

The City Council met in regular session, September 25, 2018 at 7:00 P.M. in the City Hall Council Chamber. Present on roll call: Mayor Pro Tempore Allesee, Councilmembers: Gassman, Seeley, McGraw, Connell, Schemers and Odor. Mayor Vulich – absent.

M/S, McGraw-Connell moved to dispense with the reading of the minutes of the special City Council meeting of September 6, 2018 and they be approved as published on September 18, 2018. On roll call, carried unanimously.

M/S, McGraw-Connell moved to dispense with the reading of the minutes of the regular City Council and Committee of the Whole meetings and the special City Council meeting of September 11, 2018 and they be approved as published on September 25, 2018. On roll call, carried unanimously.

#### PROCLAMATION – Declaring October 2018 Disabled Awareness Month

Councilmember Schemers read the proclamation declaring October 2018 Disabled Awareness Month.

#### PUBLIC HEARINGS

There were no Public Hearings to come before the Council.

#### AUDIENCE COMMENT

No persons came before the Council to speak.

#### CONSENT AGENDA

M/S, McGraw-Connell moved to approve the Consent Agenda. On roll carried, carried unanimously. In discussion before roll call, Councilmembers Seeley and Schemers requested that items #13-16 be removed to Unfinished Business. Councilmember Seeley requested that item #22 be removed to Unfinished Business. Councilmember McGraw requested that item #29 and item #32 be removed to Unfinished Business. City Attorney Patrick O’Connell stated as a point of clarification, a motion should be made to approve the Consent Agenda, as amended. M/S, Connell-Schemers moved to approve the Consent Agenda, as amended. On roll call, carried unanimously.

1. Airport Commission – minutes 08/20/2018 – receive, approve and place on file.
2. Airport Commission – minutes 08/29/2018 – receive, approve and place on file.
3. Civil Service Commission – minutes 09/19/2018 – receive, approve and place on file.
4. Committee of the Whole – minutes 09/11/2018 – receive, approve and place on file.
5. Hometown Pride Committee – minutes 09/07/2018 – receive, approve and place on file.

6. Certified List of Firefighter Promotions - receive, approve and place on file.
7. Electronic Payments and Transfers - August 2018 - receive, approve and place on file.
8. Summary of Revenues and Receipts - August 2018 - receive, approve and place on file.
9. Plans & Specs - Ericksen Center Northwest Parking Lot Resurfacing Project F-2019 - receive, approve and place on file (copy available for inspection at Clerk's office on 09/24/2018).
10. Contract - Project Q-2018 Eagle Point Park Retaining Wall Project - Clinton Engineering - \$129,310.00 - receive, approve and place on file (copy available for inspection at Clerk's office).
11. Contract and Contractor's Bond - Project C-2018, 6<sup>th</sup> Avenue North Sanitary Sewer Project - BWC Excavating - \$189,613.00 - receive, approve and place on file (copy available for inspection at Clerk's office on 09/24/2018).
12. Contract and Contractor's Bond - Project W-2018, Grant Street Storm Sewer Project - Crandall Excavating - \$35,141.90 - receive, approve and place on file (copy available for inspection at Clerk's office).
13. Resolution - Removed to Unfinished Business - authorizing the collection/certification of grass/weed cutting liens.
14. Resolution - Removed to Unfinished Business - authorizing the collection/certification of tree/shrub trimming liens.
15. Resolution - Removed to Unfinished Business - authorizing the collection/certification of nuisance clean up liens.
16. Resolution - Removed to Unfinished Business - authorizing the collection/certification of board up liens.
17. Resolution No. 2018-440 - retracting sewer and solid waste lien for Parcel ID 8055070000.
18. Resolution No. 2018-441 - approving assignment of copyright for City emblem with Lisa Fontaine.
19. Resolution No. 2018-442 - approving assignment of copyright for City flag with Morgan Wehling.
20. Resolution No. 2018-443 - approving assignment of copyright for City seal with Morgan Wehling.
21. Resolution No. 2018-444 - approving perpetual license of copyright for photograph of lighthouse located in the City of Clinton with Gregory Kiester.
22. Resolution - Removed to Unfinished Business - approving an agreement with Dorsey & Whitney, LLP for a limited engagement as contract counsel.

