

CITY OF GILBERT
MINUTES OF REGULAR COUNCIL MEETING
TUESDAY, JULY 9, 2013
COUNCIL CHAMBERS

Mayor Pro-Tem Nemanick called the meeting to order at 6:30 p.m.

Present: Mayor Pro-Tem Nemanick, Councilors Kutsi, Schutte and Skalko.

Absent: Mayor Skenzich with notice

Staff Present: City Attorney Brunfelt, Public Works Operations Director Lautigar, Police Chief Ty Techar (6:15 p.m.), Library Director Miller, Campground Caretakers John and Sue Rautanen, City Clerk Sakrison and Administrative Secretary Devich.

Mayor Pro-Tem Nemanick led the audience in the Pledge of Allegiance to the Flag.

Motion by Schutte second by Kutsi to approve the following additions and deletions to the agenda:

Additions

1. Partial Payment Estimate No. 2 for Overflow Structure/Ditch Cleaning
2. Utilities Plus Energy Services
3. 3 Phase Power to Mike Peterson's
4. Request to Change Date of July 23, 2013 City Council Meeting.
5. Acknowledge Planning and Zoning Minutes
 - a. Regular Meeting 7-1-2013
 - b. Public Hearing 7-1-2013
 - c. Variance Meeting 7-1-2013
6. Acknowledge Police Crime Activity Report June 2013.

Deletions

7. A. Cook Associates, Inc. Per Attorney Patchin
6. C. Conveyance to Mary Lou Sixberry

All approved.

Motion by Schutte second by Skalko to approve the minutes of Regular Council Meeting of June 25, 2013. All approved.

Public Works Operations Director Lautigar explained the quote from Spartan Sauna Heaters for 3 rails versus 2 rails at City Hall and noted TriTec did not submit a quote.

Motion by Kutsi second by Schutte to accept quote for \$2,100.00 from Spartan Sauna Heaters for 3 rails at City Hall. All approved.

Motion by Schutte second by Kutsi to approve conveyance of Lot One (1), Block Sixty-six (66), Gilbert Second Addition to David and Sally Hirsch. All approved.

Motion by Kutsi second by Schutte to approve Resolution Ordering Improvements and Preparation of Plans of Circle Drive (Option #4), New Jersey Avenue from Broadway to Summit Street, Ohio Avenue from Broadway to Summit Street, First Court from New

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Jersey Avenue to Ohio Avenue and the alley between Michigan and Minnesota Avenues between Summit Street and Fourth Court. All approved.

Council discussed designation of Official Newspaper since the Gilbert Herald has closed. City Attorney Brunfelt recommended tabling designation until the next meeting to seek publication costs.

Motion by Kutsi second by Skalko to table designation of Official Newspaper until the next Council Meeting and request publication costs for review. All approved.

Motion by Skalko second by Schutte to appoint City Clerk Debra Sakrison to the Small Cities Block Grant Committee. All approved.

Councilor Skalko thanked the 3rd of July Committee for the great job they did with the parade and fireworks again and noted the Committee needs volunteers.

Councilor Kutsi stated he would like the City to look into developing a rental ordinance because neighboring cities are having problems. Councilor Nemanick agreed it's better to protect ourselves from problems even if it's just enforcing parking issues for rental properties. Councilor Schutte noted rental properties are often an issue when it comes to blight.

Councilor Schutte thanked the volunteers for the 3rd of July parade and the 4th of July Kiddie Parade and Races noting the City Crew, Fire Department and Police Department for their hard work.

City Engineer Jamnick explained the issues on Alaska Avenue will be addressed.

Public Works Operations Director Lautigar explained Mike Peterson needs three-phase power to his garage for his business. Nemanick agreed the City should provide the the three-phase power for businesses in town.

Motion by Schutte second by Kutsi to provide three-phase power service to Mike Peterson at 310 North Broadway for his business. All approved.

Director Lautigar explained Eric Clement of MN Power has recommended the City have the substation looked at and tested and stated it should be done every year but hasn't been done since 2005 and there have been problems. Lautigar noted there may be power loss in town when the substation is being maintained. Nemanick stated major equipment in town needs to be maintained.

Motion by Schutte second by Skalko to authorize Utilities Plus Energy Services to maintain the substation for quoted cost of \$4,470.00. All approved.

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Discussion followed regarding the dust from the OHV trail and how to resolve the issue.

