

Regular Meeting of the
Board of Mayor and Council
August 14, 2007

The Board of Mayor and Council met in regular session on August 14, 2007 at 7:00 p.m. in the Municipal Building.

Present and presiding: Mayor Gary Norwood.

Council present: Steve Allen, Tommy Nicholson, Dwayne Noe, Rick Johnson, and Chris LaCrosse.

Council absent: None.

Others present: Anita Lunn, Phil Lunn, Bobby Barnes, Claire Barnes, Bill Stinnett, Yvonne Stinnett, Michael Armstrong, Marc Coulon, Mary Glasgow, Paul Gupton, Eddie Nichols, Chuck Walker, Chris Cherry, Zach McCarver, Glen N. Dodson, Wade A. Reed, Myrla Sproat, Leslie Finley, and Phyllis Schaeffer.

A motion was made by Noe, seconded by Macha to approve the July minutes as typed. Motion passed unanimously by voice vote.

Public Forum:

Mayor asked if anyone would like to approach the Council. No one responded.

Ms. Noe addressed the Council regarding the retention of the tape recordings of the Council meetings. She was concerned that the recordings were not being kept. Ms. Noe stated that some issues have come up that keeping the tapes would have helped and suggested that we keep the tapes a minimum of twelve months. One example she used was the Ethics training last week and according to this ordinance any disclosure should be in the minutes as it is protection for everyone. Mayor stated that the tapes are of no value after the minutes have been approved but that they would be historical. Ms. Noe said it would be helpful to have them. Mr. Johnson asked what is the statute of limitations for the retention of these tapes. Ms. Noe said most of what we do is one year but such items like a contract could be 6 years. Mr. Johnson wants to keep the tapes for seven years. Mr. LaCrosse suggested a digital system to put the tapes on CD and keep them for seven years.

Ms. Noe stated the liability tort act changed 07/01/07, and is now \$300 for individual and \$700 cumulative.

A motion was made by LaCrosse, seconded by Macha to approve Ordinance #336-rezoning portion of Frey St R-3 to C-1 on 2Nd reading. Mayor asked if a Public Hearing had been held on Ordinance #336 and Ordinance #337. It was determined that no Public Hearing had taken place. Mr. LaCrosse withdrew his motion and Ms. Macha withdrew her second. A motion was made by Mr. Noe to recess the council meeting, seconded by Mr. LaCrosse. Mayor opened Public Hearing on Ordinance #336 and Ordinance #337 at

7:15 pm. He asked if anyone would like to approach Council on Ordinance #336-rezoning portion of Frey St R-3 to C-1. Ms. Anita Lunn said she would like for it to pass. Mayor asked if anyone would like to approach Council on Ordinance #337-rezoning portion of Brookhollow Dr R-3 to C-1. No one came forward. Mayor closed the Public Hearing.

Council resumed regular meeting at 7:16 pm. A motion was made by LaCrosse, seconded by Macha to approve Ordinance #336-rezoning portion of Frey St R-3 to C-1 on 2nd reading. Mr. Johnson asked if there would be a contingency on the approval for the rezoning. Mr. LaCrosse commented that there is some confusion that Anita may not want the rezoning. Mayor said he thinks there needs to be a contingency and a time line to speed up the contractor. Mr. Allen asked if the property owners asked for the contingency. Mayor said no that it is to protect the city. Mr. LaCrosse said this particular property is all C-1 down through there and can we conceive anything in C-1 that we wouldn't want there. Mayor stated it is up to Council if they want a contingency on the rezoning. Ms. Noe stated that we have a residence on part of the Hamlin property. Ms. Lunn stated that she had given Mr. Rankin power of attorney to change the zoning and they want it. She said he should be able to do it. Judge Stinnett said all property owners are affected and that he has given power of attorney to Mr. Rankin to do this and that all property owners want it.

Judge Stinnett said if there is a contingency it might delay Mr. Rankin and that Mr. Rankin's option runs out next month. Mr. Johnson said if we give a 12 month contingency and his option runs out next month how will this affect him. Mr. Allen said that all property owners want the project to go through and if it doesn't the property could be sold to someone else. Ms. Finley representing Progress Capital said that if anything were to change it would have to go to Planning Commission for a final plat change. Mayor said that at past meetings we were lead to understand that some property owners wanted a contingency. Judge Stinnett said you were misinformed.

