

Committee of the Whole  
March 13, 2018

Present: Mayor Vulich, Councilmembers Gassman, Seeley, McGraw, Allesee, Connell, Schemers, and Odor, City Attorney, City Administrator, City Clerk, Press and interested citizens.

1. The Washington LLC – Chris Ales

Administrator Matt Brooke stated The Washington LLC had been working for over three years to remodel the Washington Middle School building into forty-six low-to-moderate income (LMI) apartments for residents over fifty-five years of age. Administrator Brooke stated as a result of the 2017 Federal Tax Act, The Washington LLC had experienced a \$500,000.00 gap in funding for the \$11 million project. Administrator Brooke stated Project Manager Chris Ales wanted to speak with the Council about possible remedies to the gap in funding. Administrator Brooke stated the City had already dedicated \$472,000.00 in tax abatements to the project, to be applied over fifteen years. Administrator Brooke stated the City had also dedicated \$68,000.00 in LMI funds to the project once a Certificate of Occupancy was issued. Administrator Brooke stated at this time it would not be recommended to dedicate additional funding to the project and it would be suggested that a non-profit 501(c)(3) be found to provide further funding to renovate the gymnasium and performing arts center, as well as lease and operate those facilities.

Councilmember Gassman stated he supported the project and would like to see the development completed; however, the current City budget would not accommodate additional funding for the project.

Manager Ales inquired if there was a suggested non-profit 501(c)(3) to contact regarding the gymnasium and performing arts center. Administrator Brooke stated there was not and that prior estimates to complete just the performing arts center ranged from \$2.5 million to \$3 million. Manager Ales inquired if there was any interest by the City to utilize the gymnasium. Administrator Brooke stated the City currently rents gymnasium space at Jefferson Elementary School and that utilizing gymnasium space in the Washington Middle School building could be considered. Councilmember Gassman stated utilizing the gymnasium could provide more services for area youth and stated the proposal should be considered. Councilmember Allesee stated the Parks and Recreation Department would need to determine the affordability of such an option. Mayor Vulich stated Administrator Brooke could look into the feasibility of utilizing the gymnasium and report back to the Council.

Councilmember Connell inquired about the overall goal of the project. Manager Ales stated the project included forty-six senior apartments and the remodeling of the gymnasium and auditorium. Manager Ales stated with the gap in funding that was created with the tax changes, additional funding was being sought. Councilmember Connell inquired if the gymnasium or performing arts center was going to be given to the City if the City paid to remodel the spaces. Manager Ales stated it would not be and that the City would then need to lease the spaces. Councilmember Connell stated the project involved a large amount of funds. Manager Ales stated for the \$11 million project, around half of the funding would be provided by the Federal government, around one-quarter would be provided by the State, around 20% would be funded through conventional funding, \$500,000.00 would be provided by private investments, and \$68,000.00 would be provided from the City. Manager Ales stated additional LMI funding was requested. Mayor Vulich stated the City dedicated over \$400,000.00 in tax reductions to the project. Councilmember Connell inquired if the investment group could cover

the gap in funding. Manager Ales stated the investment group would be covering \$200,000.00 of the gap and the remainder was requested from the City. Mayor Vulich stated at one time the School District was originally interested in the gymnasium and auditorium and when plans were created in 2012, the project was estimated to cost \$4 - \$5 million. Mayor Vulich stated at that time funding was not available and the goal was to find a philanthropic organization to fundraise and run the facilities.

Manager Ales stated the last three to four years had been spent fundraising and the project was very close to being started. Manager Ales stated the auditorium could be set aside and discussions could continue about the use of the gymnasium.

## 2. Employee Retention – Fire Department – Fire Chief Mike Brown

Fire Chief Brown stated the Council Report provided to the Council outlined the recommendation regarding the timeline for new hires to obtain their Paramedic certificate and that the City would cover the cost of Paramedic training pursuant to a repayment agreement if the employee were to quit or be terminated prior to five years of service. Councilmembers Gassman and Seeley stated they believed the outlined agreement was a good program.

M/S, Allesee-Seeley moved to forward a Resolution Approving Clinton Fire Department Probationary Agreement Extensions and Authorizing the Mayor to Sign New Hire Agreements to the next City Council agenda. On roll call, carried unanimously.

