



# **City of Grand Island**

**Tuesday, April 10, 2007**

**Council Session**

## **Item G2**

**Approving Minutes of March 27, 2007 City Council Regular Meeting**

**Staff Contact: RaNae Edwards**

## OFFICIAL PROCEEDINGS

### CITY OF GRAND ISLAND, NEBRASKA

#### MINUTES OF CITY COUNCIL REGULAR MEETING

March 27, 2007

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 March 27, 2007. Notice of the meeting was given in *The Grand Island Independent* on March 21, 2007.

Mayor Margaret Hornady called the meeting to order at 7:00 p.m. The following City Council members were present: Councilmember's Walker, Cornelius, Nickerson, Gericke, Brown, Gilbert, Whitesides, Haase, and Meyer. Councilmember Pielstick was absent. The following City Officials were present: City Clerk RaNae Edwards, City Attorney Dale Shotkoski, Finance Director David Springer, and Public Works Director Steve Riehle.

INVOCATION was given by Pastor Randy Fett, St. Paul's Lutheran Church, 1515 South Harrison Street followed by the PLEDGE OF ALLEGIANCE.

MAYOR COMMUNICATION: Mayor Hornady acknowledged Community Youth Council members Cait Schwehn, Jackie Thurnagle, and Andy Greer. The Mayor mentioned that Councilmember Jackie Pielstick suffered a stroke last night is at the St. Francis Hospital

#### PRESENTATIONS AND PROCLAMATIONS:

Proclamation "Public Health Week" April 2-8, 2007. Mayor Hornady proclaimed the week of April 2-8, 2007 as "Public Health Week". Deb Potratz representing the Central District Health Department was present to receive the proclamation.

#### PUBLIC HEARINGS:

Public Hearing on Request of Valentino's of Lincoln, Inc. dba Valentino's, 2245 North Webb Road for a Class "C" Liquor License. RaNae Edwards, City Clerk reported that an application had been received from Valentino's of Lincoln, Inc. dba Valentino's, 2245 North Webb Road for a Class "C" Liquor License. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on February 26, 2007; notice to the general public of date, time, and place of hearing published on March 17, 2007; notice to the applicant of date, time, and place of hearing mailed on February 26, 2007; along with Chapter 4 of the City Code. Staff recommended approval contingent upon final inspections. No public testimony was heard.

Public Hearing on Request of La Quscatleca Liquor, Inc. dba La Quscatleca Liquor, 411 North Vine Street for a Class "D" Liquor License. This item was pulled from the agenda at the request of Tom Wagoner – Attorney for the applicant.

Public Hearing on Request of Corrasan, Inc. dba 2<sup>nd</sup> Street Family Market, 1710 West 2<sup>nd</sup> Street for a Class "D" Liquor License. RaNae Edwards, City Clerk reported that an application had been received from Corrasan, Inc. dba 2<sup>nd</sup> Street Family Market, 1710 West 2<sup>nd</sup> Street for a Class "D" Liquor License. Ms. Edwards presented the following exhibits for the record: application submitted

to the Liquor Control Commission and received by the City on March 7, 2007; notice to the general public of date, time, and place of hearing published on March 17, 2007; notice to the applicant of date, time, and place of hearing mailed on March 7, 2007; along with Chapter 4 of the City Code. Staff recommended approval. No public testimony was heard.

Public Hearing on Request of Bradley Shearer dba Bogey's, 2848 South Locust Street for a Class "C" Liquor License. RaNae Edwards, City Clerk reported that an application had been received from Bradley Shearer dba Bogey's, 2848 South Locust Street for a Class "C" Liquor License. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on March 9, 2007; notice to the general public of date, time, and place of hearing published on March 17, 2007; notice to the applicant of date, time, and place of hearing mailed on March 9, 2007; along with Chapter 4 of the City Code. Staff recommended approval contingent upon final inspections. No public testimony was heard.

Public Hearing on Change of Zoning for Land Proposed for Platting as Woodland Park Fifth Subdivision Located North of Capital Avenue and East of Independence Avenue. Chad Nabity, Regional Planning Director reported that this application proposed to change the zoning on approximately 9.28 acres for a tract of land proposed for platting as Woodland Park Fifth Subdivision from R2 Low Density Residential to R3 Medium Residential. No public testimony was heard.