At this time Ms. Macha stated she would like to disclose that her employer is trying to work out a business venture with Mr. Rankin and that it would be a conflict for her. Mr. Noe stated he also has a conflict as he may bid on this project.

Ms. Noe stated she did talk with Ms. Lunn to make sure that she understood once the property was rezoned she could not have it rezoned again for twelve months.

Motion passed with a roll call vote of: LaCrosse-yes, Macha-abstain, Johnson-yes, Noe-yes, Nicholson-yes, Allen-yes, and Mayor-yes.

A motion was made by Johnson; seconded by LaCrosse to approve Ordinance #337-rezoning portion of Brookhollow Dr R-3 to C-1 on 2nd reading. Ms. Macha and Mr. Noe noted that they both have the same conflict as noted above. Mr. Johnson said on behalf of Ms. Macha if there is a conflict the member can still vote after the disclosure is made. Ms. Noe said per the Ethics ordinance yes they can still vote if they note a conflict. Motion passed with a roll call vote of: Johnson-yes, LaCrosse-yes, Macha-abstain, Allen-yes, Nicholson-yes, Noe-abstain, and Mayor-yes.

New Business:

Ms. Myrla Sproat told the Council that the celebration at the Open Air Market in July was well attended and she thanked the city again for donating that location. Ms. Sproat said there were over 100 in attendance for the drawing for the items donated by the vendors to be given away. She also thanked the city for mowing the market area.

A motion was made by Johnson, seconded by Noe to approve Resolution 2007-07-RAC grants combined to form new Phase I. Motion passed unanimously by voice vote.

Mayor introduced Ordinance #338-Yard Sales as up for discussion. He asked Council if they had had an opportunity to look at it. Ms. Macha said she had looked at it some and didn't like a few things such as limiting to two per year and the fee. A motion was made by Allen, seconded by Macha to defer to workshop next month. Motion passed unanimously by voice vote.

Mr. Cherry told Council that two bids had been received for the flail mower for PWD. Mayor asked if bids had been opened today and Mr. Cherry said yes. He stated that this is a budgeted item and was in the budget for \$6700.00. Mr. Cherry said that Diamond's bid was for a 102" flail mower and that CMI was for 96". Mr. Noe asked him which he would rather have. Mr. Cherry responded that the parts on the Diamond are interchangeable and he would like to stay with Diamond but the other was cheaper. Mayor stated that Diamond is \$200.00 less than budgeted item. Mr. Cherry was asked for his recommendation and he said he would recommend Diamond Mower's Inc. A motion was made by Noe; seconded by Johnson to award the flail mower bid to Diamond Mower's Inc. in the amount of \$6,983. Motion passed by a roll call vote of: Noe-yes, Johnson-yes, Nicholson-yes, Macha-yes, Allen-yes, LaCrosse-yes, and Mayor-yes.

Mr. Cherry asked Council to award bid for pumper truck for PWD which is a budgeted item for \$86,700.00. He said Progress Tank bid an aluminum tank not steel with a 10 year warranty and CMI bid steel. He recommended the Council accept the CMI bid. A motion was made by Johnson, seconded by Nicholson to award the bid to CMI Equipment Sales, Inc. in the amount of \$85,656. Motion passed by a roll call vote of: Johnson-yes, Nicholson-yes, Allen-yes, Noe-yes, Macha-yes, LaCrosse-yes, and Mayor-yes.

Mr. Cherry approached Council to award bid for chemicals for water & wastewater plants. He asked them to award the bid on chlorine, Ortho-Poly blended Phosphate, Sodium Hydroxide and the Polymer and he requested to re-bid the Hydrofluorosilicic Acid, Carusol-20 and the Sodium Hypochlorite. He believes he can get better prices. A motion was made by Johnson, seconded by Nicholson to award those bids stated by Mr. Cherry. Motion passed by a roll call vote of: Johnson-yes, Nicholson-yes, Allen-yes, Noe-yes, Macha-yes, LaCrosse-yes, and Mayor-yes.

