

CITY OF VALLEY
PUBLIC HEARING
March 12, 2019

Present were: Mayor Carroll Smith, Council members Cindy Grove, Linda Lewis and Bryon Ueckert. Council member Mike Stanzel was absent.

Mayor Smith noted the location of the open meetings act and stated those wishing to address items are asked to come to the podium, state name and address for the record.

Mayor Smith opened the hearing at 7:00 p.m. for public input and comment for the conditional use permit application to allow outdoor storage on a tract of land located on the southeast corner of 270th and Maple Streets lying in the northwest $\frac{1}{4}$ of the northeast $\frac{1}{4}$, Section 7, Township 15, Range 10, east of the 6th PM.

The Planning Commission held a public hearing and recommended the request be denied.

There were no additional comments.

The hearing was closed at 7:01 p.m.

MINUTES
REGULAR MEETING
March 12, 2019

Mayor Carroll Smith called the meeting to order at 7:01 p.m. Present were mayor Carroll Smith; council members Cindy Grove, Linda Lewis, Bryon Ueckert, city attorney Jeff Farnham, city clerk Joan Suhr. Council member Mike Stanzel was absent. Notice of the meeting was given in advance thereof by publication, the designated method for giving notice, a copy of the proof of publication is on file at city hall. Advance notice of the meeting was also given to the mayor and council members and a copy of their acknowledgement of receipt of such notice is on file at city hall. Availability of the agenda was communicated in the advance notice and in the notice to the mayor and council members. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Mayor Smith noted the location of the open meetings act, and stated one copy of all reproducible written material to be discussed at this meeting is available for examination or copying.

Council member Linda Lewis led the Pledge of Allegiance.

Proof of publication was on the council desk.

Visitors and Correspondence – Fire Chief Mike Wiekhorst reported he is attending emergency management meetings in Waterloo, the next meeting is Thursday at 11 a.m.. Nebraska Weather Service and Papio Natural Resources District do not believe the town of Valley will have flooding; however, low lying areas near the Elkhorn River will be in danger of flooding. Valley, Waterloo and Douglas County mutual aid resources are available and ready. Papio NRD is checking the Platte River gauges at the Leshara bridge every four hours. Waterloo Fire Department is checking Elkhorn River gauge at the Maple street bridge every four hours. The NRD also has helicopters to dynamite ice jams. The group expects Friday and Saturday will be the highest impact days. Contractors have been contacted to help with possible evacuations.

Mayor Smith thanked Chief Wiekhorst for the update.

Cheryl Eckerman was introduced as the newly hired assistant clerk/treasurer.

Pictures of scrap tires received by the City as part of the waste reduction grant were featured in the Nebraska Department of Environmental Quality publication.

The Mayor invited anyone present who wished to address an agenda item and is not on the agenda to come forward at this time, noting they will have three minutes to speak. Once Council is into the agenda and business meeting there will be no interaction from the floor.

Council member Lewis moved to approve the agenda. Grove seconded. Lewis, Ueckert, and Grove voted YES. NO; no one, motion carried.

Council member Grove moved to approve the consent agenda. Ueckert seconded. Grove, Lewis, and Ueckert voted YES. NO; no one, motion carried. Consent agenda items: Approve February 12 public hearings and council meeting minutes, treasurer's report, checks written during the month, February Keno receipts \$10.50; accept PeopleService, Inc. report, February library statistics, February 19 Planning Commission minutes; approve bills presented for payment; **Supplies:** Ace 73.96; Amazon 746.09;; Aspen 4143.88;Badger 460.21; Bomgaars 108.90; Center Point 25.87; Chlorinators, Inc 1708.70; Embroidery Conn. 223.00; John Deere 198.57; Jones Auto. 171.57; Kirby 272.27; Michael Todd 1068.83; Midwest Sales 103.60 NE Environmental 1400.00; OfficeNet 100.81; Petty Cash 97.04; Rob's 2031.50; Shell 271.85; Tractor Supp. 16.49; Wex 1027.71; Winwater 1220.00; **Services:** Aflac 736.68; Anderson Plmbg. 4202.50; BCBS 9723.79; BHE 1820.49; Carstensen 258818.76; Continental Fire 170.00; Cox 1007.43; D C Election 125.93; DCPG 193.85; DC Env 29.89; Everetts 561.17; Fasbreak 371.00; J Farnham 1864.50; FNB 5962.50; FSB 5962.50; Fremont Util 30616.40;

LincFinc 714.78; M Matzen 776.60; Marriott 220.00; NECode 365.00; O & P 19380.97; OPPD 13236.71; PeopleService 21733.00; Pap San 227.33; Rasmussen Welding 760.00; Trekk 7554.50; USPS 506.04; Verizon 423.88; Widhelm 1875.00; WindowPro 20.00; Woodhouse 399.97; **Taxes:** Fed 7510.25; NE 2651.64;NCS 576.02; **Reimburse/Refund:** Burns 256.12; Farmer Brown's 50.00; Grove 63.37; Archistructure

2150.00; Burton 77.50; Davis 500.00; Jones 1000.00; Peterson 1000.00; Utility 500.00; Knight/Rustic Homebuyers; Wilson/Hoich/Westergaard/Hopwood/Samson/VanRoy/Witte/Elliot 150.00 each.

