

**ELY CITY COUNCIL
REGULAR MEETING
DECEMBER 12, 2011
ELY CITY COUNCIL CHAMBERS**

Mayor Jim Doyle called the meeting to order at 7:00 p.m. Council members present: Dale Stanek, Bill Grove, Stephanie Mai, and Bob Ballantyne; Kay Hale absent - excused. Also present: Jim Miller, Kurt Tjelmeland, Angie Tjelmeland, Dave Rasmussen, Tom Rohner, Brad Mahoney, Greg Mahoney, City Engineer Scott Pottorf and Clerk-Administrator Aaron Anderson.

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

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

- Agenda.
- Minutes of the November 14, 2011 regular City Council meeting.
- Treasurers Report for the period ended November 30, 2011.
- Bills Payable for December 2011, including debt service and capital equipment, totaling \$241,140.85
- Renewal of Class C Liquor Permit with Sunday Sales and Outdoor Service Privileges, Odie's, 1650 Dows Street.
- Renewal of Property Tax Exemption under Iowa Slough Bill for property at 1200 Vista Road, Jim Miller.

Motion carried – 4 to 0.

Treasurer's Report (summary) for the period ended November 30, 2011

	Receipts	Disbursements	Transfers	Ending Balance
General	\$ 26,610.42	\$ 95,868.51		\$ 941,286.60
Road Use	14,574.37	11,737.79		37,965.79
L O S T	20,008.79			112,468.30
TIF Fund	9,207.67			121,501.73
Debt Service				-270,400.95
Other Projects		360,033.08		540,349.35
Library Project				2,749.22
Way Point Sign	400.00			-7,110.22
North End Infra				-28,939.93
Water Utility	14,582.25	71,719.06		187,649.72
Water/Sewer Reserve				100,000.00
Sewer Utility	22,741.35	29,294.72		122,022.03
Sewer Debt Service				-85,768.76
Sanitary Utility	5,858.19	6,327.58		42,911.49
Farmers Market	35.00	52.18		689.92
PR Clearing	9,617.25	5,748.75		3,429.85
Totals	\$ 123,635.29	\$ 580,781.67		\$ 1,520,804.34

Communications: Linn County Deputy Johnson presented the Sheriff's Department monthly activity report.

Citizen Requests. Jim Miller thanked Stephanie Mai for her service to Ely as a member of the City Council.

Request to Allow a Portion of Snowmobile Trail to Run Through Community Center Park. Mayor Doyle reported the Snowdrifters snowmobile club requested to re-route a portion of the snowmobile trail from along Rowley Street to the east and south sides of the Community Center as shown in a drawing by Mark Cleppe. Mai moved to allow the snowmobile trail to reroute the portion of the snowmobile trail from along Rowley Street between Walker and State Streets to the east and south sides of the Community Center; second by Ballantyne. Motion carried – 3 to 0; Grove abstaining.

Request to Temporarily Close a Portion of Dows Street May 12, 2012 from 4:00 p.m. - Midnight, Odie's - Tom Rohner. Tom Rohner requested approval to temporarily close the portion of Dows Street from Main Street to the alley between Main and Walker from 4:00 p.m. to midnight on Saturday May 12, 2012 for an outdoor event for Odie's.

Ballantyne moved to approve closing Dows Street from the alley between Walker and Main to Walker Street on Saturday May 12, 2012 from 4:00 p.m. to midnight with pedestrian use of the sidewalks not to be hindered, the city to provide street closure signs and barricades, Odie's to be responsible for setup and clean up, the street to be open to traffic after midnight and Odie's to provide four portable restrooms; second by Stanek. Motion carried – 4 to 0.

Request to Vacate 17-Foot of Right-of-Way on West Side of State Street Adjacent to 1275 State Street, T&K Development

Public Hearing re: Request to Vacate 17-Foot of Right-of-Way on West Side of State Street Adjacent to 1275 State Street. Clerk-Administrator Anderson reported notice of the public hearing was published and mailed as required by State Code. Mr. Anderson reported Ely received written comments from MidAmerican Energy and Alliant Energy, both seeking assurance the parcel include a permanent utility easement to protect in-place utility infrastructure. Mr. Anderson reported Ely received graphics from T&K Development, LLC showing possible re-development of 1275 State Street. Stanek moved to open a public hearing regarding this request to vacate 17-feet of right of way on the west side of State Street adjacent to 1275 State Street at 7:19 p.m.; second by Ballantyne. Motion carried – 4 to 0; Mayor Doyle declared the public hearing open at 7:19 p.m.

Kurt Tjelmeland stated he represents T&K Development, and noted that the request to vacate right of way is not directly tied to the development shown in the graphic. He stated the development shown is conceptual and represents the preferred “high end” option, but that vacating the right of way should not be linked with the proposed development.

