



City of Grand Island

Tuesday, October 10, 2006

Council Session

Item G1

Approving Minutes of September 26, 2006 City Council Regular Meeting

Staff Contact: RaNae Edwards

OFFICIAL PROCEEDINGS

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

September 26, 2006

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 26, 2006. Notice of the meeting was given in *The Grand Island Independent* on September 20, 2006.

Mayor Jay Vavricek called the meeting to order at 7:00 p.m. The following members were present: Councilmember's Meyer, Whitesides, Pielstick, Gilbert, Nickerson, 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 Interim City Attorney Dale Shotkoski.

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

MAYOR COMMUNICATION: Mayor Vavricek commented on the following:

- Thank you letter received by student Joselyn Gutierrez
- Mission of Mercy volunteers
- Roger Anderson potential business venture at Heartland Events Center
- Announcement by the Mayor planned for Wednesday, September 27, 2006 at the Grand Generation Center concerning speculation as to a write-in candidate for Mayor

PRESENTATIONS AND PROCLAMATIONS:

Proclamation "Hispanic Heritage Month" September 15, 2006 to October 15, 2006. The Mayor proclaimed September 15, 2006 to October 15, 2006 as "Hispanic Heritage Month". Maria Lopez and Pete Letheby with the Multicultural Coalition were present to receive the proclamation.

PUBLIC HEARINGS:

Public Hearing on Acquisition of Utility Easement Located at 2620 South Shady Bend Road. (John & Carolyn Schroll) Gary Mader, Utilities Director reported that acquisition of a utility easement located at 2620 South Shady Bend Road was needed in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers. The purpose of the easement would be to place underground cable and a single phase pad mounted transformer to provide electrical service to a new home at 2620 South Shady Bend Road. No public testimony was heard.

Public Hearing on Acquisition of Utility Easement Located at 1417 South Shady Bend Road. (Leland B. & Judy A. Dennhardt) Gary Mader, Utilities Director reported that acquisition of a utility easement located at 1417 South Shady Bend Road was needed in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers. The purpose of the easement would be to place a pad-mounted single phase transformer to provide electrical service to a new home at 1417 South Shady Bend Road. No public testimony was heard.

Public Hearing on Acquisition of Utility Easement Located at 2620 West Faidley Avenue. (St. Francis Medical Center) Gary Mader, Utilities Director reported that acquisition of a utility easement located at 2620 West Faidley Road was needed in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers. The purpose of the easement would be to relocate and expand transformers and underground cables to facilitate new construction. No public testimony was heard.

Public Hearing on Acquisition of Utility Easement Located at 4949 Juergen Road. (BM & M, LLC) Gary Mader, Utilities Director reported that acquisition of a utility easement located at 4949 Juergen Road was needed in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers. The purpose of the easement would be to place underground electric cables and a three phase pad-mounted transformer to provide service to a new business. No public testimony was heard.

Public Hearing on Change of Zoning for a Tract of Land Proposed for Platting as Sterling Estates Subdivision from R1 Suburban Residential and R4 High Density Residential to R1 Suburban Residential, R4 High Density Residential and RO Residential Office. Chad Nabity, Regional Planning Director reported that an application was submitted for changes to zoning on a parcel of land proposed for platting as Sterling Estates Subdivision. The property is located between the Moore's Creek Drainway, North Road, State Street, and Capital Avenue. James Dutton, 3925 West Capital Avenue asked if there would be paving. Jim Davis, 4019 Sacramento Circle asked about drainage and sidewalks. Joyce Lind, 4020 Boston Circle mentioned concerns about drainage and replacing culverts under North Road. No further public testimony was heard.

Public Hearing on Annexation of Property Located at 502 East Capital Avenue. Chad Nabity, Regional Planning Director reported that property owners of 502 East Capital Avenue had requested this property be annexed into the City of Grand Island. The property is contiguous with the Grand Island City Limits and within the Grand Island utilities Electrical Service District. Sewer and water were available to this property. No public testimony was heard.

Public Hearing on Tax Increment Financing for Redevelopment Plan and Redevelopment Project Located at 210 East Stolley Park Road. (Wile E Investments) Chad Nabity, Regional Planning Director reported that Dr. Melissa Girard of Wile E Investments had applied for tax increment financing for the development of and expansion of a pet grooming business and kennel operation located at 210 East Stolley Park Road. The Community Redevelopment Authority and the Planning Commission recommended approval. Wile E Investments proposed to construct a building on its property for an Animal Medical Clinic. Bruce Schreiner, 3535 Grassridge Road spoke in support. No further public testimony was heard.

