

**ELY CITY COUNCIL
REGULAR MEETING
OCTOBER 14, 2013
ELY CITY COUNCIL CHAMBERS**

Mayor Jim Doyle called the meeting to order at 7:00 p.m. Council members present: Dale Stanek, Bill Grove, Kay Hale, Dave Rasmussen and Bob Ballantyne. Also present: Jim Miller, Austin Haskins, Trenton Young, Mikayla Ohrt, Jordan Pettus, Jeff Simmons, Annette Wieneke, Dave Netolicky, Katie Jo Bruhn, Pat Nulty, Eldy Miller, Joy Smyth, Steph Mehmen, Randy Koskovich, Jeff Brunscheen, Duane Kunkel, Connie Kunkel, Alan Wery, Judy Wery, John Larson, David Carmody, Dan Schmidt, Ken Jans, Butch Wieneke, Terry Smith, Lisa Hinton, Dave Hinton, Brett Wieneke, Josh Baker, Cheryl Krob, Keith Schulte, Sarah Sellon, City Attorney Bob Hatala, City Engineer Scott Pottorff and Clerk-Administrator Aaron Anderson.

Mayor Doyle led the City Council and others attending in the Pledge of Allegiance.

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

- Agenda.
- Minutes of the September 9, 2013 regular meeting.
- Treasurers Report for the period ended August 31, 2013.
- Treasurers Report for the period ended September 30, 2013.
- Bills Payable for October 2013, totaling \$82,634.41.
- Resignation from Parks Commission – Shawn Weber, with appreciation and regret

Motion carried – 5 to 0.

Treasurer’s Report (summary) for the period ended September 30, 2013

	Receipts	Disbursements	Transfers	Ending Balance
General	\$ 11,636.94	\$ 73,782.13		\$ 599,906.88
Road Use	17,221.00	45,372.12		29,518.24
L O S T	17,716.21			125,481.56
TIF Fund				135,872.64
Debt Service				-54,437.55
Other Projects				74,830.84
Library Project				-64.23
Way Point Sign				-18,327.29
North End Infra				-28,589.93
Water Utility	19,284.53	14,510.78		264,042.33
Water/Sewer Reserve	5,216.10			126,218.60
Sewer Utility	27,308.47	26,927.20		16,047.51
Sewer Debt Service	11,767.92			41,450.32
Sanitary Utility	6,002.10	7,062.15		37,348.38
Storm Water	10.00			28.12
Farmers Market	40.00			1,503.01
PR Clearing	10,241.69	9,700.30		1,933.50
Totals	\$ 126,444.96	\$ 177,354.68		\$ 1,352,672.93

Communications. Linn County presented the Sheriff’s Office Monthly Activity Report.

Citizen Requests. Jim Miller asked if the address sign on Vista Rd for the WWTP will be replaced; and if the pothole at the intersection of Vista Rd and State St. will be filled.

Katie Jo Bruhn asked status of a new ordinance regarding watershed management. City Administrator Anderson reported he has been researching the matter and plans to report at the November 11 City Council meeting.

Terry Smith asked for a copy, via email, of any request for grant or grant application regarding the Hoover Trail South project that has been, or might be, submitted. City Administrator Anderson stated he will provide the requested information. Mr. Smith asked who made the decision to send out a questionnaire re: support or opposition for extending Hoover Trail along State Street south from Rowley St. to the people who live or own land in the area. Mayor Doyle stated it was his decision. Mr. Smith asked why the questionnaire was sent out now after he was told the City was doing nothing regarding State Street until January 2014; Mayor Doyle and City Council members discussed this with Mr. Smith. Mr. Smith asked why the two-minute limit on comments was added to the agenda. Mayor Doyle replied the request to keep comments to two-minutes was added to help keep the meeting organized and orderly. Mr. Smith noted a passage from Robert's Rules of Order re: avoiding undue strictness in the operation of a meeting.

Stephanie Mehmen asked what the plan is for planting the shrubs and trees for the North Waypoint project. Mayor Doyle reported Ely is still waiting for determination from IDOT re: grant funds for non-approved plant species. Discussion included planting the remaining plants regardless of grant funding.

Kunkel Addition, Request for Annexation, Zoning and Subdivision – Duane Kunkel.

