

COUNCIL PROCEEDINGS

November 9, 2009

The Oelwein City Council met at 6:30 P.M. for a Vicious Animal Hearing.

Roll Call

PRESENT: Kerns, Brandt, Ryan, Gosse, Lein, Ericson

ABSENT: None

ALSO PRESENT: Kendall, Rigdon, VanVeldhuizen

Thornton/Wilson  
Vicious Dog.

Mayor Murphy called to order the Vicious Dog Hearing on the Thornton/Wilson appeal.

Jennifer Thornton and Tyrone Wilson, 337 6<sup>th</sup> Avenue SW appealed the decision of the Oelwein Police Department regarding the declaration of their black Pit Bull, Tango as a vicious dog.

Officer Hagerman gave a background history of the incident. Upon questioning he clarified this was a different dog than the one previously declared vicious this year.

Jesse Paul, 114 2<sup>nd</sup> Street NE stated he was penned against the wall of his house by the dog which was acting in a very aggressive manner. He was in fear of the dog. It attempted to enter his home to get at his wife. He was on the verge of shooting the animal in self defense when Officer Hagerman arrived.

Ms. Thornton told the Council she has "history with the Paul's". Ms. Thornton stated her back yard gate was tampered with and her garage was broken into the same day the dogs were out while she was at work. She also felt the dogs were trying to go back to their former home near Jesse Paul's.

Deb Miculinich, an employee of the Oelwein Vet Clinic gave her opinion the dog is stand-offish, but not aggressive. The dog has not been a problem at the clinic whenever she handled it.

Chief Logan explained to Council the criteria the police look at before declaring the animal vicious: the history of the dog at large and its aggressive stance towards others.

A motion was made by Gosse, seconded by Lein to deem the animal as a vicious dog. All voted aye.

Motion Carried

The hearing was ended at 6:50 P.M.

Council recessed and returned to regular session at 7:00 P.M.

Agenda Adopted

A motion was made by Brandt, seconded by Gosse to adopt the Agenda. All voted aye.

Motion Carried

Set Meeting Time

The Council agreed upon a 5:15 P.M. Special Council meeting on November 13, 2009 to be followed by the Strategic Planning Work Session.

Certificate of  
Appreciation

Mayor Murphy presented a Certificate of Appreciation to Walker "Bud" Henderson for ten years service on the City of Oelwein Zoning Board of Adjustment. Mr. Henderson pointed out he had enjoyed the opportunity.

- Streicher Monica Streicher, 122 1<sup>st</sup> Street NE requested Council pay for a new garage floor. She purported it has been damaged by the work at the new Library. The City's insurance company had investigated the claim and had denied it.
- Attorney VanVeldhuizen advised the meeting was not the forum for an insurance appeal.
- Approve Minutes A motion was made by Gosse, seconded by Brandt to approve the minutes of the October 26, 2009 regular meeting with the correction of removing two sentences on page 2 Zoning - Lots 49, 50, 51, Block5, Millers Addition "In C2 zoning an off premise sign (for Luigi's Restaurant) could be installed. In the present residential zoning it is not allowed." 4 voted aye, 1 (Lein) voted nay, 1 (Ericson) abstained.  
Motion Carried
- Consent Agenda A motion was made by Ericson, seconded by Gosse to approve the following Consent Agenda items:
- A. Lead Hazard Reduction Activities Homeowner Relocation Costs to Troy and Jessica Stewart in the amount of \$1,695.35 for CDBG Housing Rehabilitation Project located at 25 2<sup>nd</sup> Street NW
  - B. Request from OCAD to close a portion of Frederick Avenue December 4, 2009 from 3:30 P.M. to 8:00 P.M. for Old Tyme Christmas
- All voted aye.  
Motion Carried
- Public Hearing SRF Water Improvement Project Mayor Murphy opened the Public Hearing on the State Revolving Fund to allow public comment and to discuss the results of the environmental review on Oelwein's Water Improvement Project at 7:22 P.M. Bill Ziegler, Upper Explorerland Regional Planning Commission explained the environmental review process to the Council. There were no findings of significant impact. No historical artifacts were found. There are no wetland or noise issues. No public comments were received either written or verbal during the Public Hearing.
- A motion was made by Lein, seconded by Gosse to close the Public Hearing at 7:26 P.M.  
Ayes: Kerns, Brandt, Ryan, Gosse, Lein, Ericson  
Nays: None  
Motion Carried
- Vic Kane, Utility Superintendent explained the Water Improvement project. The water system will be divided into two pressure zones. The lower pressure zone will stay as it is right now which is set by the water level in the towers. The upper zone will have a booster pump system to increase pressure. Plans are to bid the project segments in December and in January. Completion will be in 2011.
- Bud Henderson, 726 8<sup>th</sup> Avenue NE had concerns with fire protection and boosting water pressure. Both of these items will be addressed by the water system improvements.
- Kane reported any citizens with booster pressure systems in their homes will need to remove them.

