

ROLL CALL:

Present:

Mayor	Joyce Hudson
Council Members	Jeff Kennedy
	Verlin Janssen
	Randy Waskowiak
	Jay Richeson

City Administrator	Gary Greer
City Clerk	Misty Bussinger
City Attorney	Mike Bacon
Assistant City Attorney	Colten Venteicher

Press: *Gothenburg Leader* – Rebecca Steward, Ellen Mortensen via zoom
Gothenburg Times – Cheyenne McVay

Also present: Chris Walkemeyer-Police Officer, Todd and Susan Stubbs-Dog Owners, Paul Advey Dog character witness, Belle Hagan-Dog character witness, Sam Advey- Dog character witness, J Buddenberg via zoom.

Mayor Hudson opened the meeting at 5:30 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.

PUBLIC HEARINGS:

None

CONSENT AGENDA:

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

- Council Minutes-November 17
- Board of Adjustment minutes – November 23
- Approve final payment of \$135,000.00 to Gothenburg Improvement Company for LB840 Project Juan
- Approve payment of \$3,181.64 to Goth-02 for OOR 16-HO-33067
- Approve payment of \$318.16 to CDS Inspection for OOR 16-HO-33067
- Application and Certificate for Payment #6 – Van Kirk Bros - \$38,140.48 – Westside Water & Sewer Project
- Approve Drawdown #34 for OOR 16-HO-33067

Roll call vote: Yea –Janssen, Kennedy, Waskowiak, Richeson. No – none.

CLAIMS:

Kennedy moved, Richeson seconded, allowing payment of claims against the General Fund, \$15,709.50; Enterprise Fund \$164,856.96; and the November 18th payroll of \$43,910.01 and Payroll Transmittals of \$51,686.67 except claim check number 10120020. Roll call vote: Yea – Janssen, Kennedy, Waskowiak, Richeson. No – none.

Janssen moved, Waskowiak seconded, allowing payment of claim check number 10120020. Roll call vote: Yea –Janssen, Kennedy, Waskowiak. No – none. Abstain-Richeson.

General Fund Claims: ARAMARK \$81.98; Caroline Scott, CPA, LLC \$3,350.00; GALL'S LLC \$453.15; Gary Greer \$250.00; HARTFORD GROUP BENEFITS \$638.89; HOEHNER TURF

IRRIGATION II \$875.00; NEBRASKA SAFETY & FIRE EQUIPM'T INC \$135.00; NEBRASKA STATEWIDE ARBORETUM, INC \$130.00; SHRED-IT USA LLC \$114.19; SYNDICATE PUBLISHING \$538.40; VERIZON WIRELESS \$637.47; YMCA OF THE PRAIRIE \$353.88; YMCA OF THE PRAIRIE \$906.00; CELL PHONE REIMBURSEMENT – ACH \$280.00; BARCO MUNICIPAL PRODUCTS INC. \$837.74; BEVERLY BOGLE LOUTHAN, P.C. \$600.00; DAWSON COUNTY ELECTION COMMISSIONER \$100.00; DAWSON PUBLIC POWER DISTRICT \$53.57; EAKES OFFICE SOLUTIONS \$222.15; FRANZEN INC. \$33.70; HOMETOWN LEASING \$241.25; NORTH PLATTE POLICE DEPARTMENT \$2,080.76; O'KEEFE ELEVATOR COMPANY, INC \$351.86; PAULSEN INC \$1,037.81; PLATTE VALLEY ARSENAL, LLC \$829.36; POLICE CHIEFS ASSOCIATION OF NE \$30.00; Pinpoint Communications \$547.34.