Public Hearing on Request from Lyman-Richey Corp. dba Central Sand and Gravel on Behalf of Garry Williams and Roger Luebbe for a conditional Use Permit for a Sand and Gravel Mining Operation Located at 1672 South Shady Bend Road and 3116 Stolley Park Road. Craig Lewis, Building Department Director reported that sand and gravel operations had been a part of Grand Island and the surrounding areas for a long time. Mr. Lewis explained this was a request for two tracts of land and recommended the following conditions if approved by council:

- 1). USE:** The proposed uses are limited to those listed in the application, sand and gravel pumping processing, storage, stocking piling, distribution, and sales, both wholesale and retail. Retail sale may also include the sale of black dirt, river rock, and similar landscaping materials. The storage, recycling, or processing of other aggregate materials, such as asphalt or concrete is not allowable unless specifically listed, nor are the operation of concrete or asphalt batch plants.
- 2). CLOSURE:** A drawing of the proposed development of the property after the closing of the sand and gravel operation has been provided along with the application. The finished width of developable property at the time the operation of mining is terminated shall be 300' adjacent to public right of way and 200' adjacent to neighboring property lines.
- 3). PRIMARY CONDITIONS:** **(a).** The permit shall be granted for a period not to exceed 10 years with the possibility of renewal for an additional time at the end of the 10 year period.  
**(b).** Pumping of product shall not be allowed within 150 feet of any public road right of way and protected by a 6 foot earthen berm during pumping. The finished width of developable property adjacent to the public right of way shall be 300 feet at the time of termination of the operation. A setback of 100 feet from any adjacent property line shall be maintained between the pumping operation.  
**(c).** Pumping and other activities (including lighting) at the site shall be limited to daylight hours (15) minutes before sunrise and (15) minutes after sunset Mondays through Saturdays. No pumping or other processing activities shall be permitted on Sundays or from fifteen minutes after sunset to fifteen minutes before sunrise. Two exceptions to this condition shall be in the months of March, April, October, and November activities may operate from 6:00 a.m. to 10:00 p.m. to allow for

winter condition. The second exception shall be that trucking of the product shall be allowed on Sundays from 7:00 a.m. to 12:00 noon to allow for contracted sales.

(d). Any internal combustion pump motors utilized shall be equipped with a functioning "hospital grade muffler" designed to reduce exhaust noise by 32 to 40 decibels.

(e). Materials and equipment shall not be stored on the property within any easements or the regulated floodway as determined by the Federal Emergency Management Agency or its successor and the entity with jurisdiction and authority to enforce floodplain regulations. No product, material or equipment shall be stored within any easement or in such a manor that it would violate any safety provisions of the National Electric Safety Code.

(f). All dead trees, rubbish, and debris, if any must be cleared from the real estate as soon as practical and such real estate must, at all times, be kept in a clean and neat condition.

(g). No trash, rubbish, debris, dead trees, lumber, bricks, refuse or junk material of any nature whatsoever shall be dumped, placed or located upon such real estate.

(h). Applicant shall not use the real estate in any way so as to create or result in an unreasonable hazard or nuisance to adjacent land owners or to the general public.

(i). Applicant shall maintain any and all drainage ditches that may be located upon the real property.

(j). Applicant shall not permit the hauling of sand and gravel from the premises and over and across any public highway or road unless said sand and gravel is complete dry and free from water or is hauled in trucks which are designed and equipped so as to prevent water from leaking onto the traveled portion of the roadbed.

(k). All water accumulated upon the premises by virtue of such mining and pumping operations shall be retained upon the premises and shall not flow upon or encroach upon any adjacent land. Only surface waters that have historically flowed from the premises shall be permitted to leave the same through historical natural drainage ways.

(l). Applicant shall begin the mining operation within a period of 18 months from the issuance of this permit or if the applicant fail to begin operations within the 18 months the permit shall be considered null and void and subject to reapplication and rehearing. Additionally if at anytime during the life of the permit issued the operation shall cease for a period of a continuous 18 months the permit shall become void and a renewal shall be obtained before becoming once again operational.