Library Director Miller announced the Arrowhead Library System has adopted Zinio which is online magazines and anyone with a Library card can login and checkout an unlimited number of magazines. Miller noted Gilbert is contributing to the funding of Zinio to make it possible for everyone to use. Miller updated the Council on the various plans for the Library including a Pie Baking Contest with more information to follow on the Library website.

Campground Caretakers Rautanens stated Sherwood Forest Campground was booked to capacity over the 4th of July Holiday and many of the Crawl for the Cure people are booking earlier so that's increased revenue.

John Shega and Andrea Lamb of Aspire Insurance Agency were present to give an update to the Council noting the City qualifies for the sewer incentive program and ergonomic removal of the mahole covers with a magnetic lever which will help with the work comp claims. Loss control looked at the community center and only had a few recommendations that can be further discussed later.

Police Chief Techar stated the 3rd and 4th of July and Streetdance went smoothly in Gilbert. Techar noted they have cleaned 58 cats out of the house on Michigan Avenue now and encourages adopting one through Contented Critters.

Mayor Pro-Tem Nemanick stated the word on the street is good about the Holiday events in Gilbert.

Motion by Schutte second by Kutsi to approve bills and payroll subject to audit by Mayor and Clerk. All approved.

Motion by Schutte second by Kutsi to acknowledge June 2013 Financial Report. All approved.

Motion by Kutsi second by Skalko to accept the Planning and Zoning minutes of July 1, 2013. All approved.

City Attorney Brunfelt stated that by accepting minutes from the Planning and Zoning Commission it does not automatically approve the variance, a variance should be acted on separately.

Mark Lindhorst of 27 Circle Drive stated he is requesting a variance for an excess of 2 feet in height from 15 feet to 17 feet for a garage. Attorney Brunfelt stated in reviewing the Planning and Zoning minutes there is no specifics as to practical difficulty or undo hardship giving a justifiable reason to grant the variance. Lindhorst stated there is no longer undo hardship in the law just practical difficulty. Lindhorst explained the extra 2

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feet allows for a 5 ft storage truss, its a residential difficulty not created by the owner because the ordinance needs to be updated when a house can be 35 feet high but a garage can be only 15 feet high, it will not increase the lot coverage and none of the surrounding neighbors have a problem with the variance request.

Councilor Schutte noted the ordinances are in place for a reason but some of them are 20-30 years old and need to be reviewed. Nemanick questioned the City liability when approving variances. Attorney Brunfelt stated there is a difference in changing an ordinance and granting a variance, main concern is the deviance from the ordinance. Brunfelt explained the Council should be given factual findings to grant a variance. Brunfelt noted he should meet with the Planning and Zoning Commission to review the state law on variances and other issues of importance.

Councilor Skalko stated the Planning and Zoning Commission approved the variance and the neighbors are ok with it then he has no problem approving it. Nemanick suggested setting up a meeting between the Planning and Zoning Commission, City Council and City Attorney Brunfelt to review the variance request and make a decision including the additional information Lindhorst provided the Council tonight that is not in the P&Z minutes. Kutsi agreed the City Attorney is here to protect the Council and City. Schutte stated the Commission did its due diligence, the community member went through the proper channels and it is a reasonable variance.

Motion by Schutte second by Skalko to approve variance request by Mark Lindhorst of 27 Circle Drive Lots 4 & 5, Block 2 fourth addition to Gilbert to build an accessory structure 17 feet tall based on the following stated practical diffulties by Lindhorst: the extra 2 feet allows for a 5 ft storage truss, its a residential difficulty not created by the owner because the ordinance needs to be updated when a house can be 35 feet but a garage can be only 15 feet, it will not increase the lot coverage, will meet all set back requirements, 10 ft cedar hedge to east will provide screening and none of the surrounding neighbors have a problem with the variance request. All approved.

Motion by Schutte second by Kutsi to acknowlege Police Crime Activity Report June 2013. All approved.

Motion by Kutsi second by Schutte to change the date of the next Regular Council Meeting from Tuesday, July 23 to Monday, July 22, 2013 as requested by Mayor Skenzich to facilitate a presentation on the relocation of Highway 53. All approved.

Motion by Skalko second by Kutsi to approve Partial Payment Estimate No. 2 for \$18,525.00 for the Overflow Structure/Ditch Cleaning project to Jola & Sopp Excavating Inc. All approved.

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Motion by Kutsi second by Schutte to have the City Attorney meet with the Planning and Zoning Commission to have an educational session regarding the state laws and codes pertaining to planning and zoning. All approved.

Motion by Schutte second by Skalko to adjourn the meeting at 7:27 p.m.

Mayor

ATTEST:

City Clerk