \$26,000, and the Community Redevelopment Authority property tax at \$457,391. No public testimony was heard.

Public Hearing on Proposed Use of Local Law Enforcement Block Grant Funds. Captain Robert Falldorf reported that the Grand Island Police Department was eligible for federal LLEBG funds in the amount of \$7,388. The funds were tentatively allocated to purchase four LED Rotation Lights for patrol vehicles. No public testimony was heard.

Public Hearing on Acquisition of Real Estate Located at 414 S. Shady Bend Road. (Timothy & Mary Arends) Steve Riehle, Public Works Director reported that acquisition of real estate located at 414 S. Shady Bend Road owned by Timothy & Mary Arends was required as part of the overall settlement of litigation initiated by the Arends in 2003. The settlement of the lawsuit was for a total of \$240,000.00. George Sinner, 507 N. Sherman commented that there was more to this issue than the Wastewater Treatment Plant. No further public testimony was heard.

Public Hearing for Acquisition of Public Utility Easement Along the Property of 514 Congdon Avenue, Lot 1 of Lambert's Addition. (Galvan Construction) Steve Riehle, Public Works Director reported that acquisition of a public utility easement located along the southerly 6' of Lot 1 of Lambert's Addition was required in order to have access to maintain an existing sanitary sewer. No public testimony was heard.

Public Hearing on Acquisition of Four (4) Utility Easements Located Along the North and South Sides of East Highway 30, West of Shady Bend Road. (Woodward Family Trust and Woodward Marital Trust) Gary Mader, Utilities Director reported that acquisition of utility easements located along the north and south sides of East Highway 30, west of Shady Bend Road were required in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers. The easements would be used to relocate overhead power lines and the required anchors to back-up those lines due to the expansion and widening of East Highway 30. No public testimony was heard.

Public Hearing on Acquisition of Utility Easement Located in the Northwest Corner of the Proposed Super Wal-Mart Property Located at Diers and Carleton Avenue. (Wal-Mart Real Estate Business Trust) Gary Mader, Utilities Director reported that acquisition of a utility easement located in the northwest corner of the proposed Super Wal-Mart property located at Diers and Carleton Avenue was required in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers. The easement would be used to facilitate electrical service and provide access to the electrical facilities on the north side of the Super Wal-Mart property. No public testimony was heard.

Public Hearing on Request of Bag 'N Save, Inc. dba Bag 'N Save, 1215 Allen Drive for a Class "D" Liquor License. City Clerk RaNae Edwards reported that Bag 'n Save, Inc. dba Bag 'N Save, 1215 Allen Drive had submitted an application with the City Clerk's Office for a Class "D" Liquor License which allows for the sale of alcoholic beverages, off 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 September 1, 2004; notice to applicant of date, time, and place of hearing mailed on September 1, 2004; notice to the general public of date, time, and place of hearing published on September 4, 2004; and Chapter 4 of the City Code. Helene Shrago, 12639 Shirley Street, Omaha, Nebraska spoke in

support and was present for questions. George Sinner, 507 N. Sherman spoke in opposition. No further public testimony was heard.

Public Hearing on Request of Bag 'N Save, Inc. dba Bag 'N Save, 1235 Allen Drive for a Class "B" and "K" Liquor Licenses. City Clerk RaNae Edwards reported that Bag 'n Save, Inc. dba Bag 'N Save, 1235 Allen Drive had submitted an application with the City Clerk's Office for a Class "B" and "K" Liquor Licenses which allows for the sale of beer and wine, off 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 September 2, 2004; notice to applicant of date, time, and place of hearing mailed on September 2, 2004; notice to the general public of date, time, and place of hearing published on September 4, 2004; and Chapter 4 of the City Code. Helene Shrago, 12639 Shirley Street, Omaha, Nebraska spoke in support and was present for questions. George Sinner, 507 N. Sherman spoke in opposition. No further public testimony was heard.

Public Hearing on Application to the Nebraska Department of Economic Development for an Economic Development CDBG Grant. Stewart Jobes, Nebraska State Department of Economic Development reported that the Nebraska Department of Economic Development offers Community Development Block grant funding for economic development. The City was applying for a grant in the amount of \$429,947 of which \$425,947 would be loaned to Standard Iron, Inc. for building construction and equipment purchases. The City would retain the remaining \$4,000 for audit and administrative expenses associated with the grant. 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:

- #8931 - Consideration of Assessments for Business Improvement District #3
- #8932 - Consideration of Assessments for Business Improvement District #4
- #8933 - Consideration of Assessments for Business Improvement District #5
- #8934 - Consideration of Amending the Grand Island City Code Relative to Downtown Improvement and Parking District Taxes
- #8935 - Consideration of Water Rate Change

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 this Ordinance? Jose Zapat, 2110 Independence spoke in opposition to Ordinance #8935. George Sinner, 507 N. Sherman spoke in support of Ordinance #8935. No further public comment was heard.