23. Resolution No. 2018-445 - amending the City of Clinton's Purchasing Policy.
24. Resolution No. 2018-446 - accepting bid for Ericksen Community Center Emergency Generator installation.
25. Resolution No. 2018-447 - approving Snyder & Associates, Inc. for Engineering Services for the Rail Crossing Study & Facility Planning.
26. Resolution No. 2018-448 - approving temporary easement agreements for the 6<sup>th</sup> Avenue North Sanitary Sewer Replacement Project C-2018.
27. Resolution No. 2018-449 - ordering construction of improvement, setting public hearing and directing advertisement for bids - Ericksen Center Northwest Parking Lot Resurfacing Project F-2019.
28. Resolution No. 2018-450 - approving Change Order No. 1 - Concrete Street Rehabilitation Project H-2018 - Eastern Iowa Excavating & Concrete, LLC - \$79,468.00.
29. Resolution - Removed to Unfinished Business - approving Change Order No. 3 - Jurgensen Soccer Fields Project X-2017 - Jurgensen Hauling LLC - \$51,838.24.
30. Resolution No. 2018-451 - recommending Payment No. 1 - Concrete Street Rehabilitation Project H-2018 - Eastern Iowa Excavating & Concrete, LLC - \$85,611.63.
31. Resolution No. 2018-452 - recommending Payment No. 2 - ADA Curb Ramp Replacement Project K-2018 - Clinton Engineering Company - \$46,227.80.
32. Resolution - Removed to Unfinished Business - recommending Payment No. 6 - Jurgensen Soccer Fields Project X-2017 - Jurgensen Hauling LLC - \$72,924.61.
33. Resolution No. 2018-453 - approving Final Payment No. 6 - Large Diameter Sewer Cleaning Project W-2016 - Visu-Sewer, Inc. - \$10,760.58.
34. Resolution No. 2018-454 - accepting work and recommending Final Payment No. 6 - Project L-2018 North 13<sup>th</sup> Street School Zone Safety Improvements Project - Leslie Electric - \$7,680.85.
35. Resolution No. 2018-455 - recommending payment of retainage to Kramer's Technical Services for the 2018 Demolition of Structures Project, Phase I.
36. Resolution No. 2018-456 - recommending payment of retainage to BWC Excavating for the 2018 Demolition of Structures Project, Phase I.
37. Resolution No. 2018-457 - recommending payment of retainage to Jurgensen Hauling for the 2018 Demolition of Structures Project, Phase I.
38. Resolution No. 2018-458 - approving massage therapy business permit for Rejuvenation Station Day Spa.

39. Resolution No. 2018-459 - approving massage therapy business permit for Nadi Yoga and Massage Center.
40. Resolution No. 2018-460 - approving Class C Beer Permit renewal with Class B Wine Permit and Sunday Sales privileges for Aldi, Inc. 19.
41. Resolution No. 2018-461 - approving Class E Liquor License renewal application with Class B Wine Permit, Class C Beer Permit (Carryout Beer) and Sunday Sales privileges for Osco Drug Store #1118.
42. Resolution No. 2018-462 - approving Class C Liquor License renewal application with Sunday Sales privilege and issuance of a Class II Letter of Exemption for allowing persons under 21 in licensed premises for Slops.
43. Resolution No. 2018-463 - approving a 5-day liquor license for Rastrelli's.

#### MOTIONS, RESOLUTIONS, AND ORDINANCES

M/S, Gassman-Connell moved that the Claims be received, approved and placed on file. On roll call, Gassman, Seeley, McGraw, Allesee, Schemers, Odor - Yes; Connell - Abstain. Motion carried.