Council member Ueckert moved to reimburse Council member Grove \$63.37 for League Mid-Winter conference expenses. Lewis seconded. Ueckert, Lewis and Mayor Smith voted YES. NO; no one, motion carried.

Council member Lewis moved to approve Planning Commission recommendation to deny the application for outdoor storage on a tract of land lying in the northwest $\frac{1}{4}$ of the northeast $\frac{1}{4}$, Section 7, Township 15, Range 10 East of the 6th PM. Ueckert seconded. Lewis, Ueckert and Grove voted YES. NO; no one, motion carried.

Paul Glidden representing Legion baseball and Waterloo Valley Youth Organization requested a portion of North Pine Street be closed from 4:30 to 9:30 p.m. on Saturday, April 13 for their annual fundraiser, and asked if the City would provide barricades as they have in past years.

Council member Grove moved to approve closing a portion of North Pine Street Saturday, April 13 from 4:30 to 9:30 p.m. for a fundraiser. Lewis seconded. Grove, Lewis and Ueckert voted YES. NO; no one, motion carried.

Mike Champagne, 315 Adams Street requested the barricade at the end of Adams Street be replaced with a gate to allow access for snow removal on Adams Street as he has nowhere to put the snow. He stated the barricade is 7.6 feet from the right of way which is too close to the end of the street and there is a gate at the end of East Street to push snow into the field. He said he would like to come to a level solution.

Public Works Superintendent Kenny Grimm stated the City does not push snow onto private property. The barricade is in line with the property line fence and any further is private property.

Mr. Champagne stated he had a survey and his pin is on the property line.

Council members Grove and Lewis said we need to figure where the property line is and go from there. The city engineer can determine that.

City engineer Jim Olmsted asked why he is plowing snow? You need patience.

Mayor Smith suggested the matter be tabled for further information.

John Krause representing Rise Broadband requested permission to make the following changes to their equipment on the water tower. Remove and replace four antenna; remove one 2' dish and replace with one 3' dish; add one 1' dish w/associated radio for dedicated service for 3M plant. The equipment will fit on the existing platform and not impact the surface of the water tower.

Council member Lewis moved to allow Rise Broadband to make the requested changes. Grove seconded. Lewis, Ueckert and Grove voted YES. NO; no one, motion carried.

Triston Nelson in place of Linda Kunasek presented an update for the Valley 7 Lakes Marathon. Currently 307 entrants from 24 states have registered. This number includes 17 Olympians. The route will be monitored by Douglas County Sheriff and members of Re-Act will perform runner control. Barricades will be provided by a third party. There is a Junior High track meet and a Legion game scheduled that day so parking will be in City park, United Faith Campus and various locations. Newsletters will be sent to citizens of Valley and Waterloo informing them of the event, so they can plan to start early and be patient with traffic delays.

Council member Lewis introduced Ordinance No. 720 entitled: AN ORDINANCE REPEALING ARTICLE III SECTION 2-302 AND ARTICLE IV SECTION 2-401 OF THE VALLEY MUNICIPAL CODE. AN ORDINANCE GOVERNING LICENSING AND NUMBER OF DOGS; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH, and moved that the statutory rule requiring reading on three different days be suspended. Council member Grove seconded the motion to suspend the rules and upon electronic vote on the motion the following council members voted YES: Lewis, Ueckert, Grove. The following voted NO: No one. The motion to suspend the rules was adopted and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter council member Grove moved for final passage of the ordinance, which motion was seconded by council member Lewis. The Mayor then stated the question "Shall Ordinance No.720 be passed and adopted." Upon electronic vote, the following Council members voted YES: Grove, Lewis, Ueckert. The following voted NO: No one. The passage and adoption of said ordinance having been concurred in by a majority of all members of the council, the Mayor declared the ordinance adopted and the Mayor in the presence of the council signed and approved the ordinance and the clerk attested the

passage and approval of the same and affixed her signature thereto. A true, correct and complete copy of said ordinance is on file at city hall.

Council member Grove introduced, read and moved to passage of Resolution No. 2019-06. To set dog license fees. Ueckert seconded. Grove Lewis and Ueckert voted YES. NO; no one, motion carried. A true, correct and complete copy of said resolution is on file at city hall.

Council member Grove introduced, read and moved for passage of Resolution No. 2019-07, to adopt Valley Dog Park Rules. Ueckert seconded. Grove, Lewis and Ueckert voted YES. NO; no one, motion carried. A true, correct and complete copy of said resolution is on file at city hall.