Public Hearing on Request of H & H Catering, Inc. dba H & H Catering, 700 East Stolley Park Road for an Addition to Class "CK-69738" Liquor License. RaNae Edwards, City Clerk reported that an application had been received from H & H Catering, Inc. dba H & H Catering, 700 East Stolley Park Road for an addition to their Class "CK-69738" Liquor License. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on September 8, 2006; notice to the general public of date, time, and place of hearing published on September 16, 2006; notice to the applicant of date, time, and place of hearing mailed on September 8, 2006; along with Chapter 4 of the City Code. Staff recommended approval contingent upon final inspections. No public testimony was heard.

Public Hearing Pursuant to the Nebraska Liquor Control Commission Rules and Regulations §53-134.04 Regarding Complaints Filed Against OK Liquor, 305 West Koenig Street, Liquor License "D-15914". Due to a conflict of interest Councilmember Nickerson recused himself and left the room. RaNae Edwards, City Clerk reported that ten (10) complaints had been received from citizens within Grand Island regarding the sale of alcohol to minors by OK Liquor, 305 West Koenig Street. An additional three (3) complaints were received the night of the meeting, by Council President Hornady, but were not received in time to be included in the discussion. Ms. Edwards stated the Council needed to first find that the complaints substantially charged a violation and that from the facts alleged there was reasonable cause for such belief and if so then proceed to the hearing.

Motion was made by Hornady, second by Gilbert that there were ten (10) valid complaints with regards to information received in the council packet under the Nebraska Liquor Control Commission Rules and Regulations §53-180 Sale to Minors and that the Public Hearing should be held. Councilmember Pielstick entered into the record a copy of the broadcast transcript from an interview held with NTV News, Steve White on July 20, 2006 aired on the 5:00 p.m., 6:00 p.m., and 10:00 p.m. news. (See attached)

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

The following people spoke in support of action against the liquor license held by OK Liquor:

- Robert Bonk, 1616 Stagecoach Road
- Virginia Oseka, 1528 Windsor Road
- Lex Ann Roach, 609 South Cleburn
- Jeralyn Stanton, 1106 West 26th Street, Kearney
- Heather Tjaden, Prevention Educator, Central Nebraska Council on Alcoholism

L. William Kelly, Attorney for OK Liquor asked the Council to consider the following facts:

- Harold and Cathy Carmichael had been in business for the last 18 years, they purchased the business in 1988
- All complaints were identical regarding information
- First violation was on August 30, 1994, six years after the purchase of the business in which the Carmichael's plead guilty and paid court costs in the amount of \$124.00 and Liquor Control Commission (LCC) fine of \$250.00

- Second violation was on August 6, 1997 and paid \$521.00 court costs and \$2,016.00 LCC fines
- Third violation was on May 9, 2003 and paid fines of \$141.50 court costs and \$600.00 LCC fines
- Fourth violation was on September 30, 2005 and paid fines of \$344.00 court costs and was closed for 34 days
- Harold Carmichael had completed a state approved server/seller training course in the Fall of 2005

Mr. Kelly commented on a juvenile case regarding a minor which may have caused the complaints to be filed. This case had been dismissed. The following documents were entered into the record:

- Complaint
- Motion to Dismiss Filed June 1, 2006 with the Hall County Court
- Juvenile Petition Filed June 15, 2006 with the Hall County Court

Mr. Kelly requested the Council take no action.

The Public Hearing was closed.

Councilmember Nickerson returned to the meeting.

ORDINANCES:

#9078 – Consideration of Annexation of Property Located at 502 East Capital Avenue (First Reading)

Chad Nabity, Regional Planning Director reported this item related to the aforementioned Public Hearing item.

Motion by Pielstick, second by Whitesides to approve Ordinance No. 9078 on first reading. Upon roll call vote, all voted aye. Motion adopted.

