

The City Council met in regular session November 10, 2015 at 7:00 P.M. in the City Hall Council Chamber. Present on roll call: Mayor Pro Tem Determann; Councilmembers: McGraw, Rowland, Gassman, Wilke, O'Neill and Allesee. Mayor Vulich - absent.

M/S, Wilke-O'Neill moved to dispense with the reading of the regular City Council meeting and Committee of the Whole minutes of October 27, 2015 and they be approved as published on November 9, 2015. On roll call, carried unanimously.

PUBLIC HEARINGS

Mayor Pro Tem Determann convened a public hearing on a proposal to enter into a development agreement with Lawrence Homes L.C. The City Clerk read a communication from Mr. Lawrence thanking the City Council for their help to bring a new residential development to the City. M/S, Wilke-O'Neill moved that the public hearing concerning a proposal to enter into a development agreement with Lawrence Homes L.C. be entered into the record. On roll call, carried unanimously.

1. M/S, Wilke-O'Neill moved that the Council adopt Resolution No. 2015-432 approving and authorizing execution of a development agreement by and between the City of Clinton and Lawrence Homes L.C. On roll call, carried unanimously.

Mayor Pro Tem Determann convened a public hearing on a proposal to enter into a development agreement with Eliseo R. Bianchi. No comments were received written or oral. M/S, McGraw-Rowland moved that the public hearing concerning a proposal to enter into a development agreement with Eliseo R. Bianchi be entered into the record. On roll call, carried unanimously.

2. M/S, McGraw-Rowland moved that the Council adopt Resolution No. 2015-433 approving and authorizing execution of a development agreement by and between the City of Clinton and Eliseo R. Bianchi. On roll call, carried unanimously.

Mayor Pro Tem Determann convened a public hearing for the rezoning of the land located at 240 North Bluff Blvd. The City Clerk advised the Council that the City had received a communication from Mr. Dennis Heath, 315 North 9th Street, regarding the recommendation of the Planning Commission to rezone land located at 240 North Bluff Boulevard which was included in the Consent Agenda. M/S, Rowland-Gassman moved that the public hearing concerning the rezoning of the land located at 240 North Bluff Blvd be entered into the record. On roll call, carried unanimously.

In discussion before roll call, Mr. Greg Jaeger, Pasternak Law Firm, advised the Council that the letter from Mr. Heath states that the legal description is incorrect, and it is. He stated that after the public hearing is closed the decision was made that the Council table the ordinance until the next City Council Meeting. Mr. Mike Janacek, McClure Engineering, advised the Council that the description at the Assessor's office was incorrect. He stated that the legal description has been revised and submitted to the Council for approval. He continued in stating that the incorrect legal description had 4.33 acres when there is actually 4.03 acres. He further stated that the legal description had been changed; however, the plan remains the same.

Councilmember O'Neill inquired regarding when the decision was made to table the ordinance. City Administrator Jessica Kinser stated that since the legal description in the ordinance is incorrect the Council cannot take action tonight. She continued in stating that at the next City Council meeting the ordinance could go through three readings and be adopted. Councilmember O'Neill inquired further regarding when the decision was made to table the ordinance. Mr. Jaeger stated that he had a discussion with the City Administrator and advised that the ordinance be tabled. Councilmember O'Neill stated that he had received a copy of Mr. Heath's letter which included a request that the City install an eight foot fence around the parking lot. He continued in stating that the City's ordinance does not allow an eight foot fence to be installed; therefore, the City is unable to require a fence. Mr. Janacek stated that he would look into screening and fencing in the future. Councilmember O'Neill inquired regarding the reason for having all three readings of the ordinance at the next Council meeting. Mr. Jaeger stated that once the ordinance is adopted they could get started on the next steps; however, it is not critical that all three readings take place at once.

M/S, Gassman-Wilke moved to table the ordinance amending chapter 159, zoning regulations of the City of Clinton, Iowa, by changing the zoning classification of portions of the land, located at 240 North Bluff Blvd. from R-1B, one family residential, and C-1, local commercial district, to R-4, residential district to November 24, 2015. On roll call, McGraw, Rowland, Gassman, Determann, Wilke, Allesee - Yes, O'Neill - No. Motion carried.

