

Present: Mayor –	Joyce Hudson
Council members	Jeff Kennedy
	Randy Waskowiak
	Verlin Janssen
	Jay Richeson
City Administrator	Bruce Clymer
City Attorney	Mike Bacon
City Clerk / Treasurer	Connie L. Dalrymple
Deputy City Clerk	Brandi Kloepping

Press: *Gothenburg Times* - Beth Barrett

Also present: Shawn Boyd, Courtnee Magnuson, Melissa Walker, James Mann, Eric Most, William Ellis, Gene Darling, Brett & Kayla Mann, Ken Christensen, Kent Kline, Joe Richeson, Sgt. Matt Langley, John & Jill Schmeackle, Robert Meyer, Carol and Helene Keiser, Shane Gruber, Roger Tederman, Lane Tederman, Dawn Jobman, Colten Venteicher

Mayor Hudson opened the meeting 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.

Janssen moved, Richeson seconded, approving the consent agenda that included:

City Council minutes – May 17, May 20, May 24, May 26, May 31

Police Report - May

Roll call vote: Yea – Kennedy, Waskowiak, Richeson, Janssen. Nay – none.

Kennedy moved, Waskowiak seconded, allowing payment of claim against the City, \$102,644.15 except #2456; Public Works Division \$176,417.84; the May 19 payroll of \$43,969.73 and the June 2 payroll of \$43,094.08. Roll Call vote: Yea – Janssen, Richeson, Waskowiak, Kennedy. Nay - none.

Waskowiak moved, Richeson seconded, allowing payment of claims #2456 to Jeffrey Kennedy (Landscape) \$266.73. Roll call vote: Yea – Waskowiak, Richeson, Janssen. Nay – none.

Community Comments:

- The small north lobe of Lake Helen that was filled when the south lake was excavated has been too wet to mow. Meyer Construction will be in town before long to reshape the area.
- Gothenburg has been named a Certified Economic Development Community. This is helpful in economic development recruitments.

Atty. Bacon began the hearing where the issue is to determine whether or not a dog should be deemed 'potentially dangerous' under the Municipal Code.

In answer to Atty. Bacon's questions, Sgt. Matt Langley said he was dispatched to the 2000 block of 17th Street where a dog was being attacked by another dog in the caller's yard. Scott Munster reported the Saint Bernard dog came through loose boards in the fence on the Magnuson property and attacked his dog inside Munster's fenced yard. He was able to separate the dogs and the attacking dog left the yard with the Magnuson's other dog. Pictures of the Munster dog showed lacerations in two places as a result of the attack.

The attacking dog, owned by Courtnee Magnuson did have current rabies and City tags and there have been no previous complaints about the dog. No citation was issued but Magnuson was given a copy of the code and paperwork as to the requirements for the dog and owner following the attack.

The definition of a potentially dangerous dog is one that when unprovoked, bites another animal or person.

Courtnee Magnuson said she had gotten home from school and let the dog into the yard. The dog was in the garage, not in the yard. Melissa Walker, Courtnee's mother, said they had built an eight foot fence in the back yard for the dog. The fence has no gate because they didn't want to take a chance the gate would be left open or provide access to anyone from outside. Instead of telling Magnuson's the fence boards were loose, he trespassed onto their property to repair the boards himself and his dog is never leashed. Magnuson's dog, Sarah, is not vicious. She is a rescue dog and is mild mannered but when others mess

with the fence; she will be territorial like any dog. The dog deserves another chance; other neighbors have no issues with the dog. The first year Magnuson's lived at that address, they did not have a fence and Sarah did not attack anyone. Walker offered to pay the vet bill but hasn't received it. She feels Munster has not been totally truthful about the incident.

Atty. Bacon said that according to Municipal Code, Section 107.45, Eastside Animal Center and the Munster's were required to give a statement. Troy Munster provided a letter dated May 23, 2016 which indicates he was mowing the yard and saw the dog come out. He went to get a drill to secure the fence and the St Bernard dog rushed through the fence and dragged his dog away. He hit the attacking dog with a plastic snow shovel and it released his dog and ran off. The photos, Munster's letter, and the Police report are a part of the evidence.

