

Present: Mayor –	Joyce Hudson
Council members	Jeff Kennedy
	Duane Oliver
	Tim Strauser
	Jeff Whiting
City Administrator	Bruce Clymer
City Attorney	Mike Bacon
City Clerk / Treasurer	Connie L. Dalrymple

Press: *Gothenburg Times* - Beth Barrett

Also present: Shane Gruber, Jim Bebensee, John Kruescher, Representatives of Brown Church Development Group, Jeff Cottingham, Charlotte Janssen, Travis Coe, Barbara Garrett, Alex Meyer, Jesse Rios

Mayor Hudson opened the meeting and public hearings at 7:00 p.m. Advance notice and a copy of the agenda were given to the Council and members of the press. City Council meetings are conducted in accordance with the Open Meetings Act, a copy of which is available for public inspection on the north wall of the Council Chambers.

The public hearing on a request for special use permit from Trinity Lutheran Church was taken up first. Brown Church Development Group has designed a facility to be constructed on five acres east of Gothenburg Cemetery. There will be two accesses from 27<sup>th</sup> Street to accommodate 70 parking spaces. The building will be three levels and will seat 230 – 250. The septic system and well will be north of the building. The building site will require a lot of fill but it will not be higher than the cemetery.

The Planning & Zoning Commission has recommended approval of the permit after their public hearing on August 13.

Council member Oliver asked if creation of a subdivision obligates the City to maintenance and infrastructure. The City has no obligation because the parcel is in our zoning jurisdiction, but not the corporate limits.

Kennedy moved, Strauser seconded, to close the hearing at 7:05 p.m. Roll call vote: Yea – Whiting, Kennedy, Strauser, Oliver. Nay – none.

Kennedy moved, Oliver seconded, approving Special Use Permit #123 requested by Trinity Lutheran Church for the construction of a church building on 27<sup>th</sup> Street directly east of the Gothenburg Cemetery. Roll call vote: Yea – Strauser, Whiting, Oliver, Kennedy. Nay – none.

The public hearing on a special use permit for construction of a cell tower was taken up at 7:06 p.m. Gene Carroll, representing Viaero Wireless said he originally applied to construct a 150 foot tower but will reduce the height to 140 feet due to airport guidelines. The tower will be a self-supported lattice structure, using a microwave path. It will be on Larry Ostergard's property west of town. The company is still hoping to install a tower east of town but has withdrawn that application due to proximity to the airport flight path.

Oliver moved, Whiting seconded, to close the public hearing at 7:08 p.m. Roll call vote: Yea – Strauser, Kennedy, Whiting, Oliver. Nay – none.

Oliver moved, Kennedy seconded, approving Special Use Permit #125 requested by Viaero Wireless for the construction of a 140 foot cell tower west of town on property owned by Larry Ostergard. Roll call vote: Yea – Whiting, Strauser, Kennedy, Oliver. Nay – none.

Strauser moved, Kennedy seconded, approving the consent agenda that included:

City Council minutes – August 6

Police Report - July

Cemetery Board minutes – August 5

Treasurer's Report - July

Planning & Zoning Commission minutes – August 13

Roll call vote: Yea – Oliver, Whiting, Kennedy, Strauser. Nay – none.

Oliver moved, Whiting seconded, allowing payment of claims against the City, \$70,798.33; Public Works Division \$470,300.86; and the April 15 payroll of \$41,816.34. Roll Call vote: Yea – Strauser, Kennedy, Whiting, Oliver. Nay – none.

Community Comments:

- Tim Strauser thanked the City for allowing the “Living Out Loud” concert on Sunday. They’ve estimated between 3000 and 3500 people attended.

Trinity Lutheran Church has purchased a five acre parcel immediately east of the Gothenburg Cemetery intending to build a new church. Therefore, they have submitted a plat for Trinity Subdivision. The Planning & Zoning Commission has reviewed it and recommended approval.

Whiting moved, Kennedy seconded, approving the Trinity Subdivision plat. Roll call vote: Yea – Strauser, Oliver, Kennedy, Whiting. Nay – none.

Discussion was had with Jesse Rios on his request to vacate the platted but unopened alley at his home at 1207 17<sup>th</sup> Street. During investigation of ownership it was found that the property owner to the east does not own the property on both sides of the alley but does use part of the platted alley as a driveway. The City would require a utility easement so there cannot be any permanent structures, and Atty. Bacon informed all that vacating the alley would create a landlocked parcel on the south side.

Mr. Rios decided to reconsider his request and will contact the office if he decides to proceed. No action was taken.

A proposed update of the Cemetery regulations includes one major change that allows for removal of deteriorated monuments and markers. If the Sexton determines a monument or marker to be badly deteriorated, he will make every effort to contact family members to have it repaired or replaced. If there are no family members, the Cemetery Board can determine to have the monument or marker replaced with a standard, flat 20” by 18” grave marker. There are currently several bad stones and a mausoleum with a hole in it, and we would begin with the worst. The only other changes to the document rearranged the language into a more organized fashion.

