

**CITY OF GRAFTON
CITY COUNCIL MINUTES
MEETING OF DECEMBER 14, 2015**

The regular meeting of the City Council of the City of Grafton, North Dakota was held in the Council Chambers, City Hall, Grafton, North Dakota at 6:00 p.m. on Monday, December 14, 2015.

Mayor Chris West presided. Members present: Dave Fellman, Don Hutson, Shane Mohn, Brian Sieben, Mary Stark, Len Wysocki, and Greg Young. Member absent: Chris Lipsh. Others present: Nick Ziegelmann, Nick Hall, Ken Miskavige, Rock Desautel, Tony Dumas, Scott Boura, Ed Sevigny, Josephine Lopez, Howard Kleen, Diane Otto, Lee Martinez, San Juanita Garcia, Felix Garcia, Tom Brudwick, Ryan Johnston and Todd Kjelland.

PUBLIC HEARINGS

A public hearing was held to consider a petition to rezone Lots 7 and 8, Block 6, West Side Addition (1127 Lavergne Avenue) from R-2 One and Two Family District to B-1 Neighborhood Business District that was submitted by property owners David and Josephine Lopez. Howard Kleen, who resides at 1128 Lavergne Avenue, filed written opposition and spoke in opposition to the rezoning explaining he has a young child, as do his neighbors, and he feels something needs to be done to protect the families in the neighborhood from the increased noise and traffic he believes will occur from expansion of the business located adjacent to this property. Felix Garcia said he lives north of the house being rezoned and demolished and at 2:00 a.m. you can hear the loud music from vehicles at the convenience store; he did not believe a fence would be satisfactory to block the noise; he also noted there is a lot of trash thrown into the street. Mr. Wysocki said these concerns are enforcement issues that can be addressed by the Police Department and management at Petro Serve should tell customers they need to turn down their music. Diane Otto filed written opposition and spoke in opposition to the petition for rezoning as she is concerned about the traffic and she does not want semis in front of her house. Mr. Mohn said in his opinion one block on each side of Highway 17 and Highway 81 should be zoned business district. Petitioner Josie Lopez said she has lived in the neighborhood for 25 years and she has had no problem living next to the business.

Building Official Scott Boura reported that after some review of the petition and the zoning ordinance, he recommended to the Planning and Zoning Commission to rezone the property to B-2 General Business District rather than B-1 Neighborhood Business District, which was the original petition. He explained that when the zoning ordinance first originated back in the 1950's communities were very different as businesses were smaller within neighborhoods; as time went on businesses started to become community businesses rather than just the neighborhood businesses. Therefore, B-2 General Business District is more accurate for this area and that is what was recommended by the Planning and Zoning Commission. It was agreed complaints such as noise, truck traffic on residential streets, and bright lighting in a residential neighborhood could be addressed through law enforcement, conscience design of the business expansion, and cooperation of Petro Service Management. It was noted the alley cannot be closed as there are utilities buried there.

It was moved by Mr. Mohn and seconded by Mr. Sieben to accept the recommendation of the Planning and Zoning Commission and approve second reading of Ordinance No. 298 entitled, "AN ORDINANCE AMENDING THE ZONING MAP ACCOMPANYING APPENDIX A (ZONING ORDINANCE) OF THE CITY OF GRAFTON CODE OF ORDINANCES TO REZONE PROPERTY IN WEST SIDE ADDITION." On roll call vote the following voted in favor thereof:

Mr. Fellman, Mr. Hutson, Mr. Mohn, Mr. Sieben, and Mr. Young. Those opposed: Ms. Stark and Mr. Wysocki. Member absent: Mr. Lipsh. Mayor West declared the motion carried.

A public hearing was held to consider a petition to rezone the north 12.5 feet of Lots 14, 15, and 16 and the south 62.5 feet of Lots 17, 18, and 19, Block 6, West Side Addition (635 West 12th Street) from R-2 One and Two Family District to B-2 General Business District which was submitted by property owners David and Josephine Lopez. No one spoke in opposition to the rezoning, however this property is located in the same Block as the property considered early at this meeting, where neighbors protested the rezoning due to noise, lighting, semis and traffic. Mr. Young suggested that the City request Petro Serve not use the alley for their carwash. It was moved by Mr. Sieben and seconded by Mr. Mohn to accept the recommendation of the Planning and Zoning Commission to approve Ordinance No. 299 entitled "AN ORDINANCE AMENDING THE ZONING MAP ACCOMPANYING APPENDIX A (ZONING ORDINANCE) OF THE CITY OF GRAFTON CODE OF ORDINANCES TO REZONE PROPERTY IN WEST SIDE ADDITION." On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Mohn, Mr. Sieben, Mr. Young. Those opposed: Ms. Stark and Mr. Wysocki. Member absent: Mr. Lipsh. Mayor West declared the motion carried.

