



City of Grand Island

Tuesday, January 24, 2012

Council Session

Item G1

Approving Minutes of January 10, 2012 City Council Regular Meeting

Staff Contact: RaNae Edwards

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

January 10, 2012

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 January 10, 2012. Notice of the meeting was given in *The Grand Island Independent* on January 4, 2012.

Mayor Jay Vavricek called the meeting to order at 7:00 p.m. The following City Council members were present: Chuck Haase, Larry Carney, Bob Niemann, Peg Gilbert, Mitch Nickerson, Linna Dee Donaldson, Scott Dugan, Randy Gard, and John Gericke. Councilmember Kirk Ramsey was absent. The following City Officials were present: City Administrator Mary Lou Brown, City Clerk RaNae Edwards, City Attorney Robert Sivick, Public Works Director John Collins and Interim Finance Director Jaye Monter.

INVOCATION was given by Pastor Paul Hofrichter, Evangelical Free Church, 2609 South Blaine Street followed by the PLEDGE OF ALLEGIANCE.

MAYOR COMMUNICATION: Mayor Vavricek introduced Community Youth Council members Dillon Spies and Miranda Wieczorek and Board member Roy Swan.

City Administrator Mary Lou Brown mentioned that the construction on the Quiet Zone would be completed in March or April with train horns to be implemented in May 2012. Elm Street would close permanently on January 16, 2012. Clarified was the annual employee recognition lunch held in December as allowed by City Code.

Public Works Director John Collins answered questions from the last Study Session concerning the Fleet Services and transfer of funds. \$131,000 was transferred to the Fleet services as follows: employee payouts \$85,500 and 2011 operating shortfall \$45,500. Three positions were reduced and replaced with 1.5 employees with a savings of \$141,000.

Mayor Vavricek mentioned the passing of Senator Dennis Utter, Chuck Bosselman, and Bud Jefferies.

PRESENTATIONS AND PROCLAMATIONS:

Recognition of Milton Loeb, Senior Engineering Technician with the Public Works Department for 40 Years of Service with the City of Grand Island. Mayor Vavricek and the City Council recognized Milton Loeb, Senior Engineering Technician with the Public Works Department for 40 years of service with the City of Grand Island. Mr. Loeb was present for the recognition.

Presentation on Street Improvement District No. 1256 – Capital Avenue Widening; Moores Creek Drain to Webb Road Assessment Methods. Public Works Director John Collins reviewed with the Council the process of setting assessments for Street Improvement District No. 1256. A Special Assessment Manual was last modified on January 5, 1967. Reviewed was the timeline for Street Improvement District No. 1256.

Matt Rief, representing Olsson Associates explained the assessment process. Assessments on Capital Avenue widening project was for 41' of pavement which did not include sidewalks, sod replacement, or right-of-way costs. Almost 80% of this project was paid for by Federal dollars. Total assessments for the project were \$732,831.97 with \$129,090.95 to be assessed to the City.

The following people spoke regarding this item:

- Curtis Cellar, 4220 Shanna Street spoke in opposition
- Jeff Vinson, 3010 Gladstone Circle spoke in opposition

Discussion was held concerning the set back distance of Curtis Cellar's property. Mr. Cellar responded it was 236'. The Policy required a 300' set back distance for assessments. Interim Finance Director Jaye Monter explained the assessment of public property would be transferred from the Enterprise Fund to the Special Assessment Revenue Fund.

Questions were asked about the assessment processes of other communities. Mr. Rief stated every community does it a little different. City Attorney Robert Sivick explained the state statutes regarding assessments. Mr. Collins stated the policies used by the Public Works Department were created 30 to 40 years ago and needed to be updated.

PUBLIC HEARINGS:

Public Hearing on Request from Fuji Steak House, Inc. dba Fuji Japanese Steak House, 1004 North Diers Avenue, Suite 200 for a Class 'I' Liquor License. RaNae Edwards, City Clerk reported that an application for a Class 'I' Liquor License had been received from Fuji Steak House, Inc. dba Fuji Japanese Steak House, 1004 North Diers Avenue, Suite 200. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on December 14, 2011; notice to the general public of date, time, and place of hearing published on December 31, 2011; notice to the applicant of date, time, and place of hearing mailed on December 14, 2011; along with Chapter 4 of the City Code. Staff recommended approval. No public testimony was heard.