Bill Grove stated he is concerned with traffic on State Street, and whether Ely will be able to widen the street to accommodate increased traffic in the future; especially to be wide enough for a middle turning lane. Kurt Tjelmeland stated the right of way would be wide enough for a turn line to be installed. Mr. Grove noted the request is now only to vacate 17-feet of right of way adjacent to the old Bar-None building; Kurt Tjelmeland

stated that is the case and that the owners of other property would need to make similar request.

Bob Ballantyne stated he is weighing two considerations. Right of way is an asset of the city that has value. The second is that this should be done in a plan and agreement sort of context that states who will do what, time frame for the project and so forth. He stated this sort of thing is new for Ely. Mr. Ballantyne stated Ely is also dealing with use and development standards for second story residential use in the downtown C-1 area. He stated we should work toward a more formal development agreement and that should include information that shows whether it meets city zoning and building requirements. Mr. Ballantyne stated we want the quid-pro-quo, what the city gets in exchange for giving up the right of way; what the development will be and that the city needs to be prudent. Mr. Ballantyne stated Ely needs to consider long term outcomes and capacity to grow.

Kurt Tjelmeland stated there is value right now to vacate the 17 feet of right of way, which the P&Z recommended. He stated it does not affect the ability to widen the street. Mr. Tjelmeland stated the value to the city is that T&K Development offers a commitment to do something to the property at 1275 State Street instead of just leaving it there unoccupied and unused. He stated they are not opposed to the agreement, but that it is premature at this time and T&K will be back before City Council numerous times as this proceeds. Mr. Tjelmeland stated the value they offer is that by vacating the 17-foot the city is making it possible to remodel or rebuild and replace what is there. He stated he agrees the city needs to maintain value and noted that the P&Z recommendation allows flexibility and greases the slides to redevelop the property. He stated T&K Development could turn the property into a parking lot and leave it that way for 3 to 5 years until the market comes up.

Bob Ballantyne asked if Mr. Tjelmeland is aware of a USDA program to assist with demolishing and rebuilding old buildings. Kurt Tjelmeland stated that is the kind of thing they need to discuss further with the city. He stated they want to discuss TIF and other options the city can work with T&K on. Mr. Ballantyne asked if they have considered tax abatement also.

Bob Ballantyne asked what a good way would be to work toward accommodating the City Council's needs and T&K's preferences regarding development of this project. City Administrator Anderson replied the City could work with T&K Development to bring together the details needed to make it work for all parties involved. Mr. Ballantyne stated more details are still needed. Dale Stanek stated we need to be consistent with our approach.

Jim Miller stated he did not understand why the city put in the Dows Streetscape project and spent all that money on Dows Street and can't put new businesses or buildings there. He stated they want to put in new businesses now.

Kurt Tjelmeland stated this is a relatively simple request and that nothing can happen for that facility without the right of way being vacated; and that vacating the 17 feet opens the door to a lot of opportunities that are better than what is there now. He stated the existing building is an eye sore and they are offering the opportunity for the city to get rid of it.

Bob Ballantyne stated process for this is an important question, and right of way and traffic capacity is another. He stated it seems we can project out ten years and find that

three lanes might be enough, but who can accurately predict when Ely will need four lanes on State Street; we already have a neck narrowing State Street and it will cost significant money to expand past two lanes. He stated he agrees there is a need for commercial development and that we are restricted in the spaces that are available. He stated he thinks three lanes on State Street will last a few years.

Kurt Tjelmeland stated T&K Development is not going to commit to something they are not confident they can through on. He stated conditions could slow them down or T&K might not be in position to be able to follow through. Aaron Anderson stated the information T&K has provided so far provides enough for the city to work with T&K to proceed effectively. Mr. Tjelmeland stated T&K Development is not going to commit to something they can't follow through on, and that placing hooks at this time could slow things down; or T&K might be in position to not be able to follow through. He stated this is a simple request that allows us and the city to get rid of an eyesore and that a development agreement is premature. Mr. Tjelmeland stated there is a 99.9% chance T&K Development will be back to the City Council, they are not opposed to a development agreement, and they just don't think that tying it to vacating 17 feet of right of way is feasible.

Stanek moved to close the public hearing at 7:46 p.m.; second by Mai. Motion carried – 4 to 0. Mayor Doyle declared the public hearing closed and meeting in regular session at 7:46 p.m.

Resolution No. 11-1212-86 – Vacating Public Right-of-Way – 17-Feet on West Side of State Street and Transferring Ownership of Vacated Parcel to Adjacent Property Owner. Mai moved to approve resolution No. 11-1212-86 subject to striking and removing any provisions to the city accepting an agreement regarding the development of land adjacent to the parcel, second by Ballantyne.