Council member Janssen commented that similar issues had come before the Council before and while the circumstances may be unusual, the dog attacked another and that constitutes a potentially dangerous dog. Therefore Janssen moved, Kennedy seconded, to uphold the Police Report and deem the Magnuson dog a potentially dangerous dog. Roll call vote: Yea - Richeson, Waskowiak, Kennedy, Janssen. Nay - none.

Atty. Bacon said the options for the dog are for the owner's to file a law suit, but it must be within a specific time frame set by law and Chief Olson will immediately take steps to ensure the dog and owners meet the requirements of a dog deemed potentially dangerous, the dog can be euthanized, or it can be removed from town.

The hearing concluded at 7:25 p.m.

Robert Meyer of RJ Meyer & Associates conducted an audit of city accounts for the 2014-15 fiscal year. The audit resulted in a clean opinion. The City is in a strong financial position with assets \$14 million over liabilities which reflect a good budget and overall fiscal responsibility. Utility rates and taxes are not excessive but are sufficient to meet needs. There was no unusual activity, the Lake project was near finished at year end but there is an ongoing sewer project. The refund and reissue of an existing bond resulted in savings on the overall debt. The City is carrying \$2.3 million dollars debt which shows good debt management. The City was in compliance with the budget throughout the year which shows the administration pays attention to monthly expenses. For example, the Police Dep't had to wait for a new car, and the parks for a mower.

The Electric, Water, and Sewer accounts are in a more positive position than the waste treatment plant operation but that is due to its debt service. The Public Works Division carries sufficient funds to meet emergencies.

All debt is paid on time, the City is DED compliant, cash accounts are insured, employee pension contributions are current, and the health insurance is good. The sales tax receipts are well managed and the City made good use of tax increment financing so Gothenburg is growing and we now see money coming back into the community for reuse on other projects. At the end of fiscal year 2014 there was a \$183,000 loss but this year there is \$60,000 on hand. There have been no emergencies such as storms which help to maintain healthy fund balances.

There was a struggle with the new software and changes are strongly recommended; however, in the end everything looked good although it was difficult to get there.

Richeson moved, Janssen seconded, to accept the audit as presented. Roll call vote: Yea - Waskowiak, Kennedy, Janssen, Richeson. Nay - none.

William Ellis has received an estimate from JR Bliven Construction in Lexington for \$13,700 to replace the floor and the roof of the home at 1112 17th Street. Ellis himself has construction experience and the necessary tools and will install windows, doors and do the painting. Bliven has agreed to help more if needed. Repairs will begin about July 15 and be finished in November. Lennox currently has a special where a furnace purchased now can be paid for in January 2017. He has cleaned up the back yard and is prepared to get the work done.

Administrator Clymer suggested having Atty. Bacon proceed with legal action while negotiating to be sure all the Board of Health requirements are met. The legal action will then be in place to follow through if needed. Chief Olson reminded all that there is black mold in the home and to be sure necessary steps are taken to remediate.

No action was taken but Ellis agreed to make an appointment with Atty. Bacon's office. The resulting agreement will be available at the next meeting. If Ellis does not meet the required time line in the agreement, the City will ask the court to allow demolition.

John and Jill Schmeckle will auction the inventory of TES / G-Tec at 905 Ave L and 1100 8th Street on June 17 and are concerned about public safety in the area since there are two sites. They would like to block Avenue M and Avenue L north of Highway 30 during the sale. They will run two rings and should be done by 2:00. The auction on the 18th will only be on the west side of Ave L

Kennedy moved, Waskowiak seconded, to approve the road closures as proposed for the TES sale on June 17. Roll call vote: Yea – Janssen, Richeson, Waskowiak, Kennedy. Nay – none.

Gene Darling has been on worker's compensation following a shoulder injury last October. According to the personnel policy, if an employee is in a leave-without-pay status past 180 days, the Council must approve an extension of time. Gene is scheduled for another surgery in Omaha on June 10 and will not be able to return to work of several months.

Janssen moved, Richeson seconded, to authorize extension of Gene Darling's leave-without-pay status to no more than 180 days following surgery. Roll call vote: Yea – Kennedy, Waskowiak, Richeson, Janssen. Nay – none.