The following people spoke in opposition:

Ben Murphy, 2309 East Stolley Park Road  
Michelle Setlik, 3008 Sunflower Drive  
George Bartenbach, 2703 East Stolley Park Road  
Dick Rezac, 1512 East Stolley Park Road  
Dick Russell, 1718 South Shady Bend Road  
Gordon Jensen, 1316 South Shady Bend Road  
Dan Mora, 3015 Sunflower Drive

The following people spoke in support:

Ryan Crouch, 541 Midaro Drive  
Don Razey, 520 Midaro Drive  
Carl Roberts representing Lyman-Richey  
Rick Johnson, 619 South Tilden Street

No further public testimony was heard.

Public Hearing Concerning Acquisition of Utility Easement Located at 1420 S. Ada Street (Sunrise Express). Gary Mader, Utilities Director reported that acquisition of a utility easement located at 1420 S. Ada Street was needed in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers. This easement would be used to add underground

power lines and a pad-mounted transformer to provide increased electrical capacity to the existing building to the west side of Sunrise Trucking property. No public testimony was heard.

ORDINANCES:

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

#9110 – Consideration of Change of Zoning for Land Proposed for Platting as Woodland Park Fifth Subdivision Located North of Capital Avenue and East of Independence Avenue

#9111 – Consideration of Amendment to Salary Ordinance

#9112 – Consideration of Creation of Sanitary Sewer District No. 523, Lots 1-8 and Lots 22-31 of Westwood Park 2<sup>nd</sup> Subdivision

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 Cornelius second the motion. Upon roll call vote, all voted aye. Motion adopted.

Chad Nabity, Regional Planning Director reported that Ordinance #9110 related to the aforementioned Public Hearing.

Brenda Sutherland, Human Resources Director reported that Ordinance #9111 would change the duties and salary of the Administrative Assistant position. After evaluating the position of Administrative Assistant in the Administration department it was recommended that this position be changed to a Receptionist position, which was more in line with the duties performed and a cost savings of 23%.

Steve Riehle, Public Works Director reported that Ordinance #9112 would create Sanitary Sewer District #523 located west of Driftwood Drive stopping just short of Sweetwood Drive.

Motion by Nickerson, second by Cornelius to approve Ordinances #9110, #9111, and #9112.

Motion by Gericke to delay action on Ordinance #9111. Motion died due to lack of a second.

City Clerk: Ordinances #9110, #9111, and #9112 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 #9110, #9111, and #9112 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 Hornady: By reason of the roll call votes on first reading and then upon final passage, Ordinances #9110, #9111, and #9112 are declared to be lawfully adopted upon publication as required by law.

CONSENT AGENDA: Motion by Gilbert, second by Whitesides to approve the Consent Agenda. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of March 13, 2007 City Council Regular Meeting. Councilmember Meyer abstained.

Approving Appointment of Karen Bredthauer to the Regional Planning Commission.

#2007-67 – Approving Renewal of Farm Leases for Jeff Johnson, Mike Lilienthal, Kenneth Clausen, Larry Knuth, Jack Webb, Mike Peters, Gerald Bremer, Quaring Farms, Robert Nunnenkamp, and Matt Turek.

#2007-68 – Approving Acquisition of Utility Easement Located at 1420 S. Ada Street (Sunrise Express).

#2007-69 – Approving Bid Award for Project 2007-WWTP-1 Final Clarifier Launder Covers with MFG Water Treatment Products Company of Union City, Pennsylvania in an Amount of \$110,205.00.

#2007-70 – Approving Funding in an Amount of \$50,000.00 for Economic Development Corporation Request for CNH America, LLC (NWPS Rate Agreement Funds).

#2007-71 – Approving Bid Award for Mercury Emissions Monitoring Equipment with Sick Maihak of Bloomington, Minnesota in an Amount of \$49,900.00.

#2007-72 – Approving Supplemental Agreement #2 with the Nebraska Department of Roads for the Grand Island River Way Trail.

Mayor Hornady introduced Karen Bredthauer, new appointee to the Regional Planning Commission.

#### REQUESTS AND REFERRALS:

Consideration of Request from Lyman-Richey Corp. dba Central Sand and Gravel on Behalf of Garry Williams and Roger Luebbe for a Conditional Use Permit for a Sand and Gravel Mining Operation Located at 1672 South Shady Bend Road and 3116 Stolley Park Road. Craig Lewis, Building Department Director reported this item related to the aforementioned Public Hearing.