Discussion was had and a motion made by Oliver, seconded by Whiting, approved the updated Cemetery rules and regulations. Roll call vote: Yea – Kennedy, Strauser, Whiting, Oliver. Nay – none.

At the July 2 meeting Council approved an updated Section 504 Rehabilitation Act of 1973, Americans with Disabilities, and submitted it to the Department of Roads. The Department has now requested a section making reference to *reasonable accommodation procedures*. The language has been inserted on page 4 of the document.

Whiting moved, Strauser seconded, approving the addition of Section 6d addressing *reasonable accommodation procedures* to the Section 504 update. Roll call vote: Yea – Oliver, Kennedy, Strauser, Whiting. Nay – none.

No action was taken on a request from Ed Imler for \$250,000 for property damage resulting from a fire at 1010 18<sup>th</sup> Street.

Jim Bebensee and Travis Coe came before Council with questions about the cause of the water main breaks at 1910 and 1914 Lake Ave that resulted in water in some of the area basements:

- What caused the second break
- Was the original repair tested and certified
- Why did it take an hour to get the water shut off
- Does the City have a plan to notify residents in such instances so potential damage can be limited
- Why weren’t residents notified of possible blowback when the lines were cleaned a week later? If twice the pressure is being used to clear lines, people have a right to know before you start.
- What plan does the city have if an emergency evacuation is required? How would you get clean water to residents
- How did sewer get into the lines
- Am I expected to pay for sand and water that came into my house
- Aging infrastructure is a nationwide topic. Has anyone searched out grants to help with the cost of replacing water and sewer lines
- Is there a plan in place to replace service lines
- We want a better answer than “you’re on your own”. We shouldn’t have to get attorneys.

Atty. Bacon responded that while the administration and staff are sorry for what happened and for resident's losses, the City can't come up with an explanation why the line broke. We have to hand it off to the insurance company. High pressure mains are not easy to shut down and one hour is pretty quick in terms of getting crew on site, determining location, and getting 60 pounds of water pressure turned off. Where the water shows on the surface is not necessarily where the leak is. It's difficult for employees to know which services are clogged or backing up. They tried to stop the water running, had mud clog the lines and back up into the sewer. Some homes had no water while others had a little and some a lot. The city can only deal with what's in the right-of-way; they cannot go on private property.

The City uses public money to purchase insurance and contract with the insurance company and cannot jeopardize that contract. We have to wait for the company's determination and if you don't agree with it, it is your right to contact an attorney. The City did not see this coming and the insurance company feels the same. Under TORT law, there is no negligence on the part of the City.

It costs multi-millions of dollars to replace all infrastructures but our system has not been ignored. We have televised the system, done studies, and some areas have already been replaced.

Shane Gruber told all that when the water main broke, water ran out under the pavement, creating a cavity. Water takes the path of least resistance and moved downhill. After reaching a level spot it fanned out and hit a manhole about 20 feet away. The water was forceful enough to wash through the bricks and into the manhole. It was discovered when the crew walked on the pavement and could feel the water running underneath.

Mayor Hudson and Council expressed appreciation to the owners for coming to the meeting politely and their efforts to gain answers the correct way. It's not that the City doesn't care; we do care and are very sorry this happened, but unfortunately our hands are tied by the contracts we live under.

Administrator Clymer provided an interlocal co-operative agreement being promoted through the City Manager's Association that allows cities to participate in providing a 50 / 50 cost share or \$15,000 toward the purchase of an electric or compressed natural gas vehicle for public entities. Unfortunately these cars only go about 75 miles without recharge and he feels recharge locations should be a private enterprise. He contacted Dr. Teahon at the school who feels they might benefit from such a vehicle for school use around town or within very short distances. The agreement is part of a grant application through the Nebraska Environmental Trust where the City is the applicant and has a side agreement with the school if they decide to purchase. There is no cost to the City.

Strauser moved, Kennedy seconded, authorizing signature of the proposed interlocal agreement, subject to Atty. Bacon's review. Roll call vote: Yea – Oliver, Whiting, Kennedy, Strauser. Nay – none.

There will be a budget work session on Tuesday August 27 at 5:30 p.m.

Whiting moved, Strauser seconded, setting September 17 at 7 p.m. as the date and time for public hearing on the 2013-14 budget. Roll call vote: Yea – Kennedy, Oliver, Strauser, Whiting. Nay – none.

Kennedy moved, Oliver seconded, to enter into executive session at 8:14 p.m. for approximately five minutes to discuss the pending sewer lawsuit. Roll call vote: Yea – Whiting, Strauser, Oliver, Kennedy. Nay – none. Administrator Clymer, Clerk Dalrymple, and Atty. Bacon will join the Mayor and Council.

The purpose of the executive session is to discuss the pending sewer lawsuit.

The Mayor and Council reconvened in open session at 8:21 p.m. and stated that no action had been taken during the closed session.

Oliver moved, Strauser seconded, to adjourn the meeting at 8:21 p.m. Roll call vote: Yea – Whiting, Kennedy, Strauser, Olivier. Nay - none. The next regular meeting will be September 3, 2013.

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Joyce Hudson, Mayor

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Connie L. Dalrymple, City Clerk