Public Hearing re: Request for Annexation of a 39.49+/- Acre Parcel North of Banner Valley Road and East of Worley Lane – 7:00 p.m. Stanek moved to open a public hearing re: a request for annexation of a roughly 39.49 acre parcel submitted by Duane Kunkel at 7:20 p.m., second by Ballantyne. Motion carried – 5 to 0. Mayor Doyle declared the public hearing open at 7:20 p.m. Mayor Doyle asked for comments or questions regarding the public hearing item.

Mayor Doyle stated the land that is requested to be annexed surrounds a roughly one acre parcel that is owned by the Worley family, who has not requested voluntary annexation. He stated this would result in an island of non-annexed land which is not allowed by state law and asked what the position of the Worley family regarding the request. City Clerk/Administrator Anderson reported Mrs. Worley's main concern is increase in property taxes, and has not stated strong opinion other than that to him. A lady asked if Mrs. Worley has a choice. Mr. Anderson stated if the annexation proceeds she does not have a choice, though the City Council can weigh that in their deliberations. A gentleman asked if she doesn't have a choice at all. Jim Doyle stated by annexing around the property this would result in an island which you cannot have so it would be kind of an involuntary annexation by default; Mr. Anderson stated that is correct. A lady asked if the city would be required to provide services to the property. Mr. Anderson stated that is correct, though Ely has been doing snow removal for Worley Lane under agreement with Linn County, the house is connected to city water and the proposed preliminary plat includes a sanitary sewer stub for the house.

Pat Nulty asked if that is annexed in then Banner Valley Road will be annexed in and will be the responsibility of the City. Aaron Anderson stated that is correct. Mr. Nulty asked what the plan is for bringing that up to grade, I heard at one point that it's not where it is supposed to be. Mr. Nulty stated there has been talk and confusion of being able to get enough water through the east end and people being able to put in a lane east of the land; that there are two streets into the development proposed for the plat, and asked how they will get enough water through there. Mr. Nulty stated if Banner Valley Road is not where it's supposed to be how will there get enough water through here if they can't at the east end. City Engineer Scott Pottorff replied you're talking about the Wieneke driveway which is designed today as a small culvert intended to be overtopped by heavier flows of water. Mr. Pottorff stated he recommended that any design for a new entrance at that location make it so that the water does not back up any more than it does now; it's actually in the county and City Council recommended this to the county. Mr. Pottorff stated with this development one of the criteria is that the one crossing of Banner Valley Creek has to be designed such that it does not back up water any worse than the two culverts that cross under Banner Valley Road now. Mr. Nulty asked if it is correct that the two culverts that whatever goes in has to be sized for the culverts that go under Banner Valley Road. Mr. Pottorff stated that is correct.

A gentleman asked where the road stands right now for where the elevation is now. Mr. Pottorff stated he looked at this and that the two 72" culverts are designed for a 25-year event and that there is not conveyance under Banner Valley Road for greater than a 25-year storm. A gentleman stated Katie was talking about upgrading the ordinance so there would be more capacity than that. Mr. Pottorff stated the culverts were installed by Linn County and that counties usually design to a 25-year standard. Mr. Nulty stated as a citizen he believes this should offer protection from a 100-year event. Mr. Pottorff stated that if you raise Banner Valley Road up it just pushes water further back upstream and he doesn't know if that makes the situation any better or worse; he believes raising Banner Valley Road is not the answer. A gentleman asked for whom, people downstream. Mr. Pottorff replied right now water goes over Banner Valley Rd at a certain elevation; and it probably doesn't make any difference downstream but would make a big difference upstream.

A gentleman asked if redoing why not design it to handle a 100-year event; do something to make it so it can handle a 100-year event to make it better instead of not making it any worse. Mr. Pottorff stated he doesn't know if putting in bigger or more culverts under Banner Valley Rd is any better. The gentleman stated there is a problem with it now.

A gentleman noted the request is to annex up to the east property line of Wieneke's, east of Wieneke's property is still County property, and the north side of it is under Linn County jurisdiction and noted anything done to that road has to be approved by Linn County for their half, so if want to raise Banner Valley Rd from Sunrise Drive west Ely would have to annex the entire run. Gentlemen asked what the cost is from that stand point; and asked why not voluntarily annex all of that land. There was general discussion among the audience regarding annexing to the east and the crossing for the Wieneke's property.

