

**ELY CITY COUNCIL  
REGULAR MEETING  
OCTOBER 12, 2009  
ELY CITY COUNCIL CHAMBERS**

Mayor Jim Doyle called the meeting to order at 7:00 p.m. Council members present: Bill Grove, Mark Banowetz, Bob Ballantyne and Stephanie Mai; Tom Winkowski – absent/excused. Also present: Dale Stanek, Kay Hale, Keith Schulte, Shawn Weber, Aaron Cooper, Dave Rasmussen, Millicent Cozzie, Jim Miller, Deputy Chad Lemense, City Engineer Scott Pottorf, and Clerk-Administrator Aaron Anderson.

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

- Agenda.
- Minutes of the September 14, 2009 regular meeting.
- Treasurers Report for the period ended September 30, 2009.
- Bills Payable for October 2009 totaling \$133,468.66.
- Resolution No. 09-1012-59, Approving Street Finance Report for FY 2008-09.

Motion carried – 4 to 0.

Treasurer’s Report (summary) for the period ended September 30 2009

	Receipts	Disbursements	Transfers	Ending Balance
General	\$ 41,446.07	\$ 40,499.92		\$ 448,967.87
Road Use	8,269.90	6,509.03		23,200.96
L O S T		17,456.63		27.82
TIF Fund	4,507.78			164,945.46
Debt Service	1,589.75			8,242.33
Other Projects		227,831.98		-101,428.29
Library Project	3,000.00	270.48		2,749.22
North End Infra		6,527.96		-5,560.91
Water Utility	16,134.43	14,715.45		327,728.53
Water/Sewer Reserve				100,000.00
Sewer Utility	22,851.81	9,888.58		94,639.32
Sewer Debt Service				-46,066.92
Sanitary Utility	4,778.54	5,868.00		47,450.61
PR Clearing	7,773.02	7,029.14		5,387.73
Totals	\$ 110,351.30	\$ 336,567.17		\$ 1,052,827.10

**Communications:** Mayor Doyle reported receiving the following communications: minutes of the September 2009 Plan and Zoning Commission meeting and Public Works Director’s Report for September 2009. Linn County Deputy Chad Lemense presented the Sheriff’s Office Monthly Activity Report.

**Citizen Requests.** Jim Miller asked when the property pin for the corner of his property that was moved during excavation for the State Street Bridge and Rogers Creek Trunk projects would be replaced. City Engineer Pottorf stated MMS’ survey crew should have it complete soon.

**Development of Ely City Park**

**Progress Report.** City Engineer Scott Pottorf reported on progress of work for the 2009 Ely Park Grading & Excavation Project. Mr. Pottorf reported Ricklefs Excavating has requested a credit to the contract equal to the cost of applying "Drive" weed control with the weed control to be applied separate from their contract and that the contractor is again rolling the surface to improve its condition.

**Construction of Infields for Softball Diamonds.** Jeff Hilleman, Parks & Recreation Commission President, reported the Parks and Recreation Commission received a quote from Bush Sports Turf to install two crushed limestone softball infields and a crushed limestone walkway from the parking lot to the ball diamonds. Mr. Hilleman reported Bush Sports Turf estimate to install the limestone infield was \$22,000 each, and the walkway \$6,000. Mr. Hilleman said the Park & Recreation Committee requests the City Council to authorize proceeding immediately to construct one limestone infield at the Ely City Park at a cost not to exceed \$22,000. Mayor Doyle and the City Council discussed this request with Mr. Hilleman and other members of the Park and Recreation Commission, including: listing clear priorities for the development of features at the new park, the city's current capital plan, incorporating all capital projects into that plan effectively, and that this work is not included in the current budget. The City Council took no action on this request.

**Resolution No. 09-1012-60, Authorizing Application to "Trees Please!" Program and Committing Local Match Contingent Upon Award.** This resolution would authorize an application to MidAmerican Energy's "Trees Please!" program for trees worth up to \$1,000, with local match of up to \$1,000 in cash and in-kind services. Mai moved to approve Resolution No. 09-1012-60, second by Ballantyne.

Aye: Grove, Banowetz, Mai, Ballantyne

Nay:

Absent: Winkowski

Mayor Doyle declared the motion carried and the resolution approved 4-0.

**Ordinance to Establish Regulations for Ely City Parks.**

**Final Adoption of Ordinance No. 215, An Ordinance to Enact Regulations at City of Ely Parks.** Ballantyne moved to approve the final adoption of Ordinance No. 215, second by Mai.