Mr. Henderson thanked the Council for correcting this problem. Kendall anticipates water rates will increase the first of the year.

IRP/RLF  
UERPC Contract  
Renewal

A motion was made by Gosse, seconded by Ericson to renew the contract for services between the City of Oelwein and Upper Explorerland Regional Planning Commission for the Revolving Loan Fund administration.

Ayes: Kerns, Brandt, Ryan, Gosse, Lein, Ericson

Nays: None

Motion Carried

Change Order #4  
North Frederick  
Sanitary Sewer

Kendall explained Change Order No. 4 for \$2,000.00 to re-construct a sanitary sewer manhole on North Frederick. Fox Engineering and the City will each pay \$1,000.00.

Fox will also split the \$1,290 cost with the City to remove and replace the driveway/sidewalk at 402 North Frederick.

A motion was made by Gosse, seconded by Brandt to approve Change Order No. 4 from Dolan Construction on North Frederick and Elmwood Sanitary Sewer Improvements. All voted aye.

Motion Carried

Zoning – Lots 49,  
50, 51, Block 5,  
Millers Addition

A motion was made by Ericson, seconded by Gosse to table setting a public hearing on a rezoning request from Jerry Horkheimer on Lots 49, 50, 51, Block 5, Millers Addition from R1 Residential to C2 Commercial. 5 voted aye, 1 (Lein) voted nay.

Motion Carried

Code Review

Lein presented reports on the October 6 and November 3 Code Review Committee meetings.

Council Meeting  
Dates

Kerns expressed a concern regarding the School Board meetings and City Council meetings being on the same nights. He felt one party should change meeting dates to avoid conflicts.

Reappointment  
Electrical Board  
Mechanical Board  
Plumbing Board

A motion was made by Brandt, seconded by Ericson to approve the Mayor's reappointments of Kevin Minton to the Electrical Board, Ken Irvine to the Mechanical Board and Randy Irvine to the Plumbing Board. All voted aye.

Motion Carried

Wellness Center  
Park-Rec Comm.

Mayor Murphy expressed interest in creating a committee to monitor the Wellness Center. He would also like to review the Park and Recreation commissions duties.

Alley Paving  
Request

A motion was made by Kerns, seconded by Lein to refer a letter from Fidelity Bank requesting the City pave the alley behind the bank to the Public Safety and Street Committee. All voted aye.

Motion Carried

Alley Drainage  
Problem

A motion was made by Kerns, seconded by Lein to refer a letter from Betty Kellogg on drainage to the City Attorney. All voted aye.

Motion Carried

Dairy Queen Demo

Kerns questioned VanVeldhuizen on the Dairy Queen status. A contractor has been hired to demolish the building after it has been cleared of asbestos.

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- Water Work Session            A Work Session with Fox Engineers on Water and Sewer was set for Tuesday, November 24, 2009 at 5:15 P.M.
- Trail Paving                    The Council consensus was to pave the recreational trail yet this year weather permitting.
- House Inspections            MSA will begin house inspections November 13<sup>th</sup> for the Neighborhood Stabilization Program. Code Officer Prouty will accompany the contractor.
- Newsletter                    A citizen survey will be inserted with this month's City newsletter.
- Pitbulls                        Kerns pointed out to the Council the six vicious dog hearings in 2009 were all pitbulls or pitbull mix breed. He recommended Council reconsider their position on breed specific legislation.
- Garceau,  
413 6<sup>th</sup> Ave SE                Rick Garceau, 420 8<sup>th</sup> Street SW requested Council to allow him a building permit renewal for 413 6<sup>th</sup> Avenue SE. He stated the exterior work would be completed in 30 to 45 days.
- Dr. Leo spoke in support of Mr. Garceau.
- The Council will discuss the pending litigation regarding this property. Afterwards VanVeldhuizen will call Mr. Garceau.
- Executive Session            A motion was made by Lein, seconded by Kerns to go into Executive Session per Iowa Code 21.5(c) to discuss pending litigation and union contracts.  
Ayes: Kerns, Brandt, Ryan, Gosse, Lein, Ericson  
Nays: None  
Motion Carried
- Return to Regular Session    A motion was made by Gosse, seconded by Kerns to return to regular session.  
Ayes: Kerns, Brandt, Ryan, Gosse, Lein, Ericson  
Nays: None  
Motion Carried
- Adjourn                        A motion was made by Kerns, seconded by Ericson to adjourn at 9:00 P.M. All voted aye.  
Motion Carried

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LARRY MURPHY, MAYOR

ATTEST:

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STEVEN H. KENDALL, CITY ADMINISTRATOR

I, Steven H. Kendall, City Administrator in and for the City of Oelwein, Iowa do hereby certify that the above and foregoing is a true accounting of the Council Proceedings held November 9, 2009 and copy of said proceedings was furnished the Register November 18, 2009.

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STEVEN H. KENDALL, CITY ADMINISTRATOR