Mayor Pro Tem Determann convened a public hearing for the granting of an easement on 902-904 Roosevelt Street to 1st Gateway Credit Union for \$1,400. No comments were received written or oral. M/S, Allesee-Gassman moved that the public hearing concerning the granting of an easement on 902-904 Roosevelt Street to 1st Gateway Credit Union for \$1,400 be entered into the record. On roll call, carried unanimously. In discussion before roll call, City Administrator Kinser advised the Council that the agreement would be coming back for Council consideration on November 24th after review by 1st Gateway Credit Union.

Mayor Pro Tem Determann convened a public hearing concerning accepting bid and awarding contract for Project J-2015 North End Rec Trail Improvements. No comments were received written or oral. M/S, Gassman-Rowland moved that the public hearing concerning accepting bid and awarding contract for Project J-2015 North End Rec Trail Improvements be entered into the record. On roll call, carried unanimously.

In discussion before roll call, Mayor Pro Tem Determann requested that the City Engineer explain the project. City Engineer Jason Craft stated that the new trail would replace the existing sidewalk and would extend around the T-Ball fields. He continued in stating that the concrete trail would extend to 29th Avenue North, 30th Avenue North and half way to 31st Avenue North. Mayor Pro Tem Determann inquired regarding the reason for moving the trail. Engineer Craft stated that the existing trail is not capable of supporting the new trail. The ground is mushy and occasionally under water. Councilmember Rowland inquired regarding how moving the trail would impact the parking lot. Engineer Craft stated that it would not impact the parking lot at all. People would access the parking lot from Garfield Street.

3. M/S, Gassman-Rowland moved that the Council adopt Resolution No. 2015-434 accepting bid and awarding contract to Eastern Iowa Excavating & Concrete LLC for the North End Rec Trail Improvements Project J-2015 - \$ 153,703.25. On roll call, carried unanimously.

AUDIENCE COMMENT

No persons came before the Council to speak.

CONSENT AGENDA

Councilmember O'Neill requested that item # 11 be removed to Unfinished Business.

M/S, Wilke-O'Neill moved that the Council approve the Consent Agenda as amended. On roll call, carried unanimously.

1. Claims - receive, approve and place on file.
2. Committee of the Whole - minutes 10/27/2015 - receive, approve and place on file.
3. Historic Preservation Commission - minutes 10/8/2015 - receive, approve and place on file.
4. Human Rights Commission - minutes 10/5/2015 - receive, approve and place on file.
5. Planning Commission - minutes 11/4/2015 - receive, approve and place on file.

6. Clinton Fire & Rescue - September, 2015 PCC Ambulance Billing Report & Financial Summary 9/1/2015 - 10/31/2015 - receive, approve and place on file.
7. Communication from Dennis Heath regarding the rezoning of the land located at 240 North Bluff Blvd - receive and place on file.
8. Contract between contractor and City of Clinton, Iowa for pest control services on City property - receive, approve and place on file.
9. Contract between contractor and City of Clinton, Iowa for cleaning services on City property - receive, approve and place on file.
10. Contract & Bond - Project No. F-2014 - Basin 10/20th Avenue North Sewer Separation Project - BWC Excavating, LC - \$1,566,396.70.
11. Resolution - Removed to Unfinished Business - rescinding Resolution No. 2015-389 awarding a contract to Cheramy Concrete & Masonry for the TSIP Project T-2015, 8th Avenue S & South 4th Street Intersection Improvements and retaining the bid security provided by Cheramy Concrete & Masonry.
12. Resolution No. 2015-435 approving an Umbrella 28E Mutual Aid Agreement for Clinton County Emergency and Public Services.
13. Resolution 2015-436 amend the Housing Inspection Delinquency Lien List dated August, 2014.
14. Resolution 2015-437 amend the Housing Inspection Delinquency Lien List dated February, 2015.
15. Resolution 2015-438 ordering construction of improvement, setting public hearing and directing advertisement for bids - 19th Avenue NW Sidewalk & Trail Construction, Project L-2015.
16. Resolution 2015-439 recommending payment No. 4 for the 44th Avenue South Resurfacing Project B-2015 - Determann Asphalt Paving, LLC - \$123,843.84.
17. Resolution 2015-440 approving beer permit/license renewal application for Casey's General Store #2030.
18. Resolution 2015-441 approving beer permit/license renewal application for Casey's General Store #2222.

