

**ELY CITY COUNCIL
REGULAR MEETING
JULY 14, 2008
ELY CITY COUNCIL CHAMBERS**

Mayor Jim Doyle called the meeting to order at 7:00 p.m. Council members present: Bill Grove, Mark Banowetz, Stephanie Mai, and Bob Ballantyne; Tom Winkowski absent-excused. Guests included: Jim Miller, Robert Zeman, Anna McAtee, Jennifer Jordebrek, D & M Haase, Bob & Darlene Wermager, Marv Peters, Jason Laird, Chad Pelley, Nick Bettis, Fred & Becky Showalter, Millicent & Jim Cozzie, Keith Schulte, Jennifer Weger, Ann Brockinger, Suresh Ganu, Chet Hendrickson, Dave Rasmussen, Dennis Carmer, Frank Joens, Michelle Field, Tom Whinery and Jeff Hilleman. Also present: City Engineer Cary Solberg and Clerk-Administrator Aaron Anderson.

Ballantyne, second by Banowetz, moved to approve the Consent Agenda consisting of:

- Agenda.
- Minutes of the June 9, 2008 regular meeting.
- Minutes of the June 4 workshop meeting
- Treasurers Report for the period ended June 30, 2008.
- Bills Payable for July 2008 totaling \$56,959.14
- The following appointments to City Boards and Commissions:
 - Parks & Recreation: Jeff Hilleman, 1675 North Drive through July 31, 2010
 - Library Board: Cheryl Krob 1250 State St and Lynda Haahes non-resident representative 1965 Ivanhoe Rd through June 30, 2014
 - Board of Adjustment: Karl Schmidt, 1450 North Drive, through June 30, 2013.
- Temporary Closure of Walker Street at from the north edge of 1420 Walker to Rowley Street.

Motion carried – 4 to 0.

Treasurer’s Report (summary) for the period ended June 30, 2008

	Receipts	Disbursements	Transfers	Ending Balance
General	\$ 5,282.10	\$ 44,576.78		\$ 402,290.41
Road Use	8,270.42	8,455.43		24,667.86
TIF Fund	309.83		-128,560.00	307,499.45
Debt Service	444.38		128,560.00	4860.76
Other Projects	10,000.00			-65,915.21
Library Project				3,169.70
Water Utility	16,888.48	6,592.41		245,888.72
Water/Sewer Reserve				100,000.00
Sewer Utility	17,930.89	93,981.28	-171,588.00	93,733.07
Sewer Debt Service		256.19	171,588.00	-255.40
Sanitary Utility	5,587.26	6,431.93		52,646.87
PR Clearing	7,929.47	9,169.37		728.51
Totals	\$ 72,642.83	\$ 169,463.39		\$ 1,171,314.74

Communications: Mayor Doyle reported receiving the following communications: Public Works Director’s Monthly Report; and City Engineer’s Report regarding Dows Street

Improvements Project. Linn County Deputy reported a Sheriff's Office's Monthly Activity Report was not available due to flooding at the Sheriff's facility in Cedar Rapids.

Citizen Requests. Robert Zeman, 1660 Walker St., presented and discussed his letter to the City Council summarizing his request for the speed limit on State Street be lowered to 25 mph. Jennifer Jordebek reported the Ely Library's theme for June was "Catch the Reading Bug" and that over 3,000 patrons visited the Ely Public Library in June. Jim Miller asked when dust would be taken care of on the roads.

Jennifer Weger, 2115 Dows St. reported she cannot hear the emergency alert/tornado siren at her home, and asked if there are any plans to install additional emergency alert/tornado sirens as Ely grows and that the sirens are not activated during tornado warnings. Council member Stephanie Mai reported the Fire Department's policy on this matter, and the City Council discussed further with Ms Weger and others attending. Council directed City Administrator to write to the Volunteer Fire Department regarding: concerns that the emergency siren cannot be heard effectively at all locations in Ely, and concerns regarding activation of the emergency siren during tornado warnings.

Ordinance No. 203, Creating Voluntary Annual Refuse Collection Tag.

Third Reading and Final Approval of Ordinance No. 203, "An Ordinance to Amend Refuse Collection Fees by Creating an Optional Annual Refuse Collection Tag". Grove, second by Mai, moved to approve third reading and final approval of Ordinance No. 203, "An Ordinance to Amend Refuse Collection Fees by Creating an Optional Annual Refuse Collection Tag".