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

#9077 - Consideration of Vacating Easement Located at 2620 West Faidley Avenue (St. Francis Medical Center)

#9079 – Consideration of Change of Zoning for a Tract of Land Proposed for Platting as Sterling Estates Subdivision from R1 Suburban Residential & R4 High Density Residential to R1 Suburban Residential, R4 High Density Residential & RO Residential Office

#9080 – Consideration of Amendments to Chapter 32-2 of the Grand Island City Code Relative to Trees and Shrubs Projecting into the Street

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

Chad Nabity, Regional Planning Director answered questions relating to Ordinance #9079 concerning sidewalks, paving, and drainage. Steve Riehle, Public Works Director commented on storm sewers, drainage, and the May 2005 flood relating to culverts. Mr. Riehle stated he would look into the storm sewer drainage in that area.

Steve Riehle, Public Works Director answered questioned relating to Ordinance #9080 concerning height of shrubs and site distance at intersections.

Motion by Gilbert, second by Cornelius to approve Ordinances #9077, #9079, and #9080.

City Clerk: Ordinances #9077, #9079, and #9080 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 Gilbert abstained from Ordinance #9077 and voted no on Ordinance #9080. Motion adopted.

City Clerk: Ordinances #9077, #9079, and #9080 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 Gilbert abstained from Ordinance #9077 and voted no on Ordinance #9080. Motion adopted.

Mayor Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinances #9077, #9079, and #9080 are declared to be lawfully adopted upon publication as required by law.

CONSENT AGENDA: Consent Agenda item G-5 was pulled for further discussion. Motion by Hornady, second by Cornelius to approve the Consent Agenda excluding item G-5. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of September 12, 2006 City Council Regular Meeting. Councilmember Pauly abstained.

Approving Re-Appointment of Tom Gdowski to the Community Redevelopment Authority Board.

Approving Re-Appointment of Robert Niemann and Tom Brown to the Regional Planning Commission.

Approving Garbage Permits for Central Waste Disposal, Clark Brothers Sanitation, Heartland Disposal, Mid-Nebraska Disposal and Refuse Permit for Full Circle and Scott’s Hauling.

#2006-268 – Approving Acquisition of Utility Easement Located at 2620 South Shady Bend Road. (John & Carolyn Schroll)

#2006-269 – Approving Acquisition of Utility Easement Located at 1417 South Shady Bend Road. (Leland B. and Judy A. Dennhart)

#2006-270 – Approving Acquisition of Utility Easement Located at 2620 West Faidley Avenue. (St. Francis Medical Center) Councilmember Gilbert abstained.

#2006-271 – Approving Acquisition of Utility Easement Located at 4949 Juergen Road. (BM & M, LLC)

#2006-272 – Approving the Continuing Disclosure Agreement and Certificate of Participant for Nebraska City Unit #2 – Separate System Bonds.

#2006-273 – Approving Agreement with Olsson Associates for Construction Engineering Services on the Project to Widen Capital Avenue from the Moores Creek Drain to Webb Road in the Amount of \$346,703.00.

#2006-274 – Approving Bid Award for a TV Camera with Transporter with Cues of Orlando, Florida in the Amount of \$17,900.00.

#2006-275 – Approving Bid Award for a Diffuser Cleaning System with ITT Industries Sanitaire of Brown Deer, Wisconsin in the Amount of \$117,600.00.

#2006-276 – Approving Bid Award for Fiber Optic Cable OPGW Project 2006-OPGW-11 with Kayton Electric, Inc. of Holdrege, Nebraska in the Amount of \$169,100.00. Correction was noted that the agenda had this item listed as Resolution #2006-283. it should be #2006-276.

#2006-277 – Approving Grant Application from the Nebraska Department of Roads Transportation Enhancement Program for Construction of the Morman Island Hike/Bike Trail.

#2006-278 – Approving Tax Increment Financing for Redevelopment Plan and Redevelopment Project Located at 210 East Stolley park Road. (Wile E Investments)

#2006-279 – Approving Subordination Agreement for Dean A. and Patricia D. Bierhaus for Property Located at 1805 Freedom Drive. Correction was noted that the lender should be New Century Mortgage instead of Argent Mortgage as was listed in the council packet.

#2006-280 – Approving Five-Year Interlocal Agreement with Hall County Relative to Bookmobile.

#2006-281 – Approving Purchase Agreement for (2) SelfCheck Workstations with SirsiDynix of Huntsville, Alabama in an Amount of \$34,522.00.