M/S, Odor-Gassman moved the Council consider an ordinance for the first time - AN ORDINANCE AMENDING CHAPTER 31, CITY CLERK, OF THE CODE OF ORDINANCES OF THE CITY OF CLINTON, IOWA, WITH THE ADDITION OF SECTIONS 31.058, CITY INSIGNIA, 31.059 MISUSE OF CITY SEAL AND CITY INSIGNIA, AND 31.060 CITY TRADEMARKS AND SERVICE MARKS. On roll call, carried unanimously.

M/S, Connell-Schemers moved the Council consider an ordinance for the second time - AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CLINTON, IOWA, BY AMENDING PROVISIONS PERTAINING TO FIREWORKS. On roll call, carried unanimously.

M/S, Connell-Seeley moved the rules be suspended and the Council consider an ordinance for the third time. On roll call, carried unanimously.

In discussion before roll call, Councilmember Gassman requested an explanation. Councilmember Connell stated the ordinance provided specified zoned areas in the City where fireworks could be sold.

M/S, Connell-Gassman moved the rules be suspended and that the ordinance under consideration be placed on its final passage and adopted. On roll call, carried unanimously.

#### ORDINANCE NO. 2592

M/S, Schemers-Odor moved the Council consider an ordinance for the second time - AN ORDINANCE AMENDING CHAPTER 151 (ADOPTION OF FIRE CODE) OF THE CODE OF ORDINANCES OF THE CITY OF CLINTON, IOWA. On roll call, carried unanimously.

M/S, Schemers-Odor moved the rules be suspended and the Council consider an ordinance for the third time. On roll call, carried unanimously.

In discussion before roll call, Councilmember Gassman requested an explanation. Fire Chief Mike Brown stated the amendment was to correct a scrivener's error.

M/S, Schemers-Odor moved the rules be suspended and that the ordinance under consideration be placed on its final passage and adopted. On roll call, carried unanimously.

#### ORDINANCE NO. 2593

M/S, Gassman-Schemers moved that the Council adopt a resolution authorizing the Mayor to sign the Sixth Amendment to the City of Clinton's Consent Decree with the State of Iowa Attorney General's office. Councilmember Gassman stated item #5 on the Sixth Amendment to the City's Consent Decree stated paragraph 11(i) was to be stricken from the Amendment to Consent Order, Judgment and Decree entered on August 17, 2012. Councilmember Gassman requested the Clerk read paragraph 11(i) from the Amendment to Consent Order, Judgment and Decree entered on August 17, 2012. Clerk Frederick stated paragraph 11(i) read: "The City shall submit to the IDNR a progress report by no later than January 31, 2018." Councilmember Gassman stated he believed the item could be misconstrued in the future and believed the item should be clarified. Attorney O'Connell stated finance counsel prepared the Sixth Amendment to the City's Consent Decree and approval of the resolution could be postponed until finance counsel, Ahlers & Cooney, could review the item in question. Councilmember Seeley inquired about the provision regarding an interest rate adjustment and inquired what the current interest rate was for the City's largest SRF (State Revolving Fund) loan. Finance Director Anita Dalton stated the current interest rate was 3%. Water Quality Superintendent Bob Milroy stated another one of the City's SRF loans had the interest rate reduced to 1.75% by the IFA (Iowa Finance Authority) after the loan was ten years old. City Administrator Matt Brooke stated if the interest rate on the loan referenced in the Decree was reduced to 1.75%, the City would be able to afford disinfection costs without an increase in sewer rates. M/S, Gassman-Schemers moved that the resolution authorizing the Mayor to sign the Sixth Amendment to the City of Clinton's Consent Decree with the State of Iowa Attorney General's office be pulled from the agenda. On roll call, carried unanimously.