Aye: Grove, Banowetz, Mai, Ballantyne

Nay: None.

Absent: Winkowski

Mayor Doyle declared the motion carried and ordinance adopted – 4 to 0.

Request for Re-Zone to R-2 and Preliminary Plat, Splendid Villa Addition to Ely – Sun Development LLC. Clerk-Administrator Anderson reported receipt of a letter from James Powers, an attorney representing the Louis Field 3rd Addition Homeowners Association asserting that "an issue exists with respect to the ownership and maintenance of the pond area" included in the overall area of the proposed preliminary plat for the Splendid Villa Addition and requesting that "any action to approve the preliminary plat be held in abeyance" until the referred to issues are resolved. Mr. Anderson reported that the City Attorney advised the public hearing on the request for rezone be opened, comments accepted and then the hearing continued until 7:00 p.m. August 11, 2008.

Public Hearing re: Request to Re-zone a portion of parcel from R-1 Single Family Residential to R-2 Multi-Family Residential – 7:00 p.m. Clerk-Administrator Anderson reported notice was published and parcel specific notice of the request for re-zone mailed as required by State and City Code. Mai, second by Banowetz, moved to open the public hearing regarding a request to re-zone portion of the parcel that is the subject of the requested Splendid Villa preliminary plat at 7:33 p.m. Motion carried – 4 to 0. Mayor Doyle declared the public hearing open at 7:33 p.m.

Mayor Doyle asked for comments regarding the public hearing item. Jim Miller asked where the property is. Jim Doyle stated the property is along Rogers Creek Road across from Sunk Jones place.

Suresh Ganu stated his concern is that traffic in an area increases by a factor of two when zoning is increased from R-1 to R-2. Mr. Ganu stated the area does not have good access to the south side, and he's not sure about Jappa Rd. He stated he is concerned with possible changes to traffic patterns and asked if any consideration has been given to bike paths along Dows St and Jappa Rd. Jim Doyle stated the plat shows that Glendale Lane and Prairieview are designed as collectors with bike route options. Mr. Ganu asked if the developer is planning to connect to proposed bike routes.

Michelle Field asked if anything other than duplexes are allowed in the R-2 district. Jim Doyle stated the zoning ordinance was changed in 2006 that only allows single and two-family units as permitted uses in the R-2 district. Ms Fields asked who is going to fix the Rogers Creek Dam. Aaron Anderson stated he does not know, that the Iowa Department of Natural Resources (DNR) has ordered the dam to be repaired and that Mr. Koss has been granted an extension to complete the work.

Bob Ballantyne stated he sees a lot of rooftops and concrete that the Rogers Creek Dam apparently can't handle now; and asked about new load resulting from development of the property. Chad Pelley, engineer for the applicant Sun Development LLC, that as far as Sun Development is aware Mr. Koss was going to fix the dam by June 30, and was given an extension by DNR to complete the repairs by July 31. Mr. Pelley stated the dam was first built as an aesthetic, if the dam does not have the capacity to provide adequate retention the developer will have to build dry bottom ponds on the rest of his parcel to meet Ely's detention requirements. He stated that the dam has failed 4 times previously is another obvious issue with the dam; and that DNR's possible sanctions against Mr. Koss may be adequate to get Mr. Koss to proceed with repairs. Mr. Ballantyne stated that the stream in this area appeared not to be moving when the Iowa River was 4 ½' feet above the spillway at Coralville Reservoir. He stated he was here in 1993 and saw the effects of a 5-inch rain to an already full stream system and that he is thinking we should build to standards to meet 500-year flood events. Mr. Pelley stated cost is a major factor in the feasibility of designing and building to 500-year flood event standards.

