

Committee of the Whole
October 24, 2017

Present: Mayor Vulich, Council Members Gassman, Seeley, McGraw, Allesee, Odor, Connell and O'Neill, City Administrator, City Attorney, City Clerk, Press and interested citizens.

1. Request to Purchase City Owned Property (Parcel 86-1492-0000; vacant lot) – Travis Winter

Administrator Brooke stated Mr. Travis Winter had approached the City expressing interest in purchasing Parcel 86-14920000. Administrator Brooke stated that Mr. Winter is in the process of purchasing 2505 McKinley Street and the City-owned parcel is just north of this property. Administrator Brooke stated after further review it was determined the vacant lot owned by the City was not buildable. Councilmember Seeley inquired if the public hearing would be set once Mr. Winter was the legal owner of 2505 McKinley Street. Administrator Brooke answered in the affirmative.

M/S, Allesee-Seeley moved to forward a resolution setting a public hearing to the next City Council agenda, pending closing date of 2505 McKinley Street by Mr. Winter. On roll call, carried unanimously

2. Ordinance Updates – Indigent Defense – City Clerk Lisa Frederick

City Clerk Lisa Frederick stated that SF374 requires that the State Public Defender seek reimbursement from the Indigent Defense Fund for attorney fees and expenses paid for the representation of indigent persons charged with a violation of a local ordinance for which there is the possibility of imprisonment. City Clerk Frederick stated the City was advised by Attorney O'Connell to adjust all City ordinances to remove the possibility of imprisonment and any reference of being charged with a simple misdemeanor. City Clerk Frederick further stated that it was suggested by Attorney O'Connell to also review the penalty provisions of the City Code as well.

Attorney O'Connell stated due to the legislation change, a judge can appoint legal counsel if there is any possibility of jail time, regardless of whether or not the City is seeking jail time. Attorney O'Connell stated it is legally advisable to remove any possibility of jail time from all City Code.

Councilmember Seeley inquired about the suggested fee increases. Attorney O'Connell stated fees imposed are up to the discretion of the judge, are case-by-case and can be requested to be suspended. Attorney O'Connell stated for repeat offenders or for egregious offenses, providing for a higher fee allows the judge to inflict a stronger penalty.

Councilmember Connell inquired about collection of fees. Attorney O'Connell stated a personal judgment follows an individual rather than a lien on a property. Attorney O'Connell stated a judge can determine the payment timeline.

Mayor Vulich inquired about the procedure for an individual that receives a fine but does not correct the violation or pay the fine. Attorney O'Connell stated the individual can be brought back to court for contempt of court and the City could then decide if it would be advantageous to pursue jail time.

Councilmember O'Neill inquired if the City is required to pay for a public defender based upon the outcome of the proceedings. Attorney O'Connell stated the City would be required to pay for a public defender regardless of whether or not the City was the prevailing party in the case. Attorney O'Connell stated law enforcement can choose to issue a citation pursuant to State Code if pursuing jail time is appropriate and the City would not have to pay for a public defender if a citation is issued pursuant to State Code.

Mayor Vulich suggested adding language that the adjusted fine amounts be "up to" that amount instead of the set amounts. Mayor Vulich stated this would provide the judge flexibility in determining an appropriate fine.

Councilmember Seeley inquired about daily fines. Attorney O'Connell stated a provision for daily fines could be added if desired. Attorney O'Connell stated daily fines could be imposed for extreme nuisance cases, as determined by a judge, and could be used as an incentive to spur needed action.

Mayor Vulich requested that a strike-through version of the ordinance changes be provided to Council.

Councilmember Connell inquired which department currently issues fines. Attorney O'Connell stated the City can issue citations; however, it is generally more effective to bring an individual to court and to have that individual ordered by a judge. Attorney O'Connell stated the Police Department currently issues citations and Lynch Dallas handles the violations in court.

M/S, O'Neill-Gassman moved to forward the Ordinance Amending Chapter 10 and Various Penalty Provisions of the Clinton, Iowa, Code of Ordinances to the next Council agenda, with the fine amount language adjusted to include verbiage that states "up to". On roll call, carried unanimously.

3. Canadian Pacific Railroad – Blocked Intersections/Train Horn Blowing – Councilmember Gassman

Councilmember Gassman stated issues with Canadian Pacific Railroad trains blocking intersections and excessive horn blowing have been discussed for a number of years. Administrator Brooke stated he contacted the Minneapolis Canadian Pacific Railroad office regarding the length of time for conductor exchanges and regarding quiet-zones.

Councilmember Connell stated businesses near the railroad tracks are negatively impacted due to blocked intersections and horn noise. Councilmember Gassman stated there are many events and activities, including camping, near riverfront that are negatively impacted by the blocked tracks and horn noise.

Administrator Brooke stated he will continue to work with Canadian Pacific Railroad to attempt to seek a solution. Attorney O'Connell stated one of the items that is reviewed if an accident occurs with a train is whether or not the horn was blown. Attorney O'Connell stated as railroads are under the regulations of the Federal Railroad Administration, there could be great legal difficulties in attempting to enforce a local ordinance.

4. Mayor and Council Updates

Mayor Vulich stated the TIGER Grant has been submitted. Councilmember Allesee stated the paddlewheel on Camanche Avenue has been painted. Administrator Brooke stated L.E.D. lights have been installed in the lighthouses downtown. Councilmember O'Neill stated KROS will have a forum for candidates running in the 2017 City election on Wednesday, October 25, 2017, and Thursday, October 26, 2017. Councilmember O'Neill stated his radio show would be on Thursday morning, October 26, 2017.

M/S, O'Neill-Gassman moved to adjourn. All in favor.

Respectfully Submitted,

Lisa M. Frederick
City Clerk