Bob Ballantyne stated I understand this is going back to Plan and Zone. Aaron Anderson stated that the P&Z has requested this; he thinks it's assumed it will be referred to P&Z but has to be done so by City Council. Mr. Anderson stated that the P&Z's thought is that the proposed preliminary plat, while laid out generally the same as earlier versions, is different than what they reviewed because it has fewer proposed R-2 lots, more R-1 lots and two more lots in total. Katie Jo Bruhn asked how that happened. Mr. Anderson stated the Developer

submitted a slightly different plat than the P&Z looked at in 2010 and 2012, and then asked to come to City Council and discuss it in September. Ms Bruhn asked what has changed. Mr. Anderson stated from his level of expertise the change is the total number of lots; the 2012 plat had two fewer lots, and the developer wanted roughly 12 more lots zoned R-2. He stated the net impact being that there will be fewer potential housing units because there are fewer R-2 lots. A lady asked if the P&Z had concern with the number of lots and potential attachment to our sewer.

A lady asked if the P&Z was aware of the wetland area; Mr. Anderson stated the wetland delineation was not on hand at the time, but city was aware of the wetland in general. The lady stated there are two or three houses whose footprints are in the 100-year flood area. Ms Bruhn stated we are fighting with, or at least trying to keep FEMA from coming back and would think that a house with footprint in floodplain would not help with that. The lady stated five of the houses will have to have flood insurance per a recorded IDNR document. Ms Bruhn asked what the requirement for those five houses to have flood insurance does to home owners down stream. Mr. Anderson stated on a general issue it should not matter to other properties up or down stream because there is a wetland delineation and specific findings and research for the land in the subdivision. Ms Bruhn stated Southbrook never flooded in 2008 floods yet FEMA wanted to come in and declare Southbrook that backs up to the creek regardless of elevation so it doesn't work that way for FEMA. Mr. Anderson stated FEMA's was updating their maps in Linn County in general in 2008 and that the FEMA designation was more related to the length of creek and size of drainage area, the creek is too short to be designated a flood zone. Ms Bruhn stated there is no guarantee regarding FEMA, Mr. Anderson stated that is true and that there is no guarantee that FEMA will designate the area a flood zone either. Pat Nulty stated everyone knows FEMA is trying to get more enrolment because money is running low, they can only get two insurance companies involved and they want to get it so the federal government is not involved and it is run entirely through insurance companies; so FEMA is going to do whatever they can to get enrollment and is just waiting for one little slip up.

Mayor Doyle asked for more comments re: the annexation. A gentleman asked if FEMA came through looking at old land maps; a lady responded they drew a line and looked at old maps. The gentleman stated they looked at more information provided by Schulte Development; a lady agreed; Mr. Anderson stated they were also using 6 or 8-foot contours.

Bob Ballantyne stated is not that area in Southbrook an upland 125 year flood plain. Aaron Anderson it is not by designation. Mr. Ballantyne asked if it is by elevation; Mr. Anderson stated he is not qualified to answer that.

A gentleman stated he thinks some of the neighbors along the creek hired their own engineers. Ms Bruhn stated what is important to know is the city held the FEMA paper for a month or two before it was delivered to neighborhood affected and did not step up and help defend us against FEMA, we had to do it ourselves; Schulte provided the engineers and we had to pay for it ourselves.

Mayor Doyle asked for further comments; none were offered.

Stanek moved to close the public hearing at 7:37 p.m., second by Rasmussen. Motion carried – 5 to 0. Mayor Doyle declared the public hearing closed and meeting in regular session at 7:37 p.m.

Public Hearing re: Request for R-1 and R-2 Zoning for Parcel Generally Described Above. Stanek moved to open a public hearing re: the request to zone area within the land subject to the request for annexation for the Kunkel Addition as R-1 and R-2 at 7:38 p.m.; second by Rasmussen. Motion carried - 5 to 0. Mayor Doyle declared the public hearing open at 7:38 p.m. Mayor Doyle asked for comments or questions regarding the public hearing item.

Mayor Doyle stated 83 lots would be zoned R-1, and 9 R-2. Aaron Anderson stated that is correct and that the R-2 units are on the east side of the property (after correcting himself). Mr. Doyle stated the R-2 zoning can't have more than a duplex/two unit residential building.

Jim Miller asked how the city can set zoning if the land is not annexed, don't you have to annex first. Jim Doyle stated that is correct, however the city can time the process to discuss and review, but would not act to approve the zoning until annexation happens. Mr. Miller stated it doesn't seem like that could happen. Mr. Doyle stated the City Council could approve first reading of the ordinance setting the zoning on the caveat that the zoning is only in effect if the land is annexed.