Frank Joens stated when the dam went out the water was within 150-feet of his lot line, and that he would have had water in his house if Ely would have had a 5-inch rain and the dam had held. Mr. Jones stated the Louis Field 3rd Addition Homeowners Association (HOA) has written documentation that the pond would be deeded to them. Jim Doyle stated it seems the general plan is to fix the dam and have it deeded to the HOA. Chad Pelley stated the developer has no written documentation regarding ownership of the dam or pond by the HOA. Mr. Pelley stated Sun Development's intent was to deed the outlot to the HOA, and that if Mr. Koss doesn't fix the dam his recommendation to his client will be to not fix the dam and manage storm-water onsite without using the dam or pond area. Bob Ballantyne asked if the preliminary plat needs to be changed if storm water retention is done onsite without using dam or pond area. Mr. Pelley stated he's not sure. Cary Solberg, City Engineer, stated the City could proceed with the re-zone irrespective of any changes to the water detention plan; "onsite" detention would most likely decrease density on the parcel.

Mr. Pelley stated the proposed R-2 area/units would not be affected by changes to the storm water management plan.

Frank Joens stated the DNR has indicated to him they will take legal action against the owner of "Outlot A" (as shown on preliminary plat) and that the dam has to be fixed as part of the land transfer and asked if Mr. Koss notified the buyer of the liability for the dam.

Michelle Field asked what other projects in the Cedar Rapids area the developer has done. Chad Pelley stated Sun Development has not done any other projects in the Cedar Rapids area. Mr. Pelley stated he has been project engineer for several similar projects including Ushers Ridge, Pheasant Trail in Marion and others. Ms Fields stated she noticed decrease in green space and asked if it is possible to keep or replace trees on the parcel; asked if removing the cul-de-sac was part of the Plan and Zoning Commission recommendation; and asked if the developer will require a tree on every lot. Chad Pelley stated the developer does not have a specific plan for trees yet.

A gentleman asked if the common areas shown on the plat would belong to the HOA. Chad Pelley stated they most likely would. The gentleman asked if the creek would remain a wild area if it becomes an issue. Mr. Pelley stated if the worst case happens he will suggest the creek remains as a creek without a dam.

Frank Joens asked if they plan to drain basements into the creek. Mr. Pelley stated that by state law they have to reduce the outflow/discharge to the creek. Bob Ballantyne stated the danger then becomes extra heavy rain events.

A gentleman asked if the covenants will include design standards for homes. Mr. Pelley replied possibly.

Suresh Ganu asked what happens when there is not enough time for water to absorb during a rain or storm event. Chad Pelley stated that sort of thing is taken into account when designing a storm water management plan. Frank Joens asked if the smaller retention areas are a way of circumventing requirement for retention pond. Mr. Pelley stated the ordinance would allow multiple retention areas and does not require use of only a single retention pond

Mayor Doyle asked for additional comments regarding the public hearing item, none were offered.

At 8:02 p.m. Ballantyne, second by Grove, moved to continue the public hearing until 7:00 p.m. August 11, 2008 at the Ely City Council Chambers at Ely City Hall, 1570 Rowley Street. Motion carried – 3 to 0, Banowetz abstaining. At 8:02 p.m. Mayor Doyle declared the public hearing continued until 7:00 p.m. August 11, 2008 and the meeting in regular session.

First Reading Ordinance No. 205, Designating a Parcel as an R-2 Multi-Family Residential Zoning District. City Council took no action on this matter because the public hearing regarding this request is continued and has not been closed for comment.

Request for Preliminary Plat, Splendid Villa Addition to Ely, Iowa. City Council took no action on this matter.

Ordinance to Create R-3 and R-4 Residential Zoning Districts that Would Allow up to 4 Residential Units and 8 Residential Units per Structure.

Public Hearing re: Ordinance No. 206, Creating R-3 and R-4 Residential Zoning Districts. – 7:00 p.m. Clerk-Administrator Anderson reported notice of the public hearing was published as required by State and City Code. At 8:05 p.m. Banowetz, second by Grove, moved to open a public hearing regarding proposed Ordinance No. 206 “Creating R-3 and R-4 Residential Zoning Districts”; motion carried 4 to 0. Mayor Doyle declared the public hearing open at 8:05 p.m.

Mayor Doyle asked for comments regarding the public hearing item. Mrs. Haase stated her concern is traffic and special exceptions and stated the area will see terrible traffic if there are new 8-plexes and 4-plexes.

A lady asked why the R-3 and R-4 zones are being created. Bob Ballantyne stated the zones are proposed because the zoning ordinance was revised in 2006, this change removed anything but single and duplex units in the R-2 district. Mr. Ballantyne stated this poses a potential problem for the existing 8-plex units. The lady asked if there are any requests for new 8-plex units. Aaron Anderson stated the City of Ely has received no requests for new 8-plex units.