## 3. NelsonCorp Wealth Management – City Administrator Matt Brooke

Administrator Brooke stated in March 2013 a representative from NelsonCorp Wealth Management requested a street vacation at a City Plan Commission meeting relative to a 33 foot wide strip of 13<sup>th</sup> Avenue North beginning at the southwest corner of the parcel owned by NelsonCorp (880 13<sup>th</sup> Avenue North) running to the west, and a 177 foot strip of Springdale Drive beginning at the southwest corner of the parcel running north. Administrator Brooke stated the request was made as NelsonCorp desired to expand their business and parking area. Administrator Brooke stated the City Plan Commission recommended approval of said request pursuant to a 15 foot utility easement on both the west and south property lines being granted to Alliant Energy, and that a sidewalk be poured along Springdale Drive once the addition to the NelsonCorp building was constructed. Administrator Brooke stated the recommendation of the Plan Commission was presented to the Council and on April 9, 2013 the Council adopted Resolution No. 2013-144 setting a public hearing on the vacation, indicating the utility requirements, sidewalk requirements, and compensation in the amount of \$20,000.00 pursuant to the appraisal received. Administrator Brooke stated after the public hearing, the Ordinance completed three separate readings and was ultimately adopted at the City Council meeting on May 14, 2013.

Administrator Brooke stated payment by NelsonCorp Wealth Management never occurred in any amount. Administrator Brooke stated after the ordinance was published and adopted, NelsonCorp obtained an attorney and issues were presented that the property NelsonCorp wished to acquire was not street right-of-way, but was instead a platted lot owned by the City. Administrator Brooke stated the Council would need to provide direction on the way forward.

Councilmember Gassman inquired if the attorney for NelsonCorp agreed to the \$20,000.00 payment. City Attorney Patrick O'Connell answered in the affirmative. Councilmember Gassman stated this amount would be collectable. Attorney O'Connell concurred.

Councilmember Gassman stated while NelsonCorp was a good company, the City could not give away its property.

Attorney O'Connell stated Lynch Dallas discovered the property was a City parcel rather than right-of-way and stated communication occurred with the attorney for NelsonCorp whereby the City would pay to correct the documentation. Attorney O'Connell stated it was only at this time that refusal of payment began. Attorney O'Connell stated the former City Administrator offered a compromised amount of \$9,292.80 and the attorney representing NelsonCorp agreed to payment of this amount. Attorney O'Connell stated this amount was never paid either.

Councilmember Gassman stated payment was agreed upon and Lynch Dallas should pursue collection. Councilmember Connell stated the issue should have been discovered prior to expansion. Attorney O'Connell stated legal representation for both the City and NelsonCorp should have noted the error and neither party discovered the error. Councilmember Connell stated NelsonCorp had made a large investment in the community and a gross oversight had occurred. Mayor Vulich stated blame could be placed on both parties. Councilmember Seeley inquired about the information outlined in the site plan. Battalion Fire Chief Jeff Chapman stated many steps took place before a site plan was completed and reviewed.

Administrator Brooke stated NelsonCorp chose to complete their expansion on City property without submitting payment to the City. Councilmember Seeley requested more background information, including prior vacations in the area, information regarding sidewalk installation at the NelsonCorp property, the cause of the error and the value of the City-owned parcel.

Attorney O'Connell stated the same requirements would be in place for a residential owner and an agreement for payment was made and not kept. Councilmember Seeley inquired if the agreements were in writing or verbally made. Attorney O'Connell stated verbal agreements were reached. Mayor Vulich stated the Ordinance was adopted outlining that \$20,000.00 would be paid to the City by NelsonCorp and the Ordinance would have to be rescinded if a deviation occurred.

Councilmember Seeley inquired about the price NelsonCorp paid to KROS for land. Mayor Vulich stated that was not relevant. Councilmember Schemers stated that NelsonCorp now will not pay the City any amount. Attorney O'Connell stated NelsonCorp initially agreed to payment of \$20,000.00 and then to payment of \$9,292.80 and a client cannot agree to have their attorney negotiate for them, have the attorney agree to a payment amount and then not complete the payment. Councilmember McGraw stated the City would not be able to use the parcel in question. Mayor Vulich stated the parcel still had value.