CONSENT AGENDA

Mayor West asked if any Council member wanted to remove any item from the Consent Agenda. It was moved by Ms. Stark and seconded by Mr. Young to approve the Consent Agenda as follows:

IV. CONSENT AGENDA

4.1 Approval of Minutes:

- a) City Council regular meeting of November 9, 2015.

4.2 Reports of Officers:

- a) City Auditor-Treasurer
- b) Municipal Judge
- c) Chief of Police
- d) Building Official
- e) Parks and Recreation
- f) Others, if any

4.3 Game of Chance Applications:

All members were present except Mr. Lipsh and voted in favor thereof; Mayor West declared the motion carried.

BILLS, CLAIMS AND ACCOUNTS

It was moved by Mr. Mohn and seconded by Mr. Fellman that the General, Special, Capital Projects, Debt Service, and Enterprise Funds bills be approved for payment in accordance with the listing submitted; said listing to be a part of these minutes as if herein set out verbatim. An added bill from Butler Machinery in the amount of \$245,017 for the generator at the Water Plant was also included for approval. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr.

Mohn, Ms. Stark, Mr. Sieben, Mr. Wysocki, and Mr. Young. Those opposed: (None). Member absent: Mr. Lipsh. Mayor West declared the motion carried.

It was moved by Mr. Fellman and seconded by Mr. Wysocki to approve closing out Debt Service Fund Paving Improvement #30 (McHugh Avenue - 12th Street to 14th Street, 14th Street - McHugh Avenue to Western Avenue) balance in the amount of \$10,247.83 to the Electric Department, which is the Fund that financed the project. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Mohn, Ms. Stark, Mr. Sieben, Mr. Wysocki, and Mr. Young. Those opposed: (None). Member absent: Mr. Lipsh. Mayor West declared the motion carried.

REPORTS OF STANDING COMMITTEES

On recommendation of the Public Utilities Committee, it was moved by Mr. Mohn to approve the purchase of a 2016 Expedition for \$33,633.85 from Hatton Ford. Mr. Fellman seconded the motion. Chief Dumas reported that the bid from Solby Ford was about \$600 more and the bid from C & M Ford was about \$1,500 more than the Hatton Ford bid. Equipment for the new vehicle estimated to cost \$8,700 will be paid from Seizure Funds. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Mohn, Ms. Stark, Mr. Sieben, Mr. Wysocki, and Mr. Young. Those opposed: (None). Member absent: Mr. Lipsh. Mayor West declared the motion carried.

On recommendation of the Public Utilities Committee, it was moved by Ms. Stark and seconded by Mr. Mohn to sell the 2010 police vehicle as scrap; any equipment on the vehicle that is usable will be salvaged for use on another vehicle. All members present voted in favor thereof; Mayor West declared the motion carried.

On recommendation of the Public Utilities Committee, it was moved by Mr. Mohn and seconded by Mr. Wysocki to approve purchase and installation of a permanently mounted natural gas generator for the Lessard Lift Station at an estimated cost of \$35,000-\$50,000. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Mohn, Ms. Stark, Mr. Sieben, Mr. Wysocki, and Mr. Young. Those opposed: (None). Member absent: Mr. Lipsh. Mayor West declared the motion carried.

On recommendation of the Public Utilities Committee, it was moved by Mr. Mohn and seconded by Mr. Wysocki to approve a contract with Ricard Septic Service, LLP to dispose septic tank collections at the City Lagoon at a rate of \$10.00 per 1,000 gallons. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Mohn, Ms. Stark, Mr. Sieben, Mr. Wysocki, and Mr. Young. Those opposed: (None). Member absent: Mr. Lipsh. Mayor West declared the motion carried.

On recommendation of the Public Utilities Committee, it was by Mr. Mohn and seconded by Mr. Young to order filed with the City Auditor a petition submitted by Mike and Jill DeSautel to vacate the platted alley east of BNSF railroad between 4th and 5th Street, to schedule the public hearing date for Monday, February 9, 2016 at 6:00 p.m., and to direct the City Auditor to publish notice for public hearing in accordance with N.D.C.C. 40-39-06. This alley has never been developed. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Mohn, Ms. Stark, Mr. Sieben, Mr. Wysocki, and Mr. Young. Those opposed: (None). Member absent: Mr. Lipsh. Mayor West declared the motion carried.

