

The City Council met in regular session, October 9, 2018 at 7:00 P.M. in the City Hall Council Chamber. Present on roll call: Mayor Vulich, Councilmembers: Gassman, Seeley, McGraw, Connell, Schemers and Odor. Councilmember Allesee - absent.

M/S, McGraw-Connell moved to dispense with the reading of the minutes of the regular City Council and Committee of the Whole meetings of September 25, 2018 and they be approved as published on October 9, 2018. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

PRESENTATION - Municipal Leadership Academy (MLA) Graduation

Mayor Vulich stated Councilmember Schemers and Administrator Brooke were two of one hundred and ninety-two individuals in the State to graduate from the Municipal Leadership Academy. Mayor Vulich stated in order to graduate individuals were required to attend at least three of the four Municipal Leadership Academy sessions. Mayor Vulich presented Councilmember Schemers and Administrator Brooke with Municipal Leadership Academy certificates and pins.

PUBLIC HEARINGS

Mayor Vulich convened a public hearing concerning the matter of the adoption of Amendment No. 1 to the Amended and Restated Clinton Urban Revitalization Plan. No comments were received, written or oral. M/S, Odor-Gassman moved that the public hearing concerning the matter of the adoption of Amendment No. 1 to the Amended and Restated Clinton Urban Revitalization Plan be entered into the record. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

M/S, Odor-Gassman moved the Council adopt Resolution No. 2018-472 adopting Amendment No. 1 to the Amended and Restated Clinton Urban Revitalization Plan. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

M/S, Odor-Gassman moved the Council consider an ordinance for the first time - AN ORDINANCE AMENDING CHAPTER 35.075, DESIGNATION OF URBAN REVITALIZATION AREAS, OF THE CODE OF ORDINANCES OF THE CITY OF CLINTON, IOWA. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

AUDIENCE COMMENT

No persons came before the Council to speak.

CONSENT AGENDA

Councilmember Gassman requested that item #13, item #15, and item #19 be removed to Unfinished Business. Councilmember Connell requested that item #16 be removed to Unfinished Business. Councilmember Odor requested that item #10 be removed to Unfinished Business. Councilmember Seeley requested that item #8 be removed to Unfinished Business.

M/S, McGraw-Seeley moved to approve the Consent Agenda, as amended. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

1. Committee of the Whole - minutes 09/25/2018 - receive, approve and place on file.
2. Grant Committee - minutes 09/19/2018 - receive, approve and place on file.
3. Completed Work Orders - September and October 2018 - receive, approve and place on file.
4. Contract - Ericksen Community Center Emergency Generator Installation - Leslie Electric - \$47,455.00 - receive, approve and place on file (copy available for inspection at Clerk's office on 10/08/2018).
5. Plans & Specs - Mill Creek Pump Station Standby Generator - receive, approve and place on file (copy available for inspection at Clerk's office on 10/08/2018).
6. Resolution No. 2018-473 - accepting bid and awarding contract for City Hall cleaning services.
7. Resolution No. 2018-474 - approving Cooperative Agreement between Clinton Human Rights Commission and Iowa Civil Rights Commission.
8. Resolution - Removed to Unfinished Business - to approve the City of Clinton signing the Brownfields Coalition Memorandum of Agreement.
9. Resolution No. 2018-475 - prohibiting and restricting parking on portions of streets for the annual Clinton Mardi Gras Parade route on Monday, October 29, 2018.
10. Resolution - Removed to Unfinished Business - denying person with disabilities residential parking space applications.
11. Resolution No. 2018-476 - amend the non-housing inspection delinquency lien list.
12. Resolution No. 2018-477 - ordering construction of improvement, setting public hearing and directing advertisement for bids - Mill Creek Pump Station Standby Generator.
13. Resolution - Removed to Unfinished Business - approving Change Order No. 2 - Project E-2018, Basin 6 Sewer Separation - BWC Excavating, LC - \$33,568.75.
14. Resolution No. 2018-478 - recommending Payment No. 1 - Project P-2018, 13th Avenue South Reclamation Project - Larry L Detterman Excavating Inc. - \$23,190.58.
15. Resolution - Removed to Unfinished Business - recommending Payment No. 2 - Project E-2018, Basin 6 Sewer Separation - BWC Excavating, LC - \$123,317.60.
16. Resolution - Removed to Unfinished Business - recommending Payment No. 2 - Showboat Rhododendron Rehabilitation Project X-2018 - Air Control, Inc. - \$43,198.02.
17. Resolution No. 2018-479 - recommending Payment No. 3 - Project B-2018 1st Avenue Force Main Replacement Project - Langman Construction Inc. - \$140,961.74.