Chet Hendrickson stated we made a change a few years ago that goofed up and are trying to correct it now. A lady stated they are concerned about setting conditions that could affect the future intensely. Mr. Hendrickson stated the location specific items is apples, the ordinance creating the zoning districts is oranges. He stated the physical location of any property that might be zoned R-3 or R-4 comes after the districts are enacted.

Bob Ballantyne stated the corner of State Street and Northgate Drive might be a good location for a stop sign for traffic on State Street.

Mrs. Haase asked what special exceptions are. Aaron Anderson stated special exceptions are specific uses or activity that can only be approved by the Ely Board of Adjustment after a public hearing process, similar to the re-zone process.

A gentleman asked how multi-family affects water quality and pressure. Mark Banowetz stated Ely is planning and working on expanding the city’s water system. Cary Solberg stated all re-zone requests are reviewed on a case-by-case basis and that the impact on the City’s infrastructure, including water system, is factored in the review.

Mayor Doyle asked for additional comments regarding the public hearing item, none were offered. Banowetz, second by Ballantyne, moved to close the public hearing at 8:20 p.m.; motion carried – 4 to 0. Mayor Doyle declared the meeting in regular session at 8:20 p.m.

First Reading Ordinance No. 206, Creating R-3 Residential and R-4 Residential Zones. Banowetz, second by Mai, moved to introduce and approve first reading of Ordinance No. 206, “Creating R-3 and R-4 Residential Zoning Districts”.

Aye: Ballantyne, Mai, Banowetz, Grove

Nay: None

Absent: Winkowski

Mayor Doyle declared the motion carried – 4 to 0.

Keith Schulte asked if the City Council would consider waiving second and third readings of the ordinance.

Public Hearing re: Ordinance No. 207, Re-Zoning Designated Properties from R-2 to R-3 and R-4. Mayor Doyle recognized Plan and Zoning Commission Chair Chet Hendrickson who noted that it would not be appropriate for the Council to conduct a public hearing regarding a request to re-zone parcels to zoning designations the City has not adopted yet. Banowetz, second by Mai, moved to table the public hearing on this matter until after Ordinance No. 206 is adopted by the City Council; motion carried – 4 to 0.

First Reading Ordinance No. 207, Re-Zoning Designated Properties to R-3 and R-4. Council took no action on this matter.

Schedule Public Hearing re: Revisions to Ely Traffic Code. Banowetz, second by Mai, moved to schedule a public hearing for 7:00 p.m. August 11, 2008 regarding an ordinance to enact the following changes to the Ely Traffic Code:

- Establishing a permanent stop at Dows Street for north or south bound traffic on State Street.
- Establishing a permanent stop at Rogers Creek Road for north or south bound traffic on Jappa Road
- Establishing a 25mph speed limit 25 mph on State Street from 500 feet south of Rowley Street to 175 feet north of Northgate Drive
- Establishing a 25 mph speed limit on Banner Valley Road from Main Street to the east corporate limits.

Motion carried – 4 to 0.

Revise Number of People on Parks and Recreation Commission. The City Council discussed a request from the Parks and Recreation Commission to increase the number of members of the board from 5 to 6, with the number of members to qualify as a quorum for a meeting remaining as 3. Clerk-Administrator Anderson reported an ordinance would need to be adopted to enact this change. Grove, second by Mai, moved to direct the Clerk-Administrator to draft an ordinance to increase the number of members of the Park and Recreation Commission to 6 and designate that three members constitutes a quorum of that board, and to schedule a public hearing for 7:00 p.m. August 11, 2008 to consider such ordinance; motion carried 4 to 0.

2008 Hot Mix Asphalt Street Resurfacing Project

Public Hearing re: Plans, Specifications and Form of Contract for the 2008 Hot Mix Asphalt Street Resurfacing Project. At 8:58 p.m. Banowetz second by Mai moved to open a public hearing regarding the plans, specifications and form of contract for the 2008 Hot Mix Asphalt Street Resurfacing Project; motion carried – 4 to 0. Mayor Doyle asked for comments from the public; Dave Rasmussen asked if the project includes widening Rowley Street for a bicycle/recreational trail. Mayor Doyle asked for additional comments, none were offered or received. Grove, second by Mai, moved to close the public hearing at 8:59 p.m.; motion carried 4 to 0. Mayor Doyle declared the public hearing closed and meeting in regular session at 8:59 p.m.