#2006-182 – Approving Extension of Bid Price for Lease of an Aerated Static Pile Compost Pilot Testing Unit with CH2M Hill of Englewood, Colorado in an Amount of \$4,470.00 per month for 18 months.

#2006-267 – Approving Amendment to Subdivision Agreement for Springdale Subdivision. Discussion was held concerning waiving the sidewalks on Lilly Drive. Chad Nabity, Regional Planning Director stated Lilly Drive was an existing rural section of asphalt street with deep ditches and utilities in the front yard. Mr. Nabity stated the amended language would require sidewalks to be constructed when the property owner was directed to do so by the City Council. Also if a Street Improvement District was created to pave any public street in the subdivision, the Subdivider would be required to install public sidewalks within one year of the completion of the street improvement district.

Motion by Cornelius, second by Nickerson to approve Resolution #2006-267. Upon roll call vote, all voted aye. Motion adopted.

RESOLUTIONS:

#2006-284 – Consideration of Request of H & H Catering, Inc. dba H & H Catering, 700 East Stolley Park Road for an Addition to Class “CK-69738” Liquor License. RaNae Edwards, City Clerk reported this item related to the aforementioned Public Hearing.

Motion by Hornady, second by Cornelius to approve Resolution #2006-284 contingent upon final inspections. Upon roll call vote, Councilmembers Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Hornady, Walker, and Haase voted aye. Councilmember Meyer voted no. Motion adopted.

#2006-285 – Consideration of Complaints Filed Pursuant to the Nebraska Liquor Control Commission Rules and Regulations §53-134.04 Regarding OK Liquor, 305 West Koenig Street, Liquor License “D-15914”. Councilmember Nickerson recused himself from this item and left the room.

Motion by Pielstick, second by Whitesides to revoke the Class “D-15914” Liquor License for OK Liquor located at 305 West Koenig Street based on the findings of complaints filed under Nebraska Liquor Control Commission Rules and Regulations §53-180 Sale to Minor for violations dated August 6, 1997, May 9, 2003, and September 30, 2005.

Discussion was held regarding the number of violations. Lorri Rogers, Investigator with the Nebraska State Patrol explained the alcohol violations, compliance checks, and the tobacco violations by OK Liquor. Also explained was a June 18, 2006 incident. Lt. Brad Brush with the Grand Island Police Department explained the August 9, 2006 report where Harold Carmichael reported a minor attempting to purchase alcohol. A minor was charged with attempting to purchase from OK Liquor and possession of alcohol acquired from another person.

RaNae Edwards, City Clerk explained the difference between “cancel” and “revoke” to a liquor license. To cancel would discontinue all rights and privileges of this license, but owners could

come back with an application for a new license at a later date. To revoke would permanently void and recall all rights and privileges of this license in which the owner would not be able to apply for a liquor license again.

Upon roll call vote to revoke Liquor License "D-15914" held by OK Liquor, Councilmember's Meyer, Whitesides, Pielstick, and Haase vote aye. Councilmember's Gilbert, Cornelius, Pauly, Hornady, and Walker voted no. Motion failed.

Motion by Hornady, second by Pauly to cancel Liquor License "D-15914" held by OK Liquor, Councilmember's Meyer, Whitesides, Gilbert, Cornelius, Pauly, Hornady, and Haase voted aye. Councilmember's Pielstick and Walker voted no. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Cornelius, second by Pauly to approve the Claims for the period of September 13, 2006 through September 26, 2006, for a total amount of \$3,853,232.90. Motion adopted unanimously.

ADJOURNMENT: The meeting was adjourned at 9:15 p.m.

RaNae Edwards
City Clerk

SLUG: OKLIQUOR STEVE @ 9:38:45 09/26/06
FORMAT: VOB ERT: 38 SOT: 13

(DRAFT)

=====

-SETH

7/20
5 & 10 PM

(SETH)

CONCERNED CITIZENS WANT A
TRI-CITY LIQUOR STORE'S LICENSE
REVOKED.

THE STORE HAS BEEN CITED FOR
SELLING TO MINORS 4-TIMES...

AND CITIZENS SAY "O-K LIQUOR"
HAS NO EXCUSE!

===== (TAKE VO) =====
~Y\9031^R

THAT'S BECAUSE HAROLD
CARMICHAEL *NOT* ONLY OWNS THE
STORE HE RUNS IT.