18. Resolution No. 2018-480 - recommending Payment No. 4 - Turtle Creek Culvert Replacement and Sanitary Sewer Relocation Project D-2017 - Legacy Corporation - \$303,463.13.
19. Resolution - Removed to Unfinished Business - recommending Payment No. 6 - Highway 67 (North 3rd Street) Roadway Rehabilitation Project A-2017 - Determann Asphalt Paving, LLC - \$41,450.21.
20. Resolution No. 2018-481 - approving massage therapy business permit for Stay on Touch Therapeutic Massage.
21. Resolution No. 2018-482 - approving Class C Beer Permit license renewal with Sunday Sales privilege for Hass Food Market.
22. Resolution No. 2018-483 - approving transfer of Class B Beer License location for the Clinton Jaycees - October 13, 2018.
23. Resolution No. 2018-484 - approving transfer of Class B Beer License location for the Clinton Jaycees - November 3, 2018.

MOTIONS, RESOLUTIONS, AND ORDINANCES

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

M/S, Odor-Gassman moved the Council consider an ordinance for the second 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, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

M/S, Odor-Gassman moved the rules be suspended and the Council consider an ordinance for the third time. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

In discussion before roll call, Councilmember Gassman requested an explanation on the ordinance. Administrator Brooke stated the ordinance was to adopt the City emblem, flag and seal in order to be able to use the emblem, flag and seal for City business.

M/S, Odor-Gassman moved the rules be suspended and that the ordinance under consideration be placed on its final passage and adopted. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

ORDINANCE NO. 2594

M/S, McGraw-Connell moved the Council consider an ordinance for the first time - AN ORDINANCE AMENDING CHAPTER 159.048 OF THE CODE OF ORDINANCES OF THE

CITY OF CLINTON, IOWA. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

In discussion before roll call, Administrator Brooke stated the ordinance pertained to signs or banners affixed to City poles or property and updated liability provisions. Councilmember Seeley inquired if the ordinance allowed the Administrator to approve requests rather than the Council. Administrator Brooke answered in the affirmative. Councilmember Schemers inquired if banners would be hung on poles separate from City light poles in the future. Administrator Brooke answered in the affirmative.

M/S, McGraw-Connell moved the rules be suspended and the Council consider an ordinance for the second time. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

In discussion before roll call, Councilmember Gassman inquired if there were requirements for banners or signs to be perforated in order to prevent wind damage to poles. Administrator Brooke answered in the affirmative.

M/S, McGraw-Schemers moved the rules be suspended and the Council consider an ordinance for the third time. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

M/S, McGraw-Connell moved the rules be suspended and that the ordinance under consideration be placed on its final passage and adopted. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

ORDINANCE NO. 2595

M/S, Seeley-McGraw moved that the Council adopt Resolution No. 2018-485 approving Community Catalyst Building Remediation Grant. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

In discussion before roll call, Councilmember Seeley stated the grant was a great program and the funds would be used to rehabilitate a building in the downtown. Councilmember Seeley stated if the program was successful, the program could become self-supporting with sale proceeds continuing to be used to rehabilitate other buildings.

M/S, Gassman-Seeley 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 he was concerned about item #5 on the Sixth Amendment to the City's Consent Decree, which stated paragraph 11(i) was to be stricken from the Amendment to Consent Order, Judgment and Decree entered on August 17, 2012. Councilmember Gassman stated he was concerned the item could be misconstrued in the future. Attorney Conner Wasson of Ahlers & Cooney stated the Amendment to the Consent Decree, as prepared, was the most beneficial to the City and recommended that the Council adopt the Amendment as presented. Councilmember Gassman stated he believed item #5 should be either removed or specify a new date. Attorney Wasson stated it would be an administrative burden to revise the document and that the item removed a compliance requirement date that had already passed. Councilmember Gassman stated he wanted item #5 in the Amendment completely removed. Administrator Brooke stated he concurred with Attorney Wasson that the Amendment should be approved as presented. Councilmember

Gassman stated he believed item #5 was ambiguous. Administrator Brooke inquired with Attorney Wasson if item #5 could be amended to specifically state what was being stricken. Attorney Wasson stated that was not how amendments were typically prepared and was not how past amendments had been completed. Attorney Wasson stated that there would not be any confusion as the document specifically referenced a paragraph that was to be removed. Water Quality Superintendent Bob Milroy stated item #5 referenced paragraph 11(i) of the Amendment to Consent Order, Judgment and Decree entered on August 17, 2012 which read: "The City shall submit to the IDNR a progress report by no later than January 31, 2018." Superintendent Milroy stated the annual report was completed in January 2018, which satisfied the progress report requirement regarding disinfection. Councilmember Gassman inquired if the Amendment could be modified to state that the progress report had been completed. Attorney Wasson answered in the affirmative. M/S, Gassman-Connell moved that the Sixth Amendment to the City of Clinton's Consent Decree with the State of Iowa Attorney General's office be amended to add language that item #5 had been completed. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

M/S, Schemers-Gassman moved that the Council adopt Resolution No. 2018-486 approving and authorizing execution of a Third Amendment to the Development Agreement by and between the City of Clinton and The Washington, LLC. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

In discussion before roll call, Councilmember Gassman stated he was glad that the project was proceeding. Administrator Brooke stated it had long been the understanding that there would be forty-six units and stated all units would now be LMI (low-to-moderate income) units. Councilmember Seeley inquired if there was a minimum assessed value and timeframe limitation on the transfer of the property contained within the Development Agreement. Administrator Brooke answered in the affirmative. Councilmember Gassman stated Project Manager Chris Ales would provide tours of the project to anyone that was interested. Administrator Brooke stated Fran Riley of Channel 6 would be doing a news story in November on the project. Mayor Vulich inquired about an expected completion date for the project. Manager Ales stated the completion date would be by December 31, 2018.