Public Hearing on Acquisition of Utility Easement located at 3323 West Airport Road (Luke A. Olson). Utilities Director Tim Luchsinger reported that acquisition of a utility easement located at 3323 West Airport Road was needed in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers for the purpose of placing underground conduit, high voltage cable and a pad-mounted transformer to provide electrical service to a new business. Staff recommended approval. No public testimony was heard.

Public Hearing on Acquisition of Utility Easement Located at 1819 East 7th Street (D.J. Eihusen, POA for Robert Eihusen). Utilities Director Tim Luchsinger reported that acquisition of a utility easement located at 1819 East 7th Street was needed in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers for the purpose of placing underground conduit, high voltage power cable, and a pad-mounted transformer to provide electrical power to the new business opened by Global Industries. Staff recommended approval. No public testimony was heard.

ORDINANCES:

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

- #9349 – Consideration of Amending Previously Adopted Ordinance No. 9349 Relating to Chapter 36-69 of the Grand Island City Code Regarding Campgrounds
- #9356 – Consideration of Conveyance of City Property and Temporary Construction Easements to Burlington Northern Santa Fe Railroad for Double Track Project
- #9357 – Consideration of Amending Salary Ordinance

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

Regional Planning Director Chad Nabity reported that amending Ordinance #9349 would clarify the wording passed at the December 20, 2011 meeting. Chapter 36-69 Section 2 b) if approved would read: A minimum of one toilet and one lavatory shall be provided for each sex up to the first 25 sites. An additional toilet and lavatory for each sex shall be provided for each additional 25 sites or fraction thereof not provided with sewer connections.

Utilities Director Tim Luchsinger reported that Ordinance #9356 would convey six parcels of real estate to BNSF for the Double Track Project. Also included were temporary construction easements for the parcels.

Human Resources Director Brenda Sutherland reported that Ordinance #9357 would reclassify the Community Development Administrator position as non-exempt and three Assistant Utility Directors positions would be have title/classification changes.

Motion by Dugan, second by Donaldson to approve Ordinances #9349, #9356 and #9357.

City Clerk: Ordinances #9349, #9356 and #9357 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 #9349, #9356 and #9357 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 Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinances #9349, #9356 and #9357 are declared to be lawfully adopted upon publication as required by law.

CONSENT AGENDA: Consent Agenda items G-7 and G-13 were pulled for further discussion. Motion by Donaldson, second by Carney to approve the Consent Agenda excluding items G-7 and G-13. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of December 20, 2011 City Council Regular Meeting.

Approving Minutes of December 27, 2011 City Council Special Meeting.

#2012-1 – Approving Bid Award for Distributed Control System Console Upgrade at Platte Generating Station with ABB, Inc. of Wickliffe, Ohio in an Amount of \$197,843.50.

#2012-2 – Approving Acquisition of Utility Easement Located at 3323 West Airport Road (Luke A. Olson).

#2012-3 – Approving Acquisition of Utility Easement Located at 1819 East 7th Street (D.J. Eihusen, POA for Robert Eihusen).

#2012-4 – Approving Bid Award for 2012 Truck – Complete Unit with Telescopic Aerial Platform & Chassis for the Utilities Department, Line Division with Drake Scruggs Equipment, inc. of Springfield, Illinois in an Amount of \$104,759.40.

#2012-6 – Approving Bid Award for One (1) 2012 Model 90,000 GVW Conventional Truck-Tractor for the Solid Waste Division with Nebraska Truck Center of Grand Island, Nebraska in an Amount of \$68,618.00.

#2012-7 – Approving Revised Contract Amount to Resolution #2011-357 (Bid Award to Midlands Contracting, Inc.) for Lift Station No. 7 Repairs; Project No. 2011-S-1 for a Revised Contract Amount of \$312,728.67.

#2012-8 – Approving the Certificate of Compliance with the Nebraska Department of Roads for Maintenance Agreement No. 12; Calendar Year 2011.