Enterprise Fund Claims: ARAMARK \$194.70; CAROLINE SCOTT, CPA, LLC \$3,350.00; HARTFORD GROUP BENEFITS \$188.59; NE. DEPT. OF ENVIRONMENTAL QUALITY \$79,737.72; SHRED-IT USA LLC \$114.20; SYNDICATE PUBLISHING \$209.60; VAN KIRK BROS. \$38,140.48; VERIZON WIRELESS \$89.11; WESCO DISTRIBUTION INC \$3,758.91; ALL ANDERSON ELECTRIC \$85.00; BARCO MUNICIPAL PRODUCTS, INC. \$1,256.62; CITY OF GOTHENBURG \$30,222.29; DUTTON-LAINSON COMPANY \$805.78; FRANZEN INC. \$117.45; GOTHENBURG IRRIGATION \$396.00; MILLER & ASSOCIATES \$5,708.00; PINPOINT COMMUNICATIONS \$241.51; STATE HEALTH LAB \$241.00.

Payroll Transmittal: INTERNAL REVENUE SERVICES \$13,479.16; MASS MUTUAL \$5,698.32; NEBRASKA CHILD SUPPORT \$372.47; Healthcare MMKT \$15,913.12; Healthcare MMKT Sidefund \$14,714.40; Healthcare Cafeteria \$1509.20.

DISCUSSION ITEMS:

Mayor Hudson introduced Ordinance 996-Utility Rate Ordinance. After no further discussion Richeson moved, Janssen seconded.

City Clerk Bussinger read the third and final reading for Ordinance 996- Utility Rate Ordinance entitled:

AN ORDINANCE SETTING FORTH ALL UTILITY FEES AND CHARGES IN A COMPREHENSIVE SCHEDULE FOR THE CITY OF GOTHENBURG; PROVIDING FOR REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE.

Roll call vote: Yea –Janssen, Kennedy, Waskowiak, Richeson. No – none.

Waskowiak moved, Kennedy seconded, to adjourn the meeting at 5:33 p.m. Roll call vote: Yea – Janssen, Kennedy, Waskowiak, Richeson. No – none.

Atty. Bacon administered the oath of office to newly elected Council member Jeff Kennedy and J Buddenberg.

The newly installed Council reconvened at 5:37 p.m. Mayor Hudson thanked Randy Waskowiak for his service to the community.

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Janssen moved, Richeson seconded, that Jeff Kennedy continue as the Council President. Roll call vote: Yea – Buddenberg, Janssen, Richeson. Nay - none. Abstain-Jeff Kennedy

COMMUNITY COMMENTS:

Administrator Greer stated his appreciation for Waskowiak serving on the council.

Waskowiak asked what the plan for Ave I is. Administrator Greer stated the plan is to keep traffic as is partitioned until spring when the Ave I construction project will take place. Kennedy stated that a few years ago there was a water leak the caused some wash out soil under paving and now the concrete is sinking.

DISCUSSION ITEMS:

Assistant City Attorney Venteicher acted as hearing officer and stated that the purpose of the meeting was to hold a determination hearing on a potentially dangerous dog owned by Todd and Susan Stubbs.

Venteicher stated he will start with the evidence regarding the City's case and then allow Todd and Susan Stubbs to respond after case is presented. Venteicher stated the council had received incident report November 8th, 2020 12:34 p.m. at 1404 Ave C, a copy of the potentially dangerous dog notification that was provided to the Stubbs where Matt Langley determined the dog to be potentially dangerous, a copy of the conditions of release signed by the Stubbs from date of release to today's hearing, and authorization of health information regarding the victim and related pictures. Stubbs did provide written notice of appeal within the time frame which was also provided to council.

Venteicher asked Walkemeyer a Police Officer for the City to provide some testimony. Walkemeyer spoke about his role in the case. Walkemeyer stated he did the following up to the initial report of Langley. Walkemeyer spoke directly with the victim who stated she was walking to grandparents and was passing on the south side of Stubbs property and the dog came out through the fence and circled around her and bit her on the thigh. The victim continued to her grandparents then was taken to the hospital to be checked out. Walkemeyer testified that the picture of the injured victim was consistent with a dog bite. Walkemeyer added that there was no provocation to the dog the victim stated she was just walking.