M/S, Odor-Seeley moved that the Council adopt Resolution No. 2018-464 determining the necessity and fixing date for a public hearing on the matter of the adoption of a proposed Amendment No. 1 to the Amended and Restated Clinton Urban Revitalization Plan. On roll call, carried unanimously.

#### UNFINISHED BUSINESS

Councilmember Schemers stated for items #13-16 on the Consent Agenda that over \$30,000.00 was being sent to lien due to residents not taking care of their properties. Councilmember Schemers stated it was a shame that taxpayers were paying to remedy nuisances at other residents' properties. Councilmember Seeley concurred and stated many individuals on the lien list were repeat offenders and not from the City. Councilmember Gassman stated some individuals were unable to take care of their property and stated legal remedies should be pursued in order for the City to take possession of nuisance properties. Councilmember Allesee noted that many of the individuals on the lien lists were also not paying real estate taxes. Attorney O'Connell stated the City was actively pursuing obtaining possession of many nuisance properties. Administrator Brooke concurred. M/S, Schemers-Connell moved that the Council adopt Resolution No. 2018-465 authorizing the collection/certification of grass/weed cutting liens, Resolution No. 2018-466 authorizing the collection/certification of tree/shrub

trimming liens, Resolution No. 2018-467 authorizing the collection/certification of nuisance clean up liens, and Resolution No. 2018-468 authorizing the collection/certification of board up liens. On roll call, carried unanimously.

Councilmember Seeley inquired for item #22 on the Consent Agenda if Attorney O'Connell was agreeable with the fee and would recommend approving the agreement. Attorney O'Connell stated considering what was at stake and the concerns expressed in the last closed session meeting that it would be worth pursuing another legal opinion. Attorney O'Connell stated the law firm and attorney were well qualified to provide a legal analysis. Attorney O'Connell stated if the second legal opinion was in concurrence with the existing legal analysis, it should help the Council move forward. Administrator Brooke stated it was recommended that the Council approve the agreement. Councilmember Gassman concurred. M/S, Seeley-Connell moved the Council adopt Resolution No. 2018-469 approving an agreement with Dorsey & Whitney, LLP for a limited engagement as contract counsel. On roll call, carried unanimously.

Councilmember McGraw stated for item #29 and item #32 on the Consent Agenda the Jurgensen Soccer Fields Project X-2017 was over \$50,000.00 over budget. Councilmember McGraw inquired how the overage would be paid. Administrator Brooke stated in order to have safe and quality soccer fields for the lower level of the complex, which would be utilized by the youngest players, fresh dirt was needed to be brought in. Administrator Brooke stated to prevent runoff onto Harrison Drive and to ensure proper drainage, a retention pond was also needed. Administrator Brooke stated those changes resulted in an increased project cost of around \$85,000.00. Administrator Brooke stated funds were available to cover the cost due to interest rate savings on the City's bonds. Councilmember Seeley inquired if there would be further increases. Administrator Brooke stated there would not be. Councilmember Gassman stated the project was an investment for the City and stated the importance of doing the project right. Administrator Brooke concurred and stated the complex would allow the City the ability to host tournaments. Finance Director Dalton stated while the project cost overall was around \$529,000.00, the City received a grant from the CCDA (Clinton County Development Association) in the amount of \$200,000.00 for the project. M/S, McGraw-Connell moved that the Council adopt Resolution No. 2018-470 approving Change Order No. 3 - Jurgensen Soccer Fields Project X-2017 - Jurgensen Hauling LLC - \$51,838.24 and Resolution No. 2018-471 recommending Payment No. 6 - Jurgensen Soccer Fields Project X-2017 - Jurgensen Hauling LLC - \$72,924.61. On roll call, carried unanimously.

M/S, McGraw-Gassman moved to adjourn to 7:00 P.M. October 9, 2018. On roll call, carried unanimously.

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Julie Allesee  
Mayor Pro Tempore

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Lisa M. Frederick  
City Clerk