Motion was made by Gilbert, second by Nickerson to approve the request with the following conditions:

**1). USE:** The proposed uses are limited to those listed in the application, sand and gravel pumping processing, storage, stocking piling, distribution, and sales, both wholesale and retail. Retail sale may also include the sale of black dirt, river rock, and similar landscaping materials. The storage, recycling, or processing of other aggregate materials, such as asphalt or concrete is not allowable unless specifically listed, nor are the operation of concrete or asphalt batch plants.

**2). CLOSURE:** A drawing of the proposed development of the property after the closing of the sand and gravel operation has been provided along with the application. The finished width of developable property at the time the operation of mining is terminated shall be 300' adjacent to public right of way and 200' adjacent to neighboring property lines.

**3). PRIMARY CONDITIONS:** (a). The permit shall be granted for a period not to exceed 10 years with the possibility of renewal for an additional time at the end of the 10 year period.

(b). Pumping of product shall not be allowed within 150 feet of any public road right of way and protected by a 6 foot earthen berm during pumping. The finished width of developable property adjacent to the public right of way shall be 300 feet at the time of termination of the operation. A

setback of 100 feet from any adjacent property line shall be maintained between the pumping operation.

**(c).** Pumping and other activities (including lighting) at the site shall be limited to daylight hours (15) minutes before sunrise and (15) minutes after sunset Mondays through Saturdays. No pumping or other processing activities shall be permitted on Sundays or from fifteen minutes after sunset to fifteen minutes before sunrise. Two exceptions to this condition shall be in the months of March, April, October, and November activities may operate from 6:00 a.m. to 10:00 p.m. to allow for winter condition. The second exception shall be that trucking of the product shall be allowed on Sundays from 7:00 a.m. to 12:00 noon to allow for contracted sales.

**(d).** Any internal combustion pump motors utilized shall be equipped with a functioning "hospital grade muffler" designed to reduce exhaust noise by 32 to 40 decibels.

**(e).** Materials and equipment shall not be stored on the property within any easements or the regulated floodway as determined by the Federal Emergency Management Agency or its successor and the entity with jurisdiction and authority to enforce floodplain regulations. No product, material or equipment shall be stored within any easement or in such a manor that it would violate any safety provisions of the National Electric Safety Code.

**(f).** All dead trees, rubbish, and debris, if any must be cleared from the real estate as soon as practical and such real estate must, at all times, be kept in a clean and neat condition.

**(g).** No trash, rubbish, debris, dead trees, lumber, bricks, refuse or junk material of any nature whatsoever shall be dumped, placed or located upon such real estate.

**(h).** Applicant shall not use the real estate in any way so as to create or result in an unreasonable hazard or nuisance to adjacent land owners or to the general public.

**(i).** Applicant shall maintain any and all drainage ditches that may be located upon the real property.

**(j).** Applicant shall not permit the hauling of sand and gravel from the premises and over and across any public highway or road unless said sand and gravel is complete dry and free from water or is hauled in trucks which are designed and equipped so as to prevent water from leaking onto the traveled portion of the roadbed.

**(k).** All water accumulated upon the premises by virtue of such mining and pumping operations shall be retained upon the premises and shall not flow upon or encroach upon any adjacent land. Only surface waters that have historically flowed from the premises shall be permitted to leave the same through historical natural drainage ways.

**(l).** Applicant shall begin the mining operation within a period of 18 months from the issuance of this permit or if the applicant fail to begin operations within the 18 months the permit shall be considered null and void and subject to reapplication and rehearing. Additionally if at anytime during the life of the permit issued the operation shall cease for a period of a continuous 18 months the permit shall become void and a renewal shall be obtained before becoming once again operational.

Discussion was held on environmental impacts to the surrounding area, septic tanks, and wells. City Clerk RaNae Edwards explained the process of notifying the surrounding property owners. Setbacks were discussed.

Carl Roberts representing Lyman-Richey mentioned they do not pump on Sunday's and only half days on Saturday. Discussion was held concerning the recommended 10 year time limit of the permit to 7 years to mine the north half of the property or Tract A.