#2012-9 – Approving Designating Local Public Agency Official Responsible for Setting Just Compensation for Tracts Acquired for Federal Transportation Aid Projects.

#2012-10 – Approving Change Order No. 1 for Moores Creek Drain Extension – Old Potash Crossing; Drainage Project No. 2008-D-2 with Midlands Contracting, inc. of Kearney, Nebraska for an increase of \$43,560.00 and a Revised Contract Amount of \$210,365.00.

#2012-5 – Approving Contract for Installation & Purchase of 911 C”PE System with Platte Valley Communications of Grand Island, Nebraska in an Amount of \$168,835.00. Emergency Management Deputy Director Larry Smith reported that this contract would replace the current 911 telephone system.

Motion by Gilbert, second by Haase to approve Resolution #2012-5.

Discussion was held regarding the number of phone stations. Mr. Smith stated 4 stations were fully functional with 2 to 4 used on any given day. The original bid was for 5 stations.

Motion by Gilbert, second by Gericke to refer this item to the January 24, 2012 meeting. Upon roll call vote, all voted aye. Motion adopted.

#2012-11 – Approving Amendment to the Fee Schedule Relative to HPSP and Jackrabbit Run Golf Course. Parks & Recreation Director Steve Paustian reported this was a request to modify the existing fee schedule for the Heartland Public Shooting Park and Jackrabbit Run Golf Course.

Discussion was held regarding the dollar impact at HPSP with the fee changes. Mr. Paustian stated it would be approximately \$10,000 which would cover the costs of the clay targets.

Motion by Carney, second by Gilbert to approve Resolution #2012-11. Upon roll call vote, all voted aye. Motion adopted.

RESOLUTIONS:

#2012-12 – Consideration of Request from Fuji Steak House, Inc. dba Fuji Japanese Steak House, 1004 North Diers Avenue, Suite 200 for a Class “T” Liquor License and Liquor Manager Designation for Qi Qin Huang, 1206 Cedar Ridge Court, Apt. 101. This item related to the aforementioned Public Hearing.

Motion by Haase, second by Gard to approve Resolution #2012-12 contingent upon completion of a state approved alcohol server/seller training program. Upon roll call vote, all voted aye. Motion adopted.

#2012-13 – Consideration of Intent to Annex Area 8b (Rainbow Lake Area). Regional Planning Director Chad Nabity reported that at the March 22, 2011 City Council meeting a resolution was passed that directed the planning department to proceed with preparing annexation plans. Eight areas were identified and Council had acted on 6 of the 8 areas. Annexation area 8b (Rainbow Lake) was completed and considered by the Regional Planning Commission. To precede with this annexation the City Council would need to pass a resolution stating their intent to annex, approve annexation plans and set public hearings for comment on the annexation before council. The Public Hearing date was recommended for February 14, 2012.

Virgil Harden representing Grand Island Public Schools spoke in support. Discussion was held concerning the amount of property taxes that would be received from this area. Mr. Nabity stated there were 52 parcels and 46 houses which would bring in approximately \$28,000 of property taxes.

Motion by Carney, second by Gard to approve Resolution #2012-13. Upon roll call vote, all voted aye. Motion adopted.

Council Recessed at 8:45 p.m. and reconvened at 8:50 p.m.

#2012-14 – Consideration of Structured Solutions Petition to Extend Contract. City Administrator Mary Lou Brown reported that on December 15, 2009, the City Council approved an Economic Development Agreement with Structured Solutions, Inc. for a \$600,000.00 forgivable loan to assist in setting up a business in Grand Island to provide loan management services to lenders. The agreement provided for Structured Solutions to create 200 new jobs by 2014 and have 50 employees in Grand Island by December 31, 2011. As of December 31, 2011

Structured Solutions had not met the hiring of 50 employees and were in default of the agreement.

On December 27, 2011 Robert Yuan of Structured Solutions contacted the Grand Island Area Economic Development Corporation and requested a seven month extension. Mr. Yuan offered 10% of Structured Solutions stock as collateral in exchange for the extension.