Aye: Grove, Banowetz, Mai, Ballantyne

Nay:

Absent: Winkowski

Mayor Doyle declared the motion carried and Ordinance No. 215 approved - 4 to 0.

**Northgate 4<sup>th</sup> Addition to City of Ely, Schulte Development, LLC.**

**Resolution No. 09-1012-61, Approving Developer's Agreement for Northgate 4<sup>th</sup> Addition in the City of Ely, Linn County, Iowa.** This resolution would approve a Developer/Subdividers agreement between Schulte Development, LLC and the City of Ely regarding the development of Northgate 4<sup>th</sup> Addition. Mai moved to approve Resolution No. 10-1012-61, second by Ballantyne.

Aye: Grove, Banowetz, Mai, Ballantyne

Nay:

Absent: Winkowski

Mayor Doyle declared the motion carried and the resolution approved 4-0.

**Review and Approval of Construction Plans for Northgate 4<sup>th</sup> Addition.** City Administrator Anderson reported Hall & Hall Engineering prepared proposed construction plans and specifications for the installation of municipal improvements for Northgate 4<sup>th</sup> Addition, and submitted them for review by the City Engineer and review and approval by the City Council. City Engineer Scott Pottorf reported the construction plans are acceptable subject to items listed in his October 7, 2009 letter. Mr. Pottorf noted both he and Public Works Director Ron Stark recommend a standard fire hydrant at the north end of the 8" water main, and that Schulte Development states they believe a 2" "blow-off" hydrant is adequate. Mayor Doyle and the City Council discussed this matter with Mr. Pottorf and Keith Schulte, representing Schulte Development L.L.C. Ballantyne, second by Mai, moved to approve the construction plans for Northgate 4<sup>th</sup> Addition, prepared by Hall & Hall Engineering and dated October 2, 2009, subject to the conditions stated in the City Engineer's October 7, 2009 correspondence, except that a 2" "blow-off" hydrant may be installed at the north end of the 8" water main instead of a standard fire hydrant; motion carried – 4 to 0.

**Request for Voluntary Annexation of 28+/- Acre Parcel of Land Immediately North of City Limits and West of Jappa Road, Lenora Buresh Estate.**

**Public Hearing re: Request for Voluntary Annexation – 7:00 p.m.** Ballantyne moved to open a public hearing regarding a request from the executors of the Lenora Buresh Estate for voluntary annexation of a 27.96+/- acre parcel at 8:06 p.m., second by Mai; motion carried – 4 to 0. Mayor Doyle declared the public hearing open at 8:06 p.m. Mayor Doyle stated this public hearing is related to a request from the executors of the Lenora Buresh Estate for Ely to voluntarily annex a 27.96+/- acre parcel of land located immediately west of Jappa Road and north of existing City limits into Ely, with the parcel to be zoned as an A-1 Agricultural district. Mayor Doyle noted the parcel of land to be annexed includes the area Ely is purchasing as the site for a new water tower.

Mayor Doyle asked for comments from the public regarding the public hearing item. Stephanie Mai asked if the land to be annexed runs all the way to Mabie Road. City Administrator Anderson replied the parcel runs about half way from current city limits to Mabie Road. Ms Mai asked if the other half is up for sale. Mr. Anderson replied he believes it is. Mayor Doyle asked for further comments from the public regarding the public hearing item; none were offered or received. Ballantyne, second by Mai, moved to close the public hearing at 8:07 p.m.; motion carried – 4 to 0. Mayor Doyle declared the public hearing closed and the meeting in regular session at 8:07 p.m.

**Resolution No. 09-1012-62, Approving a Request from the Executors of the Lenora Buresh Estate for Voluntary Annexation of Certain Described Territory and Annexing Said Territory into the City of Ely, Iowa.** Resolution No. 09-1012-62 would approve the request from the executors of the Lenora Buresh estate, Sharon Pfaf and Glen Buresh, for voluntary annexation of a 27.96+/- acre parcel of land and annex that parcel in to the City of Ely. Ballantyne moved to approve Resolution No. 09-1012-62, Approving a Request from

the Executors of the Lenora Buresh Estate for Voluntary Annexation of Certain Described Territory and Annexing Said Territory into the City of Ely, Iowa, second by Mai.

Aye: Grove, Banowetz, Mai, Ballantyne

Nay:

Absent: Winkowski

Mayor Doyle declared the motion carried and the resolution approved – 4 to 0.