Motion was by Meyer, second by Nickerson to amend the motion that pumping operations would cease at noon on Saturdays and no pumping or hauling would be allowed on Sundays and that the time limit on the permit would be 7 years instead of 10 years with pumping to begin on the north side of the property. Upon roll call vote, Councilmember's Meyer, Haase, Brown, Gericke, Nickerson,

and Cornelius voted aye. Councilmember's Walker, Gilbert, and Whitesides voted no. Motion adopted.

Upon roll call vote on the main motion with the amendment, all voted aye. Motion adopted.

Consideration of Request from Jerry & Teresa Sinner for Non-Conforming Use and Building Permit Located at 1822 East 7<sup>th</sup> Street. Craig Lewis, Building Department Director reported that this request was to allow for the 24' x 34' addition to the existing single family dwelling located at 1822 East 7<sup>th</sup> Street.

Motion was made by Cornelius, second by Whitesides to approve the request from Jerry & Teresa Sinner. Upon roll call vote, all voted aye. Motion adopted.

Consideration of Request from Wile E. Investment LLC, 210 East Stolley Park Road for Extension of Conditional Use Permit. Craig Lewis, Building Department Director reported that on March 28, 2006 the City Council approved a conditional use permit for Wile E. Investment LLC for a 12 month period to allow for the temporary use of an existing single family dwelling located at 210 East Stolley Park Road while constructing a permanent veterinary clinic. Due to a delay in construction this request was for a six month extension.

Motion was made by Nickerson, second by Gilbert to approve the request of Wile E. Investment LLC for a six month extension to their conditional use permit. Upon roll call vote, all voted aye. Motion adopted.

#### RESOLUTION:

#2007-73 – Consideration of Request of Valentino's of Lincoln, Inc. dba Valentino's, 2245 North Webb Road for a Class "C" Liquor License and Liquor Manager Designation for James Scott, 3720 State Street Apt H9. RaNae Edwards, City Clerk reported this item related to the aforementioned Public Hearing.

Motion by Gilbert, second by Whitesides to approve Resolution #2007-73.

Discussion was held concerning the off sale of alcohol, game area, servers under 21, and the number of restaurants in Grand Island who had a Class "C" Liquor License.

Motion was made by Whitesides, second by Nickerson to postpone a decision until the April 10, 2007 meeting. Upon roll call vote, Councilmember's Haase, Whitesides, Gilbert, Brown, Nickerson, Cornelius, and Walker voted aye. Councilmember's Gericke and Meyer voted no. Motion adopted.

#2007-74 – Consideration of Request of La Quscatleca Liquor, Inc. dba La Quscatleca Liquor, 411 North Vine Street for a Class "D" Liquor License and Liquor Manager Designation for Jose C. Cruz Mejicano, 1726 Hanover Lane. This item was pulled from the agenda at the request of Tom Wagoner – Attorney for the applicant.

#2007-75 – Consideration of Request of Corrasan, Inc. dba 2<sup>nd</sup> Street Family Market, 1710 West 2<sup>nd</sup> Street for a Class "D" Liquor License and Liquor Manager Designation for Jacinto Corona Jiminez, 119 East 18<sup>th</sup> Street. RaNae Edwards, City Clerk reported this item related to the aforementioned Public Hearing and recommended approval with the stipulation that Mr. Jiminez complete a state approved alcohol server/seller training program.



Motion was made by Cornelius, second by Gericke to approve Resolution #2007-75 with the recommended stipulation. Upon roll call vote, all voted aye. Motion adopted.

#2007-76 – Consideration of Request of Bradley Shearer dba Bogey's, 2848 South Locust Street for a Class "C" Liquor License. RaNae Edwards, City Clerk reported this item related to the aforementioned Public Hearing and recommended approval contingent upon final inspections and with the stipulation that Mr. Shearer complete a state approved alcohol server/seller training program.

Motion was made by Cornelius, second by Nickerson to approve Resolution #2007-76 with the recommended stipulations. Upon roll call vote, all voted aye. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Cornelius, second by Gilbert to approve the Claims for the period of March 14, 2007 through March 27, 2007, for a total amount of \$3,509,109.95. Motion adopted unanimously.

Motion by Cornelius, second by Gilbert to approve the following Claim for the Library Expansion for the period of March 14, 2007 through March 27, 2007:

#63     \$589.48

Motion adopted unanimously.

ADJOURNMENT: There being no future business the meeting was adjourned at 8:40 p.m.

RaNae Edwards  
City Clerk