Marlan Ferguson, President of Economic Development Corporation stated Structured Solutions was the first company who had not met the terms of the agreement. Stated was that EDC had been working diligently with Structured Solutions to meet those requirements.

City Attorney Bob Sivick reviewed the terms of the agreement between the City, Structured Solutions, and EDC. The agreement provided for 50 employees to be hired by December 31, 2011, 150 employees by December 31, 2012, and 50 employees by December 31, 2013 for a total of 200 employees. After each benchmark was met \$200,000 would be forgiven.

Robert Juan, CEO of Structured Solutions stated the company was in default of the loan which was caused by unexpected litigation. They were days away from a major capital raise when the filing took place. Mr. Juan requested the City grant Structured Solutions an extension to the agreement deadlines by 12 months and would repay the City \$200,000 plus 8% interest in quarterly payments of \$50,000 each.

Motion by Carney to approve Resolution #2012-14 (A). Motion died due to lack of a second.

Motion by Dugan to approve Resolution #2012-14 (B). Motion died due to lack of a second.

Motion by Nickerson, second by Gilbert to accept the proposed modification as presented by Mr. Yuan to extend the agreement deadlines by 12 months and repayment to the City of \$200,000 plus 8% interest due on or prior to year end 2012 in quarterly payments of \$50,000.

Discussion was held regarding litigation of the parent company. Denise McGovern with EDC clarified questions regarding the application dates. Questioned was why this request was not brought forward earlier. Mr. Yuan stated they were unfamiliar with the process. Mr. Yuan was asked questions regarding financial positions, cash balance sheets and assets. He stated the cash balance sheet and assets were low. Mr. Yuan did not answer questions concerning the current cash balance in an open forum, but would give the information to the Council in a closed session.

Mayor asked Mr. Yuan questions regarding repayment of the loan. Mr. Yuan stated he was fairly confident they could repay the loan, but he would have to talk with his investors. Also mentioned was the lack of communication with Mr. Yuan throughout this process.

Mr. Ferguson explained the request received today was for a 12 month repayment of \$200,000 plus 8% interest payable in quarterly payments of \$50,000 starting March 31, 2012. Don Dunn, Attorney for EDC clarified the proposal from Structured Solutions.

Discussion was held regarding coming up with the \$200,000 right away. Mr. Yuan stated it would be harder to come up with the \$200,000 right now than \$50,000 in four quarterly payments.

Tom Gdowski, EDC Treasurer commented on the EDC board's discussions regarding repayment of the loan. The board considered the better of the two options which they felt was approving the modification of the contract.

Motion by Carney to amend the main motion of the contract to 3 months extension with a payment due at that time. Motion died due to lack of a second.

Mr. Yuan explained the hiring process, boot camps, filtering process and help from Work Force Development and Central Community College. Currently 6 employees were working for Structured Solutions.

Discussed was the amount due to the City because of the default of the loan. Mr. Dunn stated \$200,000 was due to the City at this time. Mr. Sivick stated in his opinion the contract was in default and the amount owed was the full \$600,000.

Comments were made regarding the future of the LB 840 program and the upcoming vote to continue the program.

Upon roll call vote to accept the proposed modification as presented by Mr. Yuan to extend the agreement deadlines by 12 months and repayment to the City of \$200,000 plus 8% interest due on or prior to year end 2012 in quarterly payments of \$50,000, Councilmember's Carney, Gilbert, Nickerson, Dugan and Gericke voted aye. Councilmember's Haase, Niemann, Donaldson and Gard voted no. Mayor Vavricek voted no. Motion failed.

Motion by Dugan, second by Haase to approve Resolution #2012-14 (B) to enforce the existing contract. Upon roll call vote, Councilmember's Haase, Carney, Niemann, Donaldson, Dugan, and Gard voted aye. Councilmember's Gilbert, Nickerson, and Gericke voted no. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Dugan, second by Gard to approve the Claims for the period of December 28, 2011 through January 10, 2012, for a total amount of \$2,653,236.93. Unanimously approved.

ADJOURNMENT: The meeting was adjourned at 11:55 p.m.

RaNae Edwards
City Clerk