Venteicher stated that there is a distinction between a dangerous dog and a potentially dangerous dog and having a dangerous dog is prohibited within city limits. Potentially dangerous dog under Ordinance 90.031 is defined as a dog that, when unprovoked inflicts bites on a human or domestic animal either on public or private property, or chases or approaches a person upon the streets, sidewalks or any public grounds in a menacing fashion or apparent attitude of attack; or any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise threaten the safety of humans or domestic animals. Venteicher states based on the dog was unprovoked and bit a human the Ordinance in this case has been met.

Stubbs requested to see the pictures as they were told it was a small break in the skin like a scratch from a fall versus a bite mark. Todd Stubbs stated he is an excitable dog and thought he was playing and probably did jump on her and highly doubt he bit her. Stubbs also states that it is a large dog and has big claws and that is what it looks more like to them. Stubbs mentioned Officer Langley was the initial investigator on the case and spoke to the victim and family at the hospital. Stubbs stated that officer Langley said it was not a dangerous dog and nothing else need to be done but then 10 days later they got a notice from Walkemeyer and Chief Olson that it was a potentially dangerous dog. Susan Stubbs stated at that time she was told she had two hours to file an appeal.

Stubbs felt like what Langley told them originally and the information Walkemeyer showed them were not consistent. Stubbs have recently repaired the fence in which the dog escaped.

Kennedy stated that he did speak with Chief Olson regarding this matter and it was explained to him that Office Langley turned in report in and Chief Olson was reading the report and realized that a mistake was made by Officer Langley and Officer Walkemeyer was officer on duty and was told to take care of the serving the notice. Venteicher stated that the determination of the dog being potentially dangerous was made by Officer Langley who is the office who signed off on the document. Venteicher stated again that there is a difference between dangerous and potentially dangerous dog and after the review of all evidence Officer Langley determined it was a potentially dangerous dog.

Stubbs stated the victim had came to the house later and was not afraid. Stubbs stated that they have recently investigated training for the dog in Kearney and earliest they can get in is January. Paul Advey spoke on behalf of the dog demeanor and that he is well behaved. Advey stated that all dogs are potentially dangerous even small dogs and that his hope is that the size of the Stubbs's should be no difference in consideration.

Kennedy asks Venteicher to read the definition of a potentially dangerous dog again. Kennedy asks Venteicher if dog meets that definition. Venteicher states that the victim said she was bitten, and medical personnel reported the injures are consistent with those of a dog bite. These facts would meet the definition of potentially dangerous dog. Venteicher also stated that the dog approached in a menacing fashion. Venteicher states there are three components to a potentially dangerous dog, and this case meets at least two. After no further discussion Kennedy moved, Janssen seconded that the dog is considered a potentially dangerous dog. Roll call vote: Yea – Janssen, Kennedy, Buddenberg, Richeson. No – none.

Administrator Greer discussed the Maintenance Agreement #56 renewal with Nebraska Department of Transportation. This agreement is an annual agreement stating that the City of Gothenburg will maintain Highway 30 and Highway 47 for compensation from the Nebraska Department of Transportation. After no further discussion Janssen moved, Kennedy seconded to approve Maintenance Agreement #56 with Nebraska Department of Transportation. Roll call vote: Yea –Janssen, Kennedy, Buddenberg, Richeson. No – none.

Administrator Greer discussed the possibility of firework stand on Avenue D and between 10th and 11th Streets delivered the week prior to June 25 and picked up the week after July 4th. Greer stated that Sun Theatre would like to have a semi parked next to the theatre to sell fireworks. The Sun Theatre representative was unable to attend so it was determined with some of the questions the council had that the item be tabled.

Buddenberg moved, Janssen seconded, to adjourn the meeting at 6:03 p.m. Roll call vote: Yea – Janssen, Kennedy, Buddenberg, Richeson. No – none.

Joyce Hudson, Mayor

Misty Bussinger, City Clerk