Gothenburg has been a member of both Dawson Area Development and West Central NE Development District in Ogallala for many years. Membership fees to WCND are due in the amount of \$4200. After brief discussion, a motion was made by Richeson, seconded by Kennedy, to not continue membership with WDND. Roll call vote: Yea – Janssen, Waskowiak, Kennedy, Richeson. Nay – none.

Helene Keiser is a member of Tail Twister 4-H Club. For several years they have sponsored a 5K Fun Run on July 4th but this year have decided to make it a color run. As runners pass through pre-determined stations they are covered with colored powder. The powder is corn starch based and washes off individuals and the streets. The run begins at 8 a.m. at the War Memorial at Lake Helen, moves east along 20th Street then north to 27th St and back to the War Memorial within an hour. Runners will get a color packet upon completion and as a group throw the color. They should be cleaned up and gone by 10 a.m.

Council had no objection to the 5K run as proposed but Council member Richeson suggested they station an adult at Lake Avenue for safety.

The 2006 Impala cruiser is unreliable and the 2011 has been replaced with a new cruiser. Historically, vehicles we no longer need have been auctioned but Pony Express Chevrolet will take both vehicles on trade, the 2006 for \$2200 and the 2011 for \$3500, against one of three used vehicle options:

- #1: 2012 Chevy Impala with 60,000 miles listed at \$11,900. Trade in value \$6200
- #2: 2014 Chevy Impala program car with 23,000 miles listed at \$13,900. Trade in value \$8200.
- #3: 2015 Chevy Impala with 9,000 miles listed at \$15,200. Trade in value \$9500.

Historically, we've gotten about \$1000 at auction so the trade value offered by Pony Express is much better. Therefore, a motion was made by Richeson, seconded by Janssen, to trade the 2006 and 2011 Impalas for the 2015 with 9000 miles for \$9500. Roll call vote: Yea – Waskowiak, Kennedy, Janssen, Richeson. Nay – none.

The Council received a petition of protest from the neighbors in the area of the proposed *Crossing Fellowship* construction at 2302 Ave M. The protest will require a super majority to be in favor if a motion is made on the Special Use Permit. The neighbor's issues are with the building, not the church group.

Janssen moved, Kennedy seconded, to approve Special Use Permit #134 requested by *The Crossing Fellowship* for construction of a church building at 2302 Avenue M with the following stipulations:

1. Site Plan: The Master site plan as provided to the May 17th City Council meeting is acceptable as a general plan for the development of the site. Construction of the building shall not exceed 30,000 total square feet.
2. Permitted Use: This permit allows for the construction of a church to be used for religious purposes subject to the proper building permits being acquired. Any future structures or uses beyond the presented plans will require a new Special Use Permit as allowed under the Municipal Code existing at that time.
3. Construction — Phase I: *The Crossing* shall be required to enter into a contract with a General Contractor that shall have a verified history of successful construction projects of this size and

complexity, and approved of by the City Council. The contract shall contain all designed structures identified as Phase I within the Special Use Permit. In lieu of this requirement, The Crossing shall commit to the City of Gothenburg the ability of the General Contractor to complete the project. This commitment shall at a minimum require the General Contractor to provide a Performance Bond guaranteeing completion within 18 months of start of construction, in the amount of (\$1,000,000) one million dollars payable to the City of Gothenburg.