On recommendation of the Ways and Means Committee, it was moved by Mr. Fellman and seconded by Mr. Hutson to recommend the City Council deny the abatement and settlement of taxes submitted

by Housing Alternatives, Inc. for Grafton Living Center, 809 West 12th Street (Parcel Numbers 11141 and 11142) for the 2013 and 2014 tax years. Denial of the application was recommended by the City Assessor as the form entitled “Exemption from Property Taxation Initial Owner Certification” certified by the State Housing Finance Agency was not provided. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Mohn, Ms. Stark, Mr. Sieben, Mr. Wysocki, and Mr. Young. Those opposed: (None). Member absent: Mr. Lipsh. Mayor West declared the motion carried.

On recommendation of the Ways and Means Committee, it was moved by Mr. Young and seconded by Ms. Stark to purchase Lot 7, Block 3, Johnsons Addition (729 Noben Avenue) available from the County due to delinquent taxes. All members present voted in favor thereof; Mayor West declared the motion carried.

On recommendation of the Ways and Means Committee, it was moved by Mr. Young and seconded by Mr. Fellman to approve Resolution No. 1711 entitled, “A RESOLUTION TO CANCEL OUTSTANDING ABANDONED CHECKS AND METER DEPOSITS PURSUANT TO SECTION 40-16-13, N.D.C.C.” On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki and Mr. Young. Those opposed: None. Member absent: Mr. Lipsh. Mayor West declared the motion carried and Resolution No. 1711 duly adopted.

On recommendation of the Ways and Means Committee, it was moved by Mr. Young and seconded by Mr. Hutson to approve the applications for 2016 Retail Alcoholic Beverage Licenses as submitted, contingent upon receipt of any outstanding personal forms and license fees, and payment in full of delinquent taxes:

Maher El-Sarraf, LLC – d/b/a Last Chance Bar and Grill
Polly’s Lounge, Inc. – d/b/a Polly’s
Grafton Company – d/b/a Extra End
Gail Martinson – d/b/a Shanigan’s Family Restaurant
Rosie’s Place Too, Inc. - d/b/a Rosie’s Place Too
Grafton Curlers, Inc. – d/b/a Grafton Curling Club
TayDer, Inc. – d/b/a Marketplace on 8th
Valley Liquors, Inc. – d/b/a Hugo’s Wine and Spirits – need personal forms
Lee’s Restaurant, Inc. – d/b/a Lee’s Restaurant
12th Street Bowl, LLP - d/b/a 12th Street Bowl – need license fee and payment of delinquent taxes
Grafton Golfers, Inc. – d/b/a Fair Oaks Golf Course
Hart Management, Inc. – d/b/a Pizza Hut of Grafton
Grafton Hospitality, LLC – d/b/a AmericInn Motel & Suites – need personal forms
Plains Liquor, LLC – d/b/a Cenex Zip Trip #61

12th Street Bowl, LLP may amend their license application from On and Off Sale Liquor to Beer License before year end, if they choose. All members were present except Mr. Lipsh and voted in favor thereof; Mayor West declared the motion carried.

On recommendation of the Ways and Means Committee, it was moved by Mr. Fellman and seconded by Mr. Young to approve the 2016 Retail Fireworks Licenses as submitted: Cole Neset d/b/a Big Top Fireworks at Leonard Motel Parking Lot and Bruce Eikenberry d/b/a TNT Fireworks at Hugo’s parking lot. All members were present except Mr. Lipsh and voted in favor thereof; Chairperson West declared the motion carried.

REPORTS OF SPECIAL COMMITTEES

City Administrator Ziegelmann reported the Economic Development Committee has reviewed the Urban Renewal Plan and how it relates to Community's Health's request to construct a clinic adjacent to First United Bank; the Bank is considering selling the property west of the Bank to Community Health. The Committee determined Community Health complies with the Urban Renewal Plan for Dakota Addition.

UNFINISHED BUSINESS

It was moved by Ms. Stark and seconded by Mr. Wysocki that Ordinance No. 300 entitled, "AN ORDINANCE TO AMEND DIVISION 3, ARTICLE V., CHAPTER 22 OF THE CODE OF ORDINANCES OF THE CITY OF GRAFTON, NORTH DAKOTA RELATING TO PEST CONTROL IN CITY LIMITS" be placed on second reading and adopted. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: None. Member absent: Mr. Lipsh. Mayor West declared the motion carried.

It was moved by Mr. Wysocki and seconded by Ms. Stark that Ordinance No. 301 entitled, "AN ORDINANCE OF THE CITY OF GRAFTON, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF GRAFTON, NORTH DAKOTA, BE AMENDED BY REVISING SECTION 11-8; PROVIDING FOR GARBAGE FEES" be placed on second reading and adopted. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: None. Member absent: Mr. Lipsh. Mayor West declared the motion carried.

NEW BUSINESS

It was moved by Mr. Young and seconded by Mr. Wysocki to approve the Mayor's reappointment of Mary Stark to the Walsh County Job Development Authority and the appointment of Dave Fellman to the Regional Library Board. All members present voted in favor thereof; Mayor West declared the motion carried.

