

Committee of the Whole
August 28, 2018

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

1. Disposition of City-Owned Property – 22nd Avenue North/North 11th Street – City Administrator Matt Brooke

Brent Tinderholt, 1923 North 12th Street, stated he purchased 1021 23rd Avenue North. Mr. Tinderholt stated in the course of the transaction, he believed he was also purchasing the area to the west of the home, where the garage was located, as well as the area south of the garage. Mr. Tinderholt stated he was informed that these areas were owned by the City and he was attempting to procure these areas from the City.

Administrator Matt Brooke presented a diagram of the areas in question. Councilmember Seeley inquired who represented Mr. Tinderholt in the real estate transaction and inquired how the attorney did not know that the area in question was not owned by the seller. Mr. Tinderholt stated Attorney David Pillers represented him in the real estate transaction. Attorney Patrick O'Connell stated it was the job of Mr. Tinderholt's attorney to review the legal description to ensure the property was accurately being conveyed. Councilmember Seeley inquired how it was possible that the issue was not addressed or resolved before the real estate closing had occurred. Councilmember Seeley inquired if an abstract was updated and if a deed was prepared for the real estate transaction. Mr. Tinderholt answered in the affirmative. Attorney O'Connell stated for real estate transactions it was immaterial what was intended to be conveyed, rather only what was contained in the legal description of the deed was what mattered.

Councilmember Seeley inquired why it was up to the City to resolve the error and stated a garage had been constructed on City-owned property by the prior owner. Councilmember Seeley stated Mr. Tinderholt had paid an attorney to handle the real estate transaction and inquired if there was any recourse for Mr. Tinderholt. Attorney O'Connell stated a malpractice lawsuit could be brought against the attorney.

Councilmember Seeley stated the Assessor website contained a discrepancy in that it showed part of the right-of-way in question as owned by Mr. Tinderholt. Councilmember Seeley inquired if the property should be surveyed and inquired who would be responsible for the cost of a survey. Attorney O'Connell stated a survey could be completed and the cost of the survey would need to be negotiated. Attorney O'Connell stated negotiations had been ongoing with Attorney Pillers. Attorney O'Connell stated an accurate legal description could be obtained, along with the fair market value of the legally described property. Mayor Pro Tempore Allesee suggested that once those items were obtained the matter return to a Committee of the Whole meeting. Administrator Brooke stated the item would be placed on the September 11, 2018 Committee of the Whole agenda.

2. Ordinance Amending City Code Chapter 95 - Building & Neighborhood Services Official Mike Harmon

Building and Neighborhood Services Official Mike Harmon stated when State law changed there was some confusion initially on whether or not local municipalities could regulate where

fireworks sales occurred in their city. Harmon stated cities could regulate where fireworks were sold and it was proposed that sales only occur in areas of town zoned C-2, M-1, M-2 or M-3. Harmon stated these areas would be general commercial and manufacturing areas and would include Second Street from 4th Avenue South to Main Avenue, as well as Camanche Avenue and Lincolnway, and some areas near Camanche Avenue and Lincolnway.

Mayor Pro Tempore Allesee stated firework sales previously occurred near the Discovery Center and by Hy-Vee. Harmon stated the Council recently updated the ordinance pertaining to business types permitted in the downtown overlay area and fireworks sales was not one of the business types that was approved for the downtown overlay area. Councilmember Seeley inquired about including the C-2M zoning area. Harmon stated he could review with the Council where the C-2M zoning area was in the City.

M/S, Seeley-Connell moved to forward an ordinance amending City Code Chapter 95, with the modification of C-2M zoning added to the areas where fireworks sales were allowed, to the next Council agenda. On roll call, carried unanimously.

3. Urban Revitalization Plan Amendment – City Administrator Matt Brooke

Administrator Brooke stated the proposed plan amendment parameters were provided at the direction of legal counsel. Administrator Brooke stated it was recommended that the City change the city-wide residential abatement schedule to be consistent with the maximum allowed by existing state law: abatement of 100% of the first \$75,000.00 of actual value added by qualifying improvements for a period of five (5) years. Administrator Brooke stated it was recommended that the blight schedule mirror the proposed updated city-wide schedule and provide 100% abatement of actual value added by qualifying improvements for a period of five (5) years, with no limitations on the amount of increased value subject to the abatement.

Councilmember Seeley inquired if the current three year schedule provided a better incentive than the five year schedule with a \$75,000.00 cap. Administrator Brooke stated it would be dependent upon the amount of improvements made and that the recommendation before the Council was provided by legal counsel, Ahlers & Cooney. Administrator Brooke reviewed the blight assessment report and map with the Council. Councilmember Connell inquired if there was an owner-occupied restriction for the abatement. Administrator Brooke stated there was not. Councilmember Schemers stated the State law changed and the city-wide abatement schedule offered by the City was not consistent with the State law. Administrator Brooke concurred.

Councilmember Connell stated regardless of the plan parameters, marketing would be key and stated he would like to review the marketing plan. Councilmember Connell stated it would be imperative for the County Assessor to assist with outreach. Administrator Brooke stated Liegois would be assisting with the marketing items. Mayor Pro Tempore Allesee stated she would like the ability to have a location in each ward where citizens could visit to obtain information about the abatement programs. Councilmember Seeley stated he would like the matter to return to a future Committee of the Whole meeting.

4. Mayor and Council Updates

Councilmember Connell stated the first Trails Advisory Committee meeting took place on Monday, August 27, 2018. Councilmember Connell stated the meeting was well done and the Committee would be working on identifying potential Capital Improvement Planning (“CIP”)

items. Councilmember Schemers thanked the Police Department for its work on the Back to School Bash and Clinton Night Out and stated the event was well done and well attended.

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

Respectfully Submitted,

Lisa Frederick
City Clerk