Resolution No. 08-0714-26, Approving Plans, Specifications and Form of Contract.

Ballantyne, second by Grove, moved to approve Resolution No. 08-0714-26.

Aye: Ballantyne, Mai, Banowetz, Grove

Nay: None

Absent: Winkowski

Motion carried - 4 to 0.

Resolution No. 08-0714-27, Making Award of, and Approving, Construction Contract

and Bond. City Engineer Cary Solberg reported receipt of one bid for the 2008 HMA Street Resurfacing project from L.L. Pelling Inc. of North Liberty Iowa in the amount of \$151,258.20. Clerk-Administrator Anderson reported Resolution No. 08-0714-27 would award the contract to L.L. Pelling in the amount of their bid, and approve the construction contract and performance bond contingent upon review by City Engineer and Mayor. Ballantyne, second by Banowetz, moved to approve Resolution No. 08-0714-27.

Aye: Ballantyne, Mai, Banowetz, Grove

Nay: None

Absent: Winkowski

Motion carried - 4 to 0.

Water Improvements**Designate Preferred Option and Direct Administrator to Initiate Planning & Design.**

Clerk-Administrator Anderson reported no response was received from the City of Cedar Rapids regarding whether Cedar Rapids would be willing to discuss allowing Ely to connect to the Cedar Rapids water system as a bulk water customer; or to discuss establishing an annexation boundary agreement. Grove, second by Mai, moved to designate the construction of a water tower, and other local improvements within the Ely water system as the preferred option and to direct the City Administrator to initiate planning and design for this option. Motion carried – 4 to 0.

Schedule Workshop Meetings re: Capital Improvements Plan/2008 Goal Setting Priority Projects and Joint Meeting with Parks & Recreation re: Park Development. It was the general consensus for the Clerk-Administrator to schedule a workshop meeting regarding the Capital Improvements Plan and with the Parks & Recreation Commission regarding park development.

Update on Iowa Living Roadways Visioning Project. Mayor Doyle updated the City Council on this project.

Discuss Establishing Economic Development Commission. Council member Ballantyne discussed initiating a process to embark on a learning activity on economic development that would hopefully build a group to build Ely's commercial and industrial base.

2007 Wastewater Treatment Plant Improvements Project.**Payment Application Number 14, Miron Construction Inc. – 2007 WWTP Project.**

Banowetz, second by Ballantyne, moved to approve Payment Application No. 14 in the

amount of \$92,264.00 to Miron Construction for the 2007 WWTP Project. Motion carried – 4 to 0.

Rogers Creek Trunk Project

Payment Request/Invoice No. , Maxwell Construction Inc., for the Rogers Creek Trunk Project. Mai, second by Grove, moved to approve Invoice and Payment Application No. 7 in the amount of \$6,543.12 to Maxwell Construction for the 2007 Rogers Creek Trunk Project. Motion carried – 4 to 0.

Resolution No. 08-0714-28, Authorizing Unpaid Costs for Services Provided to Specific Properties to Be Assessed to Property Taxes. Resolution No. 08-0714-28 would authorize unpaid costs for services performed by the city at the following properties to be assessed to the property taxes:

- 1460 Walker Street - \$187.50
- 1235 State Street - \$150.00
- 1540 Ranmar Court - \$187.50

Grove, second by Ballantyne, moved to approve Resolution No. 08-0714-28.

Aye: Ballantyne, Mai, Banowetz, Grove

Nay: None

Absent: Winkowski

Motion carried - 4 to 0.

Discussion Items. Bob Ballantyne stated greater emphasis needs to be placed on documenting employee performance and enhancing employee accountability, including tracking of mileage from location to location. Clerk-Administrator Anderson was directed to prepare a letter recognizing the Ely Volunteer Fire Department for their efforts at flood preparation in June to be signed by Mayor and City Council.

Banowetz, second by Grove, moved to adjourn. Motion carried – 4 to 0. The meeting adjourned at 9:40 p.m.

James E. Doyle Jr., Mayor

Attest:

Aaron Anderson, Clerk/Administrator