GROUPS LIKE "PROJECT EXTRA
MILE" SAY CARMICHAEL SHOULD KNOW
BETTER.

THEY SAY IT'S ONE THING WHEN
A STORE HAS HIGH TURNOVER...

BUT IT'S WORSE WHEN A STORE
OWNER IS HIMSELF RESPONSIBLE.

NOW THE CITY COUNCIL COULD
VOTE TO REVOKE O-K'S LICENSE.
(SOT)

[TAKE SOUND FULL @ 18

[13] "...it as well."

~Y\9032^R

* (Type in Captioning below)

>[Jackie Pielstick , Grand Island City Council >>

Having a liquor licence is a privilege and when
you're given a privilege you have to take care of it.
If you're not willing to take care of it and abide by
the laws, you stand the risk of losing it as well.

===== (VO CONTINUES) =====

HAROLD CARMICHAEL SAYS ITS
QUOTE- "ALL BASED ON A LIE" END
QUOTE.

HE DECLINED FURTHER COMMENT,
SAYING HE'S WAITING UNTIL THE
DUST SETTLES.



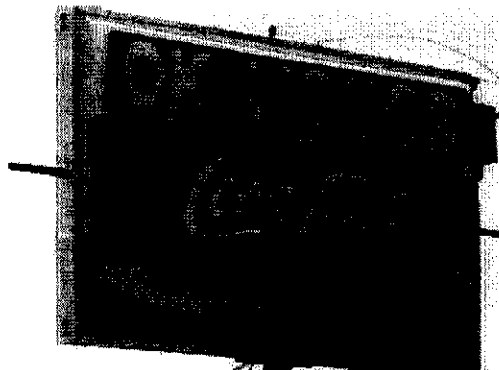
7/20
6PM

PRINT THIS

LOCAL NEWS

GI Could Revoke Store's Liquor License

Thursday 7/20/06 6:25pm



"I hardly look like I'm 18. I couldn't pass for 21."

A high school student, she looks too young to buy alcohol. However, that's exactly why police asked her to buy alcohol during a night of compliance checks.

The CI, or cooperating individual as police call them, was asked to try and buy beer, to see if stores would sell. She assumed no one would.

play

"Even the cops that night we're going to have it easy. No paperwork, because you're not going to get sold to," the student said.

But she was sold to, and it wasn't the first time OK Liquor was in trouble.

"He didn't even look at my driver's license or anything," she said.

It only takes letters from five citizens to prompt a city council hearing that could result in OK Liquor losing its license.

"I guess the people of Grand Island need to know the council's serious," Council member Jackie Pielstick said, after a meeting of Project Extra Mile, a group aimed at preventing underage drinking.

The head of the state liquor commission applauds Grand Island for its efforts. Hoby Rupe said most communities don't know the power they have, but this is one city that's not afraid to use its power.

Council woman Pielstick agreed, "As a city we're making an impact on liquor issues."

- The Liquor Control Commission can override the city, but more than ever, cities feel the commission's listening.

"If we send representation up there to let them know why the city has opted for this reason, they listen to it. Because if nobody shows up, it's like nobody cares," Pielstick.

It's rare citizens ask for a store to lose its license, but OK could. And teens, like the one who bought for police, say it should.

The 18-year-old said, "It's dangerous to have an establishment that doesn't care if they're selling to minors."

Officials say OK Liquor owner Harold Carmichael himself is responsible for the violations. He also paid a fine after firing a pistol at shoplifters seven years ago. He told NTV he's not going to comment, except to say, "it's all based on a lie."

Reporter's Notes by Steve White:

Project Extra Mile's Lex Ann Roach said what makes this case unique is that Carmichael is not only the one who sold, but the store owner. She said liquor license holders should know better, and she drew a distinction between someone like Carmichael and a convenience store with high turnover among clerks.

City Clerk Renee Edwards said there will be a public hearing before the Grand Island city council on Tues., July 25 at 7 p.m. Edwards said the city administration will not take a position on the matter beforehand, and will leave it up to council members to decide whether or not OK Liquor's license should be revoked.

Story Created: Jul 20, 2006 at 6:22 PM CST

Story Updated: Jul 20, 2006 at 8:22 PM CST



Find this article at:

<http://www.nebraska.tv/news/local/3393141.html>

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