

The Sheldon City Council met in regular session on Wednesday, December 7, 2011 at 4:30 p.m. Mayor Katricia Meendering called the meeting to order. Roll call was taken. Present: Brad Hindt, Duane Seehusen, Ron Rensink, and Dave Popkes. Absent: Mark Postma. Also present: Todd Uhl, Lyle Bolkema, Micah Schreurs, Scott Wynja, and Angela Beckman.

Randy Geels, resident at 912 9th Street stated that on 10/29/11 the City jetted a sewer because First Christian Reformed Church had sewage backup in their basement. After this was done, Geels noticed he had backup in his basement. Geels filed a claim with the City's insurance, which was denied, finding that the City was not negligent. He is asking the City to pay for damages of \$225. Mayor Meendering stated she would contact Mr. Geels about the issue.

A motion was made by Rensink and seconded by Hindt to approve the consent agenda with the following items:

- a. Minutes of November 16, 2011
- b. Summary List of Claims with additional claim as presented.
- c. Approve Fire Applicants of Robert Burnette and Jonathan Starkenburg.
- d. Approve Renewal of Fin N Feather Liquor License.

Roll call was taken. Ayes, all. Motion carried.

Mayor Meendering opened the public hearing at 4:42 p.m. to consider rezoning 812 Park Street from Residential Multiple (RM) to Arterial Commercial (AC). There were no oral or written comments. A motion was made by Rensink and seconded by Popkes to close the public hearing at 4:44 p.m. Roll call was taken. Ayes, all. Motion carried. A motion was made by Hindt and seconded by Popkes to approve the first reading and move the Ordinance to a second reading on the rezoning of 812 Park Street from Residential Multiple (RM) to Arterial Commercial (AC). Roll call was taken. Ayes, all. Motion carried.

Mayor Meendering opened the public hearing at 4:44 p.m. on a vicious dog that belongs to Scott Mouw at 318 W 10th Street. City Attorney Schreurs reviewed the process of this hearing and City of Sheldon Code Chapter 56 on Vicious Dogs. Wynja read the notice that was delivered to Scott Mouw on November 28, 2011. At this time, Schreurs stated that Councilman Seehusen would not be participating in this hearing due to a conflict of interest. Mouw asked for a continuance of this hearing, stating that he was unprepared and would like to have an attorney present, as well as some witnesses. A motion was made by Popkes and seconded by Rensink to continue with the hearing. Roll call was taken. Ayes, all. Motion carried.

Police Chief Lyle Bolkema was called to the stand. He was sworn in by Deputy Clerk Beckman. Attorney Schreurs entered the City's exhibit #1. These were computer generated complaints that were received involving a pit bull type dog. On 11/29/10 caller alleged that he is having problems with a monster pit bull and that it belonged to Mouw and has attacked his dog 4 times. On 2/11/11 a caller said Mouw's dog had his dog cornered. On 3/18/11 a caller said Mouw's dog attacked his dog and it is not the first time and he expressed concern over the dog attacking his young daughter. On 3/30/11 Bolkema had a follow up conversation with Mouw about the pit bull type dog. Attorney Schreurs asked Bolkema if he saw the dog in question, and Bolkema stated that he did and that it was of the pit bull type breed. Mouw denied the earlier attacks and stated that he does allow his dog to run loose in his yard. On 10/10/11 a caller stated that Mouw's dog attacked their dog. Attorney Schreurs asked if in all incidents was it your conclusion that it was a pit bull breed dog owned by Mouw and it had been running at large, Bolkema stated yes. Bolkema stated that they informed Mouw of the \$50,000 certificate of insurance that is required and this had not been presented to the Clerk's Office. On 3/23/11 Officer Dykstra read the City Code Chapter 54 on Vicious Dogs to Mrs. Mouw.

At this time Mouw could have rebuttal. Mouw asked Bolkema if Mouw had told him that he lets his dog run loose in the neighborhood, Bolkema said no. Mouw asked Bolkema if he felt his dog was

vicious, Bolkema said no. Mouw stated that he is working on getting the insurance, but it is difficult. Popkes asked Bolkema if anyone else identified the dog as Mouw's, Bolkema stated that it was identified by the callers.

Police Officer David Dykstra was called to the stand. He was sworn in by Deputy Clerk Beckman. Dykstra stated that on 03/23/11 he spoke to Mrs. Mouw and read her the City of Sheldon Code Chapter 56 on Vicious Dogs. On this visit, Mrs. Mouw stated that the dog is a Staffordshire pit bull dog. On 06/1/11 Dykstra asked Mouw if he had insurance on this dog and Mouw replied that he had 3 quotes and was working on a kennel for the dog and it would be done in 3 weeks. Mouw asked Dykstra if he remembered the color of his dog, Dykstra stated blackish gray. Mouw stated that is not the color of his dog. Rensink asked Dykstra if he saw the dog and Dykstra said no.

Police Office Scott DeGoei was called to the stand. He was sworn in by Deputy Clerk Beckman. DeGoei stated that he responded to calls on 03/18/11 and 10/10/11 regarding a pit bull type dog. On 10/10/11 DeGoei responded to a call at 315 W 9th Street stating that they had a great dane and observed Mouw's dog come over to their property and start fighting with their great dane and the fight resulted in bite marks on the great dane. At this time, Schreurs entered the City's exhibit #2 which were pictures of a bite mark on a great dane. DeGoei stated that the owners of the great dane had to use a rake to separate the dogs and the rake broke in the process. DeGoei spoke