City Clerk: Ordinance #8931, #8932, #8933, #8934, and #8935 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. Councilmember Pielstick voted no on Ordinance #8935. Motion adopted.

City Clerk: Ordinance #8931, #8932, #8933, #8934, and #8935 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. Councilmember Pielstick voted no on Ordinance #8935. Motion adopted.

Mayor: By reason of the roll call votes on first reading and then upon final passage, Ordinances #8931, #8932, #8933, #8934, and #8935 are declared to be lawfully passed and adopted upon publication as required by law.

CONSENT AGENDA: Items G-3, G-12, and G-25 were pulled from the consent agenda. Motion by Hornady, second by Cornelius, to approve the Consent Agenda excluding items G-3, G-12, and G-25. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of August 24, 2004 City Council Regular Meeting. Councilmember Margaret Hornady abstained.

Approving Minutes of September 7, 2004 City Council Study Session and Special Meeting.

Approving Request of Bag 'N Save, Inc. dba Bag 'N Save, 1215 Allen Drive for Class "D" Liquor License.

Approving Request of Bag 'N Save, Inc. dba Bag 'N Save, 1235 Allen Drive for Class "B" and "K" Liquor Licenses.

Approving Request of Helene Rae Shrago, 12639 Shirley Street, Omaha, Nebraska for Liquor Manager Designation for Bag 'N Save, 1215 Allen Drive and 1235 Allen Drive.

#2004-177 – Approving Acquisition of Public Utility Easement Along the Property of 3936 Hampton Road, Lot 27 of the Kentish Hills Subdivision. (Ron and Darla Sitzman)

#2004-178 – Approving Acquisition of Public Utility Easement Along the Property of 3937 Dover Court, Lot 3 of the Kentish Hills Subdivision. (Ryan and Whitney Witt)

#2004-217 – Approving Changing the Delivery Date from 250 Days to 350 Days for Final Clarifier Mechanisms Project 2003-WWTP-2 for the Waste Water Treatment Plant with Dorr-Oliver EIMCO of Salt Lake City, Utah.

#2004-218 – Approving Continuation of Asphalt Street Improvement District No. 1254; Dale Roush and Dale Roush 2nd Subdivisions. (Indian Acres)

#2004-219 – Approving Bid Award for Sanitary Sewer District No. 512, Marylane, Kentish Hills, and Bradley Subdivisions with General Excavating of Lincoln, Nebraska in an Amount of \$477,488.14.

#2004-221 – Approving Proposed Use of Local Law Enforcement Block Grant Funds.

#2004-222 – Approving Application to the Nebraska Department of Economic Development for an Economic Development CDBG Grant.

#2004-223 – Approving Amendment to the 2004-2005 Fee Schedule for Parking District #2 (Ramp) and Police Department.

#2004-224 – Approving Acquisition of Real Estate Located at 414 S. Shady Bend Road. (Timothy and Mary Arends)

#2004-226 – Approving Acquisition of Four (4) Utility Easements Located Along the North and South Sides of East Highway 30, West of Shady Bend Road. (Woodward Family Trust and Woodward Marital Trust)

#2004-227 – Approving Bid Award for the Ditch Restoration from North Road Along Faidley Avenue Extending Toward Diers Avenue then North at 1/4 Mile West of US Highway 281 with Dobesh Land Leveling of Grand Island, Nebraska in an Amount of \$79,100.00.

#2004-228 – Approving Acquisition of Public Utility Easement Along the Property of 514 Congdon Avenue, Lot 1 of Lambert's Addition. (Galvan Construction)

#2004-229 – Approving Bid Award for Asphalt Street Improvement District No. 1252; Lillie Drive from North Road to Mabel Drive and Mabel Drive North to Edna Drive with J.I.L. Asphalt Paving Co. of Grand Island, Nebraska in an Amount of \$34,217.25.

#2004-230 – Approving Transfer of Funds from BID #2 to BID #5.

#2004-231 – Approving Assignment of Lease from Toba, Inc. to the City of Grand Island, Utilities Department, for Union Pacific Railroad Right-of-Way.

#2004-232 – Approving Acquisition of Utility Easement Located in the Northwest Corner of Diers and Carleton Avenue. (Wal-Mart Real Estate Business Trust)

#2004-233 – Approving Time Extension to Contract with J.I.L. Asphalt Paving Company for Construction of Street Improvement District No. 1250, Edna Drive, North Road to Mabel Drive.