Aye: Ballantyne, Mai, Grove, Stanek

Nay:

Absent: Hale

Mayor Doyle determined the motion carried and resolution passed – 4 to 0.

Downtown Dows Street Streetscape Project

Payment Request No. 5, Rathje Construction. Stanek moved to approve Payment Request No. 5 from Rathje Construction in the amount of \$45,312.50 under the 2011 Dows Streetscape Improvements project contract, second by Ballantyne. Motion carried – 4 to 0.

Resolution No. 11-1212-87, Ice Treatment and Removal on Sidewalks Installed for City Projects. Bob Ballantyne stated he is not participating in discussion or action on in this matter due to a perceived or possible conflict of interest. City Council discussed policy and options for treating and removing ice from sidewalks installed for city projects late in the construction season. No action was taken on this matter.

Downtown Dows Street – Parking

Review Layouts and Select Preferred Alternative. City Engineer Scott Pottorf presented graphics of possible parking lot configurations, and noted that permeable

surfaces might be viable options to help minimize runoff; and suggested the most viable designs would result in 28 or 42 parking spaces. Mayor Doyle and the City Council discussed the options and suggested a workshop meeting in January to discuss further.

Resolution No. 11-1212-88, Accepting Engineering Services Agreement to Design and Construct Parking Area. Mayor Doyle reported this resolution accepts an agreement for MMS Consultants to provide engineering services to design and construct a parking lot on the property for which the city has a purchase at 1570 Main Street for total lump sum fees of \$16,500. Stanek moved to approve Resolution No. 11-1212-88, second by Mai.

Aye: Ballantyne, Mai, Grove, Stanek

Nay:

Absent: Hale

Mayor Doyle determined the motion carried and resolution passed – 4 to 0.

New One Side of Street Parking Locations.

Third Reading of Ordinance No. 228. Stanek moved to approve the second reading of Ordinance No. 228, “Establishing One-Side of Street Only Parking at Specified Locations”, second by Grove.

Aye: Ballantyne, Mai, Grove, Stanek

Nay:

Absent: Hale

Mayor Doyle determined the motion carried, and the third reading approved – 4 to 0.

Stanek moved final adoption and enactment of Ordinance No. 228, “Establishing One-Side of Street Only Parking at Specified Locations”, second by Grove.

Aye: Ballantyne, Mai, Grove, Stanek

Nay:

Absent: Hale

Mayor Doyle determined the motion carried, and the ordinance duly approved and adopted – 4 to 0.

Extension of Water Main to 1070 State Street, and Assessment of Cost to Property Owner

Deed Restriction. City Administrator Anderson presented a draft of a deed restriction/agreement regarding prepared by Walt Stegall, the Mahoneys’ attorney, which the Mayor and City Council discussed with Mr. Anderson, Brad and Greg Mahoney. Items discussed include the event that would trigger the requirement for water main to be extended and the property owners to pay the cost, whether the agreement should refer to water mains “going over” the property owners land and other topics. Mayor and City Council directed City Administrator Anderson to communicate these items to Mr. Stegall to revise the document.

2011 Water Tower Improvements Project

Payment Request No. 2 “Contract C”, E&J Electric. Stanek moved to approve Payment Request No. 2 from E&J Electric under “Contract C” of the 2011 Water

Tower Improvements project in the amount of \$21,274.68; second by Mai. Motion carried – 4 to 0.

Public Works – Streets, Water, Sewer & Equipment

Accept Estimate to Re-Wire Actuator Valves and replace Junction Box at WWTP. Stanek moved to accept the estimate from E&J Electric, dated 12/07/2011, to rewire and insulate actuator switches at the WWTP for a cost of \$3,586.00; second by Mai. Motion carried – 4 to 0.

Budget and Finance

Annual Financial Report – FY 2010-11. Ballantyne moved to approve the Annual Financial Report for FY 2010-11; second by Mai. Motion carried – 4 to 0.

Amount to be Certified for TIF Revenues Collected. Stanek moved to certify \$211,412.00 as the amount of TIF revenue due for collection in FY 2012-13; second by Ballantyne. Motion carried – 4 to 0.

Budget Preparation for FY 2012-13. Mayor and City Council discussed preliminary information regarding preparation of the FY 2012-13 budget with City Administrator Anderson.

Discussion Items

Bill Grove suggested the city suggest a standard location for property owners to place stakes to show where curb is along the street.

Ballantyne moved to adjourn, second by Mai; motion carried – 4 to 0. The meeting adjourned at 8:51 p.m.

James E. Doyle Jr., Mayor

Attest:

Aaron Anderson, Clerk/Administrator