MOTIONS, RESOLUTIONS, AND ORDINANCES

4. M/S, Rowland-Gassman moved that the Council consider an ordinance for the first time - AN ORDINANCE AMENDING CHAPTER 32, CITY ORGANIZATIONS, WITH AN AMENDMENT TO CHAPTER 32.001 RECREATION DEPARTMENT AND CHAPTER 32.015 PUBLIC WORKS DEPARTMENT OF THE CODE OF ORDINANCES OF THE CITY OF CLINTON, IOWA. On roll call, carried unanimously.
5. M/S, Gassman-Rowland moved the Council adopt Resolution No. 2015-442 fixing date for a public hearing on proposal to enter into a development agreement with Community Housing Initiatives, Inc. and providing for publication of notice thereof. On roll call, carried unanimously.
6. M/S, Allesee-McGraw moved the Council adopt Resolution No. 2015-443 approving an agreement between the City of Clinton, Iowa and the Downtown Clinton Alliance for snow removal for the 2015-16 season.
7. M/S, O'Neill-Allesee moved the Council adopt Resolution No. 2015-444 approving the purchase of Parcel 263 of Project NHSZ-030-9(123)-3H-23 from the Iowa Department of Transportation. On roll call, carried unanimously.

In discussion before roll call, Councilmember O'Neill advised those present that the parcel of land being purchased back from the Iowa DOT is located along Camanche Avenue/Liberty Avenue and is land the City should hold on to.

8. M/S, McGraw-Rowland moved that the Council adopt Resolution No. 2015-445 official endorsement of the Water Quality Initiative Urban Conservation Projects Pre-Application for funding for the 14th Avenue NW Bio-Retention Cell Project. On roll call, carried unanimously.

In discussion before roll call, Councilmember O'Neill inquired regarding what 14th Avenue NW Bio-Retention Cell Project is. City Engineer Jason Craft stated that there is a storm sewer discharge issue in a field along 14th Avenue NW. He continued in stating that there was money in the sewer fund last year to repair it; however, those funds were used elsewhere. He further stated that this is a \$40,000 project to build a bio-retention cell to help control runoff and overflow connecting into two drainage tiles. He proceeded to state that this would be a 50/50 match and he was requesting approval from the Council to apply for a \$20,000 grant. Councilmember Wilke inquired regarding how this would affect future development. Engineer Craft stated that future development would have to allow passage of storm water from land above to discharge into the City's storm water system. Councilmember O'Neill inquired regarding why the City did not do the project last year. Engineer Craft stated that the project was estimated at \$25,000 and the bids came in at \$30,000. Councilmember O'Neill inquired regarding what would happen

if the City was not awarded the grant. Engineer Craft stated the project would be added to budget; however, it is under the \$40,000 threshold so it would not go through the public bid process.

9. M/S, Gassman-Rowland moved that the Council adopt Resolution No. 2015-446 approving a commercial listing agreement with NAI Ruhl Commercial and appointed agents Charlie Armstrong and Ray Oczak. On roll call, carried unanimously.

In discussion before roll call, Councilmember Rowland stated that it has taken 18 months to get to this point. The change in the agreement is the thirteen accounts being added. He continued in stating that he hopes that there will be better cooperation and communication between the parties involved. He further stated that there must be discussion between the City and CRDC regarding putting standards in place concerning what type of businesses can come into the Railpark and what type of wages those businesses will be paying. In order to make the Railpark payoff they must bring in jobs paying \$20 to \$25 dollars an hour. Councilmember O'Neill stated that now that we are hiring a broker we must have workshops for discussion of the standards. He continued in stating that we owe it to the public to have well-paying jobs at the Railpark so they can see the payback.