UNFINISHED BUSINESS

Councilmember Gassman stated for items #13, #15 and #19 on the Consent Agenda the items added up to a large sum of money. Councilmember Gassman stated for the Basin 6 project additional fees of \$33,000.00 were incurred for rock removal. Councilmember Gassman stated for the Basin 6 project there was \$63,000.00 of change order increases. Councilmember Gassman stated some of the change order increases were due to the contractor hitting bedrock and stated he believed this should have been known in advance. Councilmember Gassman stated for the Highway 67/North 3rd Street project there was \$164,000.00 in change orders. Councilmember Gassman stated he was concerned about the amount of the change orders and was concerned about the ability to afford future projects. Councilmember Gassman stated he believed higher fees were incurred as a result of the City attempting to avoid digging up utilities and having to move utilities. Councilmember Gassman stated he would like a review of how projects were handled. Mayor Vulich stated there were prior Council discussions on pre-approval of change orders that were based upon a percentage of change. Councilmember Connell stated the cost for underground work was based upon assumed lump sum quantities. Councilmember Connell stated bids could be required to carry a minimum contingency. Councilmember Connell stated the Engineering bid sheets were fairly detailed. Councilmember Gassman stated utilities should have to be moved rather than a change order being needed. Administrator Brooke stated the

matter would be reviewed with City Engineer Jason Craft. Mayor Vulich stated if one project went over budget, other projects would be reduced. Councilmember Connell stated the Highway 67/North 3rd Street project was partly paid for by the Iowa Department of Transportation and not solely by the City. Administrator Brooke concurred. M/S, Gassman-Seeley moved that the Council adopt Resolution No. 2018-487 approving Change Order No. 2 - Project E-2018, Basin 6 Sewer Separation - BWC Excavating, LC - \$33,568.75, Resolution No. 2018-488 recommending Payment No. 2 - Project E-2018, Basin 6 Sewer Separation - BWC Excavating, LC - \$123,317.60, and Resolution No. 2018-489 recommending Payment No. 6 - Highway 67 (North 3rd Street) Roadway Rehabilitation Project A-2017 - Determann Asphalt Paving, LLC - \$41,450.21. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

M/S, Schemers-Seeley moved that the Council adopt Resolution No. 2018-490 recommending Payment No. 2 - Showboat Rhododendron Rehabilitation Project X-2018 - Air Control, Inc. - \$43,198.02. On roll call, Gassman, Seeley, McGraw, Schemers, Odor - Yes; Connell - Abstain; Allesee - Absent. Motion carried.

Councilmember Odor inquired for item #10 on the Consent Agenda if a ramp was required in order for a disabled residential parking space to be granted. Administrator Brooke stated it was not. Administrator Brooke stated for the application that was denied, there was no benefit at this time for a disabled residential parking space, as the applicant had stairs at the rear and front of the home. Councilmember Seeley stated the report from the Police Department and the Public Works Department was identical and stated he would like an updated form. Administrator Brooke stated the reports indicated that both departments concurred on the decision. Mayor Vulich stated there were past instances where the departments were not in agreement. M/S, Odor-Schemers moved that the Council adopt Resolution No. 2018-491 denying person with disabilities residential parking space applications. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

Councilmember Seeley requested an explanation for item #8 on the Consent Agenda. Administrator Brooke stated ECIA (East Central Intergovernmental Association) was awarded an \$800,000.00 grant pertaining to brownfields clean-up throughout the region. Administrator Brooke stated properties in the City would be prioritized for a grant application and possible properties included the Allied property on riverfront, the 1000 block of 4th Street and the Miller Ridge apartment area. Councilmember Seeley inquired if grant funds could be used to remediate structures or land only. Administrator Brooke stated both structures and land would be eligible. Councilmember Gassman stated a plan would be required for future usage of the property once clean-up was completed. M/S, Seeley-Connell moved that the Council adopt Resolution No. 2018-492 to approve the City of Clinton signing the Brownfields Coalition Memorandum of Agreement. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

M/S, McGraw-Connell moved to adjourn to 7:00 P.M. October 23, 2018. On roll call, Gassman, Seeley, McGraw, Connell, Schemers, Odor - Yes; Allesee - Absent. Motion carried.

Mark S. Vulich
Mayor

Lisa M. Frederick
City Clerk