4. Liability insurance: Proof of liability insurance for the general contractor in the amount of \$500,000 will be provided to the City before construction begins.
5. Parking: Hard surfaced areas will include the drive from Ave. M through the awning and the handicapped parking in front. Additional parking shall be covered with crushed granite, or a similar substance. Said covering shall be of a type that will not create dust.
6. Storm Water Run-off: The applicant shall devise a storm water runoff retention cell which will discharge no more water into drain ways as the property would do in a state of nature. The retention cell, and all other components of the storm water system including contouring of the property, shall be approved by the City Engineer for design; and upon final completion. The Crossing shall be required to pay all costs regarding design review and construction review. Such retention cell shall be maintained in perpetuity.
7. Detention Pond: Detention pond will have set backs from the east property line 20', south property line 30' after the establishment of an alley and west property line 30' after the establishment of an alley. The detention pond shall be designed and maintained so as to prevent undue water from standing and pose a risk for children and/or provide a breeding area for mosquitoes.
8. Alley: The City Engineer shall design; and The Crossing shall dedicate property to be used as an alley along the southern and southwestern sides of the development. The alley shall be a minimum of 20 feet wide and shall be designed to be wider at corners by the City Engineer to allow for normal usage of utility and service equipment. Such design will leave a small portion of property in the southwestern corner of the property that will not be utilized by the City. The Crossing shall either agree to maintain said property, or agree to sell to the adjoining property owners so they are able to maintain said property.
9. Green space: Green space of 25' will be established between the alley and the parking on the west and the south. This area will be crowned no less than 10" and no more than 18" and be planted and maintained with evergreen trees for screening purposes. Trees will be a minimum of 4' at planting time and be positioned so that they will offer screening to the adjoining property. Formal lawn/landscape will be established adjacent to the building as follows:
 - West end 1440 sq ft
 - East end 1440 sq ft
 - Front east of door 720 sq ft
 - Front west of door 792 sq ft
10. 23rd Street: 23rd Street east of Avenue J will not be opened as part of this Special Use Permit and shall not be used for access.
11. Ave M Access: Access to the area shall be from Avenue M. The drive shall be concrete paving or blacktop from Avenue M to the property line. Removal of existing culverts on Ave. M and ditch returned to original state will be completed.
12. Setback: The building shall maintain a setback of: 35' on north, 125' on west, and 125' on east.
13. Building Materials: The exterior of the structure shall be built of materials as presented at the May 17th, 2016 Public Hearing.
14. Phases of Interior Construction: The building shall be completed with the center of the building being completed and used initially. It is understood that this shall include all requirements of the State Fire Marshal, and all code requirements under the International Building Code as adopted by the City. Any further construction within the overall structure will require additional building permits for each stage of completion. At no time shall the non-completed structure be in use unless approved for occupancy by the State Fire Marshall and the Building Inspector
15. Exterior Lighting: All exterior lighting shall be downward lighting.
16. Abandoned Use: The structure; if abandoned, sold, or at any other time, shall not be used for multi-family use as currently allowed for by the Municipal Code; unless so approved by the City Council at the time of application.

Discussion was had on item #3 and it was felt that with the requirement for the performance bond, the reference to ability of the General Contractor to complete the project should be removed. Council member Kennedy said this list of stipulations addresses the neighbor's concerns.

Roll call vote: Yea – Kennedy, Janssen. Abstained – Waskowiak. Richeson voted “Nay”, based on the concerns and issues of the neighbors in the area.

Atty. Bacon told Council that due to the protest petition, if the motion receives only two votes it motion fails and no special use permit will be granted although they can reapply.

Five bids were received for the 4th Street drainage project. Bid 1 specified Nov 15, 2016 completion and Bid 2 specified a June 1, 2017 completion:

Adams Civil Resources - Sidney, NE	Bid 1: \$260,120.27	Bid 2: \$267,918.98
BSB Construction - Curtis, NE	Bid 1: none	Bid 2: \$288,205.60
Van Kirk Bros. Contracting, Sutton NE	Bid 1: \$288,519.00	Bid 2: \$281,219.00
Midlands Contracting – Kearney, NE	Bid 1: none	Bid 2: \$311,042.80
Myers Construction – Broken Bow, NE	Bid 1: \$352,567.00	Bid 2: \$343,959.00

We have not worked with Adams Civil Resources before, but received favorable references.

Kennedy moved, Janssen seconded, to accept the bid offered by Adams Civil Resources for the 4th Street drainage project for November 15, 2016 completion in the amount of \$260,120.27. Roll call vote: Yea – Richeson, Waskowiak, Janssen, Kennedy. Nay – none.

Waskowiak moved, Kennedy seconded, to adjourn the meeting at 8:07 p.m. Roll call vote: Yea - Janssen, Richeson, Kennedy, Waskowiak. Nay - none. The next regular meeting will be June 21, 2016.

Joyce Hudson, Mayor

Connie L. Dalrymple, City Clerk