Ms. Noe spoke to Council on IEC alarm monitoring agreement for water plant. She stated she had tried to set up a meeting with them and Chief Walker and haven't been able to get a meeting set up. However, Chief Walker talked with their representative and he does not have a problem with marking through anything in the contract that isn't acceptable

and it is not an issue with him. The monitoring system is for Fire Station II and the Senior Center as well as the water plant. She asked that contract be accepted contingent on their acceptance of changes made to said contract. A motion was made by Noe, seconded by Macha to accept contract contingent on changes made. Motion passed by a roll call vote of: Noe-yes, Macha-yes, LaCrosse-yes, Allen-yes, Nicholson-yes, Johnson-yes, and Mayor-yes,

A motion was made by Macha, seconded by Noe to approve both invoices from Lose & Associates in the amounts of \$2,691.51 and \$5,000.00. Mr. Noe asked that the bills be sent to the attention of Ms. Schaeffer and that she sign off on them. Motion passed by a roll call vote of: Macha-yes, Noe-yes, Allen-yes, Nicholson-yes, Johnson-yes, LaCrosse-yes, and Mayor-yes.

A motion was made by Noe, seconded by Johnson to approve Gibbs Brothers invoice for paving in the amount of \$12,795.50 on Batson Street. Mr. Cherry said all paving is complete on Batson Street and it only needs striping and he will make sure that is done. Motion passed by a roll call vote of: Noe-yes, Johnson-yes, Macha-yes, LaCrosse-yes, Allen-yes, Nicholson-yes, and Mayor-yes.

A motion was made by Noe, seconded by Johnson to pay W & O Construction pay request #21 in the amount of \$134,083.26. Mr. Cherry said the plant is starting to dress up and that they had spent four hours on a punch list. He said a couple of change orders would be coming through but they are on track to finish in a couple of months. Motion passed by a roll call vote of: Noe-yes, Johnson-yes, LaCrosse-yes, Macha-yes, Nicholson-yes, Allen-yes, and Mayor-yes.

A motion was made by Johnson, seconded by Macha to pay Hart Freeland Roberts invoice in the amount of \$2,564.93. Motion passed by a roll call vote of: Johnson-yes, Macha-yes, LaCrosse-yes, Allen-yes, Nicholson-yes, Noe-yes, and Mayor-yes.

A motion was made by Noe, seconded by Johnson to defer Baron & Dowdle's final pay request. Motion passed unanimously by voice vote.

Other:

Mayor stated he had two items to bring up. He had received a letter from the Davis family about the Davis property on Caldwell Rd requesting a sign. Mayor read the letter to the Council. He stated he doesn't think the city ever officially named this property and since the family is requesting it be named Davis Park he had no issue with it. Mr. Allen said maybe a plaque honoring the family. He said owning the property doesn't mean we have to name it after them. Mr. Allen asked if they gave the city a break on the property when it was purchased. Mayor answered no that the property was bought at auction. Mr. Johnson said that will cost money and right now we don't have to do anything. Mayor asked that this be put on the workshop agenda in September.

Mayor said that Mr. John Henry Biggs said the street behind his house is called Park St and he requested the street name be changed to Biggs Street since there is a Park street

already in the city. Mr. LaCrosse asked if it required anything be done to change the name. Ms. Macha asked what about 911. Mr. Johnson asked what do the other property owners think. Mayor said that two don't mind if the name is changed. Mr. LaCrosse said that there is a house being built that will have that address it runs parallel to Valley View and is there a way to get into the back of the property. Chief Walker said he would check 911. The lots run parallel to the street and it is not an address 911 would use. Mr. Noe asked if it could be named Biggs Alley. Mr. LaCrosse said it was fine with him. Chief Walker said there is a Biggs Drive off Bearwallow Rd. A motion was made by LaCrosse to rename Park Street that intersects with Valley View to Biggs Alley. Motion passed unanimously by voice vote.

Mr. Noe asked that if someone made a disclosure can they be called last for the vote. Mr. Allen said the Mayor always votes last. Ms. Noe stated that it wasn't necessary to wait until last as long as disclosure was made they could vote.

A motion was made by Johnson, seconded by Noe to pay the bills. Ms. Macha questioned the bill to Lesa Driver. A motion was made by Noe, seconded by Macha, to amend the previous motion to pay bills by adding contingent upon Mayor approving the bill to Lesa Driver. Amended motion passed by a roll call vote of: Noe-yes, Macha-yes, LaCrosse-yes, Johnson-yes, Allen-yes, Nicholson-yes, and Mayor-yes. Motion to pay bills passed by a roll call vote of: Johnson-yes, Noe-yes, Macha-yes, LaCrosse-yes, Nicholson-yes, Allen-yes, and Mayor-yes.

A motion was made by Johnson, seconded by Macha to adjourn. Motion passed with 5 ayes and 1 nay from Mr. Noe. The meeting adjourned at 8:04 p.m.

Gary Norwood, Mayor

Phyllis Schaeffer, City Recorder