It was moved by Mr. Mohn and seconded by Mr. Wysocki to accept the bid from Warren Austfjord for \$22,865 to snag and clear three miles of the Park River; other bids received for the work were from NC3 for \$21,500 and Terry Lafreniere for \$60,000. Brent Wilde of Red River Regional Council obtained the bids and recommended accepting the bid from Warren Austfjord due to the experience that company has in clearing river channels. The project cost will be paid 60% from the Riparian Project grant, 20% from the State Water Commission, and 20% from the City of Grafton; the City's share will be paid from the Water Department Fund. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: None. Member absent: Mr. Lipsh. Mayor West declared the motion carried.

It was moved by Mr. Young and seconded by Mr. Fellman to approve the list of 2015 Budget amendments as presented. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: None. Member absent: Mr. Lipsh. Mayor West declared the motion carried.

It was moved by Mr. Fellman and seconded by Mr. Young to approve the 2015 Budget appropriation reserves, reappropriations and reserve, and release reserves in accordance with the list submitted. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: None. Member absent: Mr. Lipsh. Mayor West declared the motion carried.

It was moved by Mr. Mohn and seconded by Mr. Hutson to approve first reading of an ordinance entitled, "AN ORDINANCE TO REPEAL SECTION 12-12 OF CHAPTER 12 HEALTH AND SANITATION ARTICLE III. CONFISCATED PROPERTY OF THE CODE OF ORDINANCES OF THE CITY OF GRAFTON, NORTH DAKOTA RELATING TO WHEN PROCEEDS MAY BE CLAIMED, AND DECLARING SAME TO BE NULL AND VOID AND OF NO EFFECT." Mr. Ziegelmann explained that Section 12-12 currently provides that within 6 months after the sale of an abandoned or towed vehicle, the property owner has the right to petition the City for reimbursement of the proceeds minus any expenses for towing and storage; this ordinance eliminates that provision. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: None. Member absent: Mr. Lipsh. Mayor West declared the motion carried.

It was moved by Mr. Young and seconded by Ms. Stark to approve first reading of an ordinance entitled, "AN ORDINANCE TO REPEAL SECTION 12-16 PENALTY OF CHAPTER 12 HEALTH AND SANITATION OF THE CODE OF ORDINANCES OF THE CITY OF GRAFTON, NORTH DAKOTA RELATING TO STRUCTURES WITHOUT UTILITY SERVICE, AND DECLARING SAME TO BE NULL AND VOID AND OF NO EFFECT." Mr. Ziegelmann explained this ordinance corrects the penalty clause used when the ordinance was adopted earlier this year. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki and Mr. Young. Those opposed: None. Member absent: Mr. Lipsh. Mayor West declared the motion carried.

Ms. Stark introduced Resolution No. 1712 entitled, "A RESOLUTION TO CLARIFY THE REQUIRED SIGNATURES NECESSARY FOR WARD POSITIONS FOR THE 2016 ELECTION ONLY" and moved its adoption. Mr. Fellman seconded the motion. The City Auditor explained a this ordinance outlines the procedure to determine how many signatures are required on petitions for nomination for placement on the ballot for the four ward positions following reduction of the number of City Council ward members from 5 to 4. City Attorney Nick Hall has drafted the resolution to use the total number of votes cast for the 5 positions in the last election and divide that by 5 and then use 10% of that to determine the number of signatures required. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Mohn, Mr. Sieben, Ms. Stark, Mr. Wysocki, and Mr. Young. Those opposed: None. Member absent: Mr. Lipsh. Mayor West declared the motion carried.

An application for a permit for temporary street or public property closure for special events was received from USXC Racing, LLC for January 30th for the Greenbelt area from 7:00 a.m. to 5:00 p.m. It was moved by Mr. Young and seconded by Mr. Hutson to approve the application for a permit for temporary street or public property closure for special events submitted by USXC Racing, LLC for Saturday, January 30th, 7:00 a.m. to 5:00 p.m. at the Greenbelt Area. On roll call vote the following voted in favor thereof: Mr. Fellman, Mr. Hutson, Mr. Mohn, Mr. Sieben, Ms. Stark, and Mr. Young. Those opposed: Mr. Wysocki. Member absent: Mr. Lipsh. Mr. Wysocki explained he opposed the application because he felt the Chamber of Commerce should have sponsored this event. Mayor West declared the motion carried.

CORRESPONDENCE AND ANNOUNCEMENTS

Anyone may tour the Water Plant following this meeting.

ADJOURNMENT

It was moved by Mr. Wysocki, seconded by Mr. Sieben and carried to adjourn the meeting.

* * * * *

Chris West, Mayor

Connie A. Johnson, City Auditor