Council member Lewis moved to accept the 2018 audit report prepared by Certified Public Accountant Ric Ortmeier. Grove seconded. Lewis, Ueckert and Grove voted YES. NO; no one, motion carried.

Technology Update –We can terminate the Scantron agreement with no penalty. Council member Grove touched base with several technology sources during the mid-winter conference, noting Data Tech is now GWorks a progressive company, and suggested we contact Five Nines for a proposal as well as FES non-profit.

City Engineer – a. Water System Improvements (Ginger Cove / Ginger Woods) – Engineer Greg Perry reported there has been no activity due to winter. Current plans are to mobilize March 25. He recommended approval of Carstensen Contracting pay request #3.

Council member Lewis introduced, read and moved for approval of Resolution No. 2019-08, Carstensen Contracting pay request No. 3, \$258,818.76 for work completed and materials stored on site. Ueckert seconded. Lewis, Ueckert and Grove voted YES. NO; no one, motion carried. . A true, correct and complete copy of said resolution is on file at city hall.

b. Valley Shores Pavement Resurfacing, Paving District 2018-1 – The preconstruction conference is April 2 at 10 a.m.- projected start date of April 15.

c. 1. Sewer flows and review – A leak detected in the main along Pine Street will be repaired this summer. There are lots of sump pumps currently pumping into the sanitary sewer, We have a storm water sewer system and need to revisit our ordinance The flows to Fremont are down this month and are very diluted.

2. The subdivision regulation updates for the comprehensive plan are finalized and ready to go before the planning commission.

3. VRBA Construction will install a new manhole on North West Street within the next three weeks.

4. Country Aire property – deferred to city attorney.
5. Flat Water Phase 2 & 3 – The Corps of Engineers has issued the necessary permits, so progress will begin soon.

Groundscape is reconfiguring their plan.

City Attorney – The Insurance companies have reached a settlement on the Barlow case and council needs to take action to become part of the record.

Council member Grove introduced, read and moved for passage of Resolution No. 2019-09. Lewis seconded. Grove, Lewis and Mayor Smith voted YES. ABSTAIN; Ueckert. NO; no one, motion carried.

RESOLUTION NO. 2019-09

WHEREAS, on or about March 16, 2017 Ronald Barlow filed an action in the District Court of Douglas County, Nebraska against the City of Valley, Douglas County, Nebraska, the City of Waterloo, Douglas County, Nebraska and others found at Case No. CI 17-2169, (the "litigation") seeking damages relating to injuries to Mr. Barlow that he alleges occurred as result of a police pursuit involving the Valley and Waterloo Police Departments that occurred on or about November 5, 2015, and

WHEREAS, the City pursuant to its policy of liability insurance, advised its insurance carrier, EMC Insurance, of the Litigation and such carrier retained counsel and has defended the Litigation on behalf of the City; and

WHEREAS, the City has been advised by its defense counsel that all parties to the Litigation have agreed that it should be fully and finally settled and compromised and that all claims of whatever type and whether known or unknown should be released and forever settled pursuant to the terms and provisions of the "Release and Settlement Agreement" (the "Agreement") attached hereto as Exhibit "A" and incorporated herein by this reference, and

WHEREAS, the Agreement generally provides that the Cities of Valley and Waterloo, through their insurance carriers, shall pay the total amount of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) to Mr. Barlow, with Valley's carrier paying One Hundred Seventy-Five Thousand Dollars (\$175,000.00) and Waterloo's carrier paying Fifty thousand Dollars (\$50,000.00); and

WHEREAS, defense counsel and the City Attorney have reviewed the Agreement and believe it to be in the City of Valley's best interest to execute the Agreement and fully and finally resolve the Litigation.

NOW THEREFORE BE IT RESOLVED that it is in the best interest of the City of Valley to execute the Agreement, and the Mayor and City Clerk are hereby authorized to execute the Agreement for and on behalf of the City.

PASSED AND APPROVED this 12th day of March 2019.

Country Aire Property – Mr. Farnham will confer with Mike Bacon about which statutes apply to the property and how to proceed regarding petition to de-annex.

Valhaven – Lots going on – request to remove Valhaven from receivership, resolution to terminate Golden Living & Skyline leases. May 1 is the target date to file a motion and have a public hearing. Klassmeyer's are interested in leasing the facility.

Mayor's Report – Planning Commission meets March 19, Valley Days meeting March 19, West Omaha Chamber Awards Banquet is March 26, Twin Rivers Y Dinner & Auction is March 30. Health insurance premiums increased 5%. Byarsville lift station pump installation is scheduled for March 26. Trekk will televise the sewer main on Vass Street just east of Mayne to investigate a dip in the street. MAPA Housing Rehabilitation Program advertisement arrived today. There will be a special meeting March 19 at 7 p.m. for Spruce Street Tavern liquor license hearing.

The meeting was adjourned at 8:10 p.m.



Mayor Carroll L. Smith



City Clerk Joan Suhr