M/S, Gassman-Schemers moved to accept a payment amount of \$9,292.80 from NelsonCorp, as previously agreed, and if payment was not forthcoming to direct Lynch Dallas to proceed to litigate to collect the sum. On roll call, Gassman, Allesee, Schemers, Odor – Yes; Seeley, McGraw, Connell – no. Motion carried.

#### 4. Massage Ordinance – City Administrator Matt Brooke

Mayor Vulich stated discussion on the massage ordinance had been pulled as the ordinance needed some additional revisions.

5. Notary Services Policy – City Administrator Matt Brooke

Administrator Brooke stated the City currently did not have a formal notary services policy. Administrator Brooke stated while staff follow all proper procedures, the policy would provide framework for the staff and public and would provide a fee for the service. Councilmember Allesee inquired if the fee would cover the staff time and expenses. Administrator Brooke stated it would not. Councilmembers Connell and Gassman stated the fee was reasonable.

M/S, Gassman-Seeley moved to forward a resolution approving the Notary Services Policy to the next City Council agenda. On roll call, carried unanimously.

6. Open Records Request Policy – City Administrator Matt Brooke

Administrator Brooke stated the City currently did not have a formal open records request policy. Administrator Brooke stated while staff follow all proper procedures, the policy would provide a clear guideline for staff and customers.

Councilmember Schemers requested language in the policy regarding redaction. Attorney O’Connell stated language could be added. Councilmember Connell inquired about procedures and fees for electronic requests and emailed records. Administrator Brooke stated records requests started with the City Clerk and the same procedure would be followed for electronic requests. Attorney O’Connell stated fees would be based off the hourly rate of the staff member that complied with the request. Attorney O’Connell stated records requests could be completed in a variety of ways, including in-person, via email and via copying of documents. Councilmember Seeley inquired if the request for a document was to be emailed, if the charge would only be incurred for staff time. Administrator Brooke answered in the affirmative. Councilmember Connell requested language in the policy regarding electronic copies.

M/S, Gassman-Seeley moved to forward a resolution approving the Open Records Request Policy, subject to the revisions to add language regarding redaction and electronic copies, to the next City Council agenda. On roll call, carried unanimously.

7. Request for Assignment of County-Held Tax Certificates (Parcels 80-49930000 & 80-49830000) – City Administrator Matt Brooke

Mayor Vulich stated the request for assignment of County-held tax certificates had been pulled due to continuing work by potential buyers to procure the property.

8. Update to City Code Chapter 91 and 28E Agreement – City Administrator Matt Brooke

Administrator Brooke stated a 28E Agreement with the entire County for animal complaints would be proposed whereby the County and the cities within it could all contribute funding for a County animal control officer that would be under the purview of the County Sheriff’s Department. Administrator Brooke stated this could streamline the process throughout the county for handling animal complaints, as well as provide the ability for the entire County to pool funds and work together on animal complaints. Councilmember Seeley inquired if the County was ready for such an agreement. Mayor Vulich stated the Council would need to decide if it was interested in pursuing a 28E Agreement with the County and then work would begin with the County.

Councilmember Gassman inquired about the current process for animal complaints. Administrator Brooke stated if the complaint was regarding a criminal offense, the Police Department would be involved. Administrator Brooke stated the goal was to prevent criminal offenses. Councilmember Gassman stated citizens have expressed concerns about responses received from the Police Department for animal complaints. Administrator Brooke stated the process could be improved and steps could be better identified for citizens.

Councilmember Gassman referenced a dog that was declared dangerous by the City years ago – Rosco. Mayor Vulich stated the other part of the topic was revisions to City Code Chapter 91. Councilmember Gassman noted prior dangerous dog cases have helped spur revisions to the Ordinance. Councilmember Schemers stated the Humane Society could provide education but could not complete criminal investigations. Councilmember Seeley inquired if having an animal control officer could have prevented recent cases. Attorney O’Connell stated it would not. Attorney O’Connell stated an animal control officer would provide additional options for the capture of animals at large, while the Police Department would issue citations for illegal activities involving animals. Councilmember Seeley inquired if an animal control officer was needed and noted it could be a valuable resource regarding education. Councilmember Connell stated the need for the community to work together and report animal complaints. Mayor Vulich stated the Council would need to decide on (1) pursuing updates to Code Chapter 91 and (2) pursuing a 28E Agreement with the entire County.