Mayor Pro Tem Determann stated that he was fairly happy with the agreement; however, he still did not agree with the 6% commission. Councilmember O'Neill stated that the broker did drop from 8% to 6%. He thanked the City Attorney and the CRDC's attorney for their hard work in this matter.

10. M/S, Rowland-Gassman moved to adopt Resolution No. 2015-447 Recreating a Parks and Recreation Department. On roll call, carried unanimously.

In discussion before roll call, City Administrator Kinser stated that the resolution, although long, accurately contains information necessary for changes in payroll. Grounds and Facilities would be combined with Recreation under a Parks and Recreation Director and Streets and Solid Waste under a Streets and Solid Waste Superintendent. The Community Service Director would report half time to Parks and Recreation and half time to Building and Neighborhood Services (BNS). The part time BNS Administrative Assistant would be laid off, the RWRP Administrative Specialist position would be downgraded to a permanent, part-time position. Councilmember Rowland stated that the City had this organizational structure 30 years ago. It is big responsibility for someone to handle Parks and Recreation.

11. M/S, O'Neill-Allesee moved that the Council adopt Resolution No. 2015-448 approving an agreement with Midwest Pets for Life for animal licensing. On roll call, carried unanimously.

12. M/S, Allesee-McGraw moved that the Council adopt Resolution No. 2015-449 Animal Licensing Agreement Humane Society. On roll call, carried unanimously.
13. M/S, Wilke-O'Neill moved that the Council adopt Resolution No. 2015-450 authorizing purchase of real property. On roll call, carried unanimously.

In discussion before roll call, Mayor Pro Tem Determann inquired regarding the purpose of the purchase. City Administrator Kinser stated that the Council approved the Traffic Signal Project; however, not all of the property was in the public Right of Way. She continued in stating that the City Attorney's Legal Department moved this forward so that the bases could be put in before the construction season ends.

14. M/S, Gassman-Rowland moved that the Council adopt Resolution No. 2015-451 approving new liquor license and Sunday sales privilege for Drink Slingers. On roll call, carried unanimously.

UNFINISHED BUSINESS

Councilmember O'Neill moved that the resolution be amended and the bid security be returned to the company and that the City forgo any bids coming in – died for lack of a second. City Engineer Jason Craft advised the Council that every contractor submits a bid bond; however, this company submitted a check. They did not enter into a contract within ten days because they could not obtain a performance bond to protect their sub-contractors; therefore, the owner keeps the bid security. He stated that the damage to the City is this project cannot be done until spring which may result in higher prices. City Attorney Patrick O'Connell stated that bid bonds exist to deter this type of thing from happening. There are costs because the City has to re-bid the project which may cost the City more. He continued in stating that there may be other requests down the road. Councilmember Rowland stated that there are various rules in place and staff members spend a lot of time tied up in projects. City Engineer Craft stated that his time would not be increased; however, there are legal expenses related to this issue. Mayor Pro Tem Determann inquired regarding whether this is a small contractor. Engineer Craft stated that they are a small contractor. City Attorney O'Connell stated that the Council could vote down the resolution. City Administrator Kinser stated that the first "be it resolved" rescinds the resolution awarding the contract and the second "be it resolved" allows the City to keep the funds.

M/S, O'Neill-Allesee moved to vote on the resolution as presented and amend the first and second "be it resolved". Motion and second withdrawn.

In discussion before roll call, City Attorney O'Connell stated that the Council could vote "No" on the resolution and do another resolution in the future.

15. M/S, O'Neill-Allesee moved to adopt the Resolution rescinding Resolution No. 2015-389 awarding a contract to Cheramy Concrete & Masonry for the TSIP Project T-2015, 8th Avenue S & South 4th Street Intersection Improvements and retaining the bid security provided by Cheramy Concrete & Masonry. On roll call, McGraw, Rowland, Gassman, Determann, Wilke, O'Neill, Allesee - No. Motion failed.

M/S, Wilke-O'Neill moved to adjourn to 7:00 pm November 24, 2015. On roll call, carried unanimously.

Tom Determann
Mayor Pro Tem

Pat Van Loo
City Clerk