A gentleman asked whether Worley Lane would be widened. Jim Doyle replied Worley Lane would be widened for the depth of the two lots included in the Kunkel Addition, and that it would be done by city and developer, all the rest of the houses would be served by streets in the subdivision. The gentleman stated Worley Lane would be widened; Aaron Anderson stated it would be widened and improved to curb and gutter up to Shirley Worley's south property line. Jim Miller asked if this includes the Stratton's; Mr. Anderson stated he is not sure which property is the Stratton's and that it would run approximately 150-200 feet, with city paying for the west side and developer for the east. Jim Doyle asked do we know how wide the new width is; Mr. Anderson stated it would be 28' back of curb to back of curb.

Pat Nulty asked what the city's plan or foresight for the additional traffic on Banner Valley Road. Jim Doyle noted the most recent addition to Southbrook was 68 lots, this is about a third more and Ely could or should have had some of the same concern related to that. A gentleman stated this is almost a two lane road with sidewalk on it now. Ms Bruhn stated you're asking those 91 lots to access via Banner Valley Road, the new Southbrook addition can filter through Rock Island or Banner Valley. A gentleman stated none of the lots will run past the Fire Station, no one does now. Another gentleman asked if Rock Island is the main access, if people would come in via Banner Valley. Jim Doyle stated he would expect most people would come in via Dows and Banner Valley; there was general discussion stating agreement or disagreement with Mr. Doyle's response.

Ballantyne moved to close the public hearing at 7:46 p.m., second by Grove. Motion carried - 5 to 0. Mayor Doyle declared the public hearing closed and meeting in regular session at 7:46 p.m.

Ballantyne moved to take no action regarding requests for annexation and zoning related to the Kunkel Addition, and refer both matters to the Planning and Zoning Commission for review and comment; second by Grove. Bill Grove stated he would hope there would be extreme concern about this water situation on both sides of the road and so the residents would be held harmless in the case of a flood. If my house gets wiped out because of action on north Banner Valley I want to know who I can sue. Motion carried - 5 to 0.

Discuss Proposed Preliminary Plat – Kunkel Addition. Dave Rasmussen noted the easement with the Louis Field HOA shown outside the Kunkel property on the north side of the parcel does not currently exist and the easement needs to be granted by the Louis Field HOA and exist before the preliminary plat is approved. Mayor and City Council discussed the proposed preliminary plat for Kunkel Addition with Dan Schmidt, consulting engineer for Duane Kunkel, and Duane Kunkel. Items discussed include, but are not limited to: proposed storm water management methods and capacity for the property; capacity and effectiveness of proposed detention ponds; sanitary sewer capacity; legal ramifications of improperly designed or maintained detention ponds. Dan Schmidt noted the proposed south detention pond is larger than required; followed by discussion of city participation in enlarging this pond. Duane Kunkel noted that he concurs the city should only pay to upsize the capacity of sanitary sewer from “Manhole B” to “Manhole D”.

Residential Building Code

Public Hearing re: Ordinance 237, Adopting and Enacting the 2013 International Residential Building Code. Stanek moved to open a public hearing re: proposed Ordinance No. 237, Adopting and Enacting the 2013 International Residential Building Code at 8:25 p.m.; second by Grove. Motion carried – 5 to 0. Mayor Doyle declared the public hearing open at 8:25 p.m.

Mayor Doyle stated the proposed ordinance would update Ely’s residential building code to the 2013 version, which is the same used by Linn County Building Inspection. A gentleman asked if someone will perform inspections. Mr. Doyle reported building inspections are already being done. Mayor Doyle asked for further comments, none were offered.

Grove moved to close the public hearing at 8:26 p.m.; second by Hale. Motion carried – 5 to 0. Mayor Doyle declared the public hearing closed and meeting in regular session at 8:26 p.m.

First Reading of Ordinance No. 237, Adopting and Enacting the 2013 International Residential Building Code. Ballantyne moved to introduce and approve first reading of Ordinance No. 237; second by Grove.

Aye: Stanek, Grove, Hale, Rasmussen, Ballantyne

Nay: None

Absent: None

Mayor Doyle declared the motion carried, the ordinance introduced and first reading of same approved 5 to 0.

Stanek moved to schedule second reading of Ordinance No. 237 for November 11, 2013; second by Ballantyne. Motion carried – 5 to 0.