**First Reading of Ordinance No. 216, Designating Parcel as an A-1 Agricultural Zoning District.** Ordinance No. 216 would designate the 27.96+/- acre parcel of land that is the subject of the annexation requested by the Lenora Buresh Estate as an “A-1, Agricultural District”. Mai moved to introduce and approve the first reading of Ordinance No. 216, Designating Parcel as an A-1 Agricultural Zoning District, second by Banowetz.

Aye: Grove, Banowetz, Mai, Ballantyne

Nay:

Absent: Winkowski

Mayor Doyle declared the motion carried, Ordinance No. 216 duly introduced and first reading approved – 4 to 0.

**Request from Linn County Sheriff’s Office for Civil Proceedings re: Violation of Alcohol Permit Laws against Cleppe’s 66 Service.** Mayor Doyle reported the Linn County Sheriff’s office issued a citation to Cleppe’s 66 Service for sale of alcoholic beverages to an underage person as the result of an enforcement program, and that the Sheriff’s Office requests Ely pursue a civil penalty as set out in State Code. Mayor Doyle reported the Iowa Alcoholic Beverages Division will pursue the civil penalty for the alleged violation if Ely does not. Banowetz moved to pursue the civil penalty against Cleppe’s 66 Service for first for the alleged first violation of alcohol laws for sale to underage person, second by Grove; motion carried – 4 to 0.

**Clarify Terms of Existing Easement Agreements with James & Kathryn Miller.** Mayor Doyle reported Jim Miller has asked the City to clarify whether the terms of easements he has given to Ely for the access road to the Wastewater Treatment Plant include snow removal as part of easement. Mayor Doyle and the City Council members discussed this matter. Banowetz, second by Mai, moved that for the purposes of the easements granted to the City for access to the WWTP by Jim and Kathryn Miller “maintenance” includes snow removal including the area in front of the residential structure; motion carried – 4 to 0.

**2009 Dows Street Resurfacing Project.** City Engineer Scott Pottorf reported all work shown in the project plans and contract is complete.

**Payment Request No. 2 & Final Acceptance, L. L. Pelling Co., Dows Street Project.** Ballantyne, second by Grove, moved to approve Payment Request No. 2 for \$11,819.14 and approve Final Acceptance for work performed by L.L. Pelling Co., for the 2009 Dows Street Resurfacing Project; motion carried – 4 to 0.

**Hoosier Creek Stream Bank at WWTP Stabilization Project.** City Engineer Scott Pottorf reported work on the “base” portion of this project to fortify the stream bank upstream of the WWTP outlet to Hoosier Creek is complete. Mr. Pottorf reported high water events in August showed that adding riprap to the WWTP outlet to the stream would be ineffective, and that he

and Public Works Director Ron Stark both recommend that work not be performed. Mr. Pottorf reported he had reviewed payment request No. 1 for this project and recommends payment.

**Payment Request No. 1, Connolly Construction, Hoosier Creek Stream Bank at WWTP Stabilization Project.** Mai, second by Grove, moved to approve Payment Request No. 1 for \$7,016.36 to Connolly Construction for work completed on the Hoosier Creek Stream Bank at WWTP Stabilization Project; motion carried – 4 to 0.

**Report on Status of Funding for ARRA “Stimulus” Projects.** City Administrator Anderson reported Ely has been notified financial that Ely is eligible for assistance through the Federal ARRA “Economic Stimulus” programs as follows

- 100% of the estimated \$103,000 cost of the Furhmeister Street Drainage Improvements project.
- \$42,000 of estimated \$406,000 total cost for the Hillcrest Street Drainage Improvements Project.

**Application to Downtown Area Commercial Building Improvement Incentive Program, 1655 Dows Street.** Ballantyne, second by Grove, moved to authorize payment of \$5,000 to Mark Banowetz under the Downtown Area Commercial Building Improvement Incentive Program for external improvements completed at 1655 Dows Street, per the City Council’s August 10, 2009 determination that the work is eligible under this program. Motion carried – 3 to 0; Banowetz abstaining due to actual or perceived conflict of interest.

**Discussion Items.** Bill Grove discussed possible water quality and safety matters related to fuel spills from the Eastern Iowa Airport into Hoosier Creek, City Administrator Anderson was directed to have Public Works Director Ron Stark explore sampling water quality upstream of the WWTP outlet for fuel and/or petroleum products. Mr. Grove also asked to review the emergency response plan.

Banowetz moved to adjourn, second by Grove. Motion carried – 4 to 0. The meeting adjourned at 8:36 p.m.

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James E. Doyle Jr., Mayor

Attest:

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Aaron Anderson, Clerk/Administrator