Jean Regenwether, LeClaire, encouraged the Council to consider obtaining an animal control officer. Mrs. Regenwether stated she worked at the Clinton Humane Society for fifteen years and regularly worked with the animal control officer for the City. Mrs. Regenwether stated she experienced firsthand the positive effect the animal control officer had, including the education that the animal control officer provided to residents. Mrs. Regenwether stated the animal control officer would discuss concerns with animal owners and if illegal activity was occurring, the animal control officer would take the animals. Mrs. Regenwether stated the animal control officer also investigated animal bite cases and handled animal licensing. Mrs. Regenwether stated an animal control officer was a specialized officer that had received advanced training in animal control and handling. Mrs. Regenwether stated she believed criminal cases could be prevented by having an animal control officer. Mrs. Regenwether stated an animal control officer was also needed at the County level and encouraged the Council to meet with the County. Mrs. Regenwether stated if a police officer was not initially available to investigate an animal complaint, an animal control officer could begin the investigation.

County Attorney Mike Wolf stated he appreciated the ability to work together with the City and a lot of good things came from the animal control officer. Attorney Wolf stated the other municipalities would need to be contacted to proceed with the 28E Agreement and Attorney Wolf expressed enthusiasm over the opportunity to work together. Councilmember Connell inquired if the animal control officer could issue state tickets. Attorney Wolf stated these issues could be ironed out in the 28E Agreement. Attorney O’Connell stated the draft 28E Agreement lists the animal control officer as a peace officer and such an officer could write tickets based on any applicable code. Attorney Wolf noted that the GAPAA (regional police officer association) works well together.

Councilmember Schemers inquired about the disposition of dog license fees. Councilmember Seeley stated the fees were deposited in the General Fund. Administrator Brooke stated many animals in the City were not licensed and the key would be prevention of criminal cases. Administrator Brooke inquired if the Council would like to proceed with updating Chapter 91.

M/S, Seeley-Allesee moved to forward an Ordinance Amending Chapter 91 Animal Protection and Control of the Code of Ordinances of the City of Clinton, Iowa to the next City Council agenda for its first reading. On roll call, carried unanimously.

Councilmember Schemers noted that the ordinance referenced an animal control officer. Attorney O'Connell stated the decision regarding an animal control officer could continue to be pursued and recommending completing the ordinance amendment as presented. Councilmember Connell inquired if the language needed to be changed regarding the animal control officer. Attorney O'Connell stated the Police Department had been completing enforcement.

Mayor Vulich inquired if the Council would like to pursue a 28E Agreement with the entire county for an animal control officer. Councilmember Odor stated he would like the agreement to be pursued and in looking at other counties, a similar endeavor was recently completed in Webster County. Councilmember Odor thanked Regenwether for her comments and stated he believed it would be valuable to centralize animal concerns and complaints.

M/S, Odor-Schemers moved that the Council pursue a 28E Agreement with the entire County for an animal control officer. On roll call, carried unanimously.

Mayor Vulich stated Attorney O'Connell and Administrator Brooke would work with the County and interested groups to pursue the agreement. Councilmember Schemers inquired about the timeline. Councilmember Connell noted that all incorporated cities would need to be contacted. Mayor Vulich suggested scheduling a meeting with the County in the next thirty to sixty days. Administrator Brooke stated by working with the County, funding could be pooled and a team could be created to address animal complaints throughout the county. Mayor Vulich suggested Administrator Brooke meet with Regenwether and interested groups prior to meeting with the County. Administrator Brooke concurred.

#### 9. Mayor and Council Updates

Mayor Vulich stated the Clinton County Area Solid Waste Agency (CCASWA) meeting was held Thursday, March 8, 2018 and the 28E Agreement for the CCASWA was being refined. Mayor Vulich stated the Board agreed to create a transfer station for recycling at the landfill and the agreement would work well for all communities.

Councilmember Odor stated a town hall meeting for the 3<sup>rd</sup> Ward would be held within the next month. Councilmember Odor stated the Skyline Foundation would be holding a soup supper Thursday, March 22, 2018, and tickets would be \$5.00 for adults and \$3.00 for children.

M/S, Connell-Gassman moved to adjourn. All in favor.

Respectfully Submitted,

Lisa M. Frederick  
City Clerk