Hoover Trail South – Community Center to Johnson County Line

Report of Responses to Questionnaire re: Hoover Trail Extension. Mayor Doyle reported he suggested mailing a questionnaire regarding support or opposition to extending the Hoover Nature Trail along either side of State Street from Rowley Street south to the Johnson County line. City Administrator Anderson reported questionnaires were mailed to

21 parties listed as owners of record of the land adjacent to State Street, which includes one party who owns land on both sides of the street. Mr. Anderson reported receiving responses as follows:

- East side – 8 opposed, 1 in favor, 0 neutral/indifferent. (7 responses of 15 sent); opposed includes one person who owns property on both sides of the street.
- West side – 3 opposed, 0 in favor, 0 neutral/indifferent. (2 responses of 6 sent); opposed includes one person who owns property on both sides of the street.

Terry Smith asked for copies of the questionnaire responses. Mayor and City Council discussed the matter among the Council and with others attending. Topics discussed include, but are not limited to: whether there is a city obligation to assist Linn County in extending the trail through Ely; benefit to Ely and residents of Ely of bike trails in general or a trail located in front of your property; loss of yard, even if right of way, for trail; liability issues for vehicles backing out of driveways and other matters. Following discussion Mayor Doyle stated that from what he heard from City Council members the first option on the east side of the road is still the best option. No action was taken on this matter.

Acknowledgement of Receipt of Petition “Hoover Nature Trail, State Street, Ely, Iowa” Forwarded by Terry Smith. Mayor Doyle reported receipt of a petition from Terry Smith stating the signatories oppose extending the Hoover Nature Trail along State Street; the document signed by several property owners along State Street and asks the Mayor and City Council members to individually sign that “We, the undersigned, realize and understand the above property owners concerns but, endorse and approve the proposed Hoover Nature Trail along State Street, Ely, Iowa.” Mayor Doyle noted there seems no desire or intention to sign it. Bob Hatala, City Attorney, noted the City Council acts as a collective deliberative body and could sign the document individually but doing so would mean nothing legally because the City Council acts as a deliberative body, and does not act individually. Mr. Hatala stated that not signing serves as a statement that they make decisions as a body in open meetings.

Hale moved to acknowledge receipt of the petition “Hoover Nature Trail, State Street, Ely Iowa” forwarded by Terry Smith, second by Grove. Motion carried – 5 to 0.

Northwest Sanitary Sewer

Discuss Expectations for a Possible Study re: NW Extension of Sanitary Sewer. Mayor Doyle and City Council discussed status of the Edellen Meadows subdivision north of Ely City Park, need for sanitary sewer capacity for that subdivision and possibility of extending sewer with enough capacity to serve other property. Topics discussed include, but are not limited to: identifying land that is likely to be developed; how developable land might be used in the future, and identifying a reasonable future service area outside current city limits. Consensus of City Council was to ask Planning and Zoning Commission to include current and future land use for this area with the Comprehensive Plan update.

Public Works – Streets, Water, Sewer & Equipment.

New Holland Tractor – Repair and Options for Temporary Equipment Use/Rental. City Administrator Anderson reported the New Holland tractor is not operable because the turbocharger and clean air intercooler are broken. He reported the estimated cost to repair is \$3,279.60, and that the clean-air intercooler will not be available for roughly six weeks.

Ballantyne moved to authorize repair of the New Holland tractor, make a list of prioritized need for a replacement tractor and allow the City Administrator to negotiate to rent or use a comparable tractor in the interim, second by Grove. Motion carried – 5 to 0.

Curb & Sidewalk Repairs in General Area of Plainview and Dows Streets. City Administrator Anderson reported research on this not complete yet.

Resolution No. 13-1014-25, Policy re: Maintenance of City Owned Storm Water Management Areas. Stanek moved to approve Resolution No. 13-1014-25, second by Hale.

Aye: Ballantyne, Rasmussen, Hale, Grove, Stanek

Nay: None

Absent: None

Mayor Doyle declared the motion passed and resolution adopted – 5 to 0.

Website Update

Discuss Preliminary Design, Organization and Content Updates. It was the consensus of the City Council to defer this discussion until the November meeting or another date.

Administrative, Personnel and Staffing.

Schedule Workshop Meeting with Parks Commission. Mayor and City Council’s preferred date and time for a workshop meeting with Parks Commission to discuss parks plan and a possible building at Ely City Park is 6:00 p.m. Monday October 28, 2013.

Discussion Items

Hale moved to adjourn, second by Grove; motion carried – 5 to 0. The meeting adjourned at 9:11 p.m.

James E. Doyle Jr., Mayor

Attest:

Aaron Anderson, Clerk/Administrator