Approving Garbage and Refuse Haulers Permits to: Central Waste Disposal, 147 East Roberts; Clark Brothers Sanitation, 3080 West 2nd Street; Mid-Nebraska Disposal, Inc., 3080 West 2nd Street; Full Circle, Inc., 3719 Westgate Road; and Scott's Hauling, 3230 Westside Street. George Sinner, 507 N. Sherman commented on three garbage hauling services in his neighborhood and recommended that routes be created whereby companies pick up garbage only on designated routes. He also recommended that all residential and rental properties should be required to have garbage service.

Motion was made by Nickerson, second by Gilbert to approve the Garbage and Refuse Haulers Permits for 2004-2005. Upon roll call vote, all voted aye. Motion adopted.

#2004-220 – Approving Final Plat and Subdivision Agreement for Schaaf's Seventh Subdivision. It was noted that Leo and Maxine Liske had submitted the final plat for Schaaf's Seventh Subdivision, located on a parcel of land comprising of Lot 1 and part of Lot 2 Schaaf's Subdivision for the purpose of creating 2 lots.

Councilmember Pielstick questioned if this property was in Merrick County. Chad Nabity, Regional Planning Director stated that is was. Discussion was held with regards to drainage, annexation, and distance from Hall County.

Motion was made by Pielstick, second by Meyer to deny Resolution #2004-220. Upon roll call vote, Councilmembers Meyer, Whitesides, and Pielstick voted yes. Councilmembers Gilbert, Nickerson, Cornelius, Pauly, Hornady, Walker, and Haase voted no. Motion failed.

Motion was made by Hornady, second by Nickerson to approve Resolution #2004-220. Upon roll call vote, Councilmembers Gilbert, Nickerson, Cornelius, Pauly, Hornady, Walker, and Haase voted yes. Councilmembers Meyer, Whitesides, and Pielstick vote no. Motion adopted.

#2004-234 – Approving Addendum to Agreement to Share Initial Costs to Investigate Creation of South Dakota Public Power Authority. Doug Walker, City Attorney reported that the City had been contacted by a group of South Dakota municipalities to see if the City would be interested in exploring the possibility of creating a new public power entity that would investigate the possibility of acquiring the assets of Northwestern Corporation in the event the company was sold. The approximate cost to the City would be \$33,300.00 for the initial feasibility studies.

Linda Wittrock, Sioux Falls, South Dakota representing Northwestern Public Service Co. cautioned the Council about costs and explained that Northwestern Public Service Co. was currently in bankruptcy, but that it was going well. George Sinner, 507 N. Sherman complained about his gas prices and was not in favor of the City buying a gas company. Councilmember Whitesides stated that the City would be very capable of handling a gas company as it had with the City owned utilities.

Motion was made by Whitesides, second by Pielstick to approve Resolution #2004-234. Upon roll call vote, all voted aye. Motion adopted.

REQUESTS AND REFERRALS:

Request of Elvin and Carline Denman, 6125 South U.S. Highway 281 for Consideration of Damaged Billboard: Craig Lewis, Building Department Director reported that Elvin and Carline Denman, 6125 South U.S. Highway 281 had requested Council consideration for the repair and replacement of a billboard sign that had been damaged by recent winds. City Code would not allow for the repairs and requires that the sign be removed.

Elvin and Carline Denman, 6125 S. US Hwy 281 mentioned that they thought their signs were grandfathered in when the City Code was changed last year. The Denman's commented on the income from these signs. Discussion was had with regards to code regulations. It was mentioned that the Denman's had 10 signs on their property and this sign was income to the Denman's in the amount of \$700.00 per year.

Don Deitemeyer representing Lamar Signs commented that the percentage of the sign was not over 50% replacement value and that the Denman's should be allowed to replace the sign.

Craig Lewis, Building Department Director explained the process and code regulations to determine the percentage of damage. Pictures of the Denman sign were presented to Council.

Motion was made by Meyer, seconded by Gilbert to deny the request of replacing or repairing the damaged sign. Upon roll call vote, all voted aye. Motion adopted.

RESOLUTIONS:

#2004-235 – Approving General Property, Parking District #2 (Ramp), and Community Redevelopment Authority Tax Request. David Springer, Finance Director reported that this item referred to the previous public hearing.

Motion by Walker, second by Hornady to approve Resolution #2004-235. Upon roll call vote, all voted aye. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Cornelius, second by Pauly, approve the Claims for the period of August 25, 2004 through September 14, 2004, for a total amount of \$4,688,987.81. Motion adopted.

ADJOURNMENT: The meeting was adjourned at 8:55 p.m.

Respectfully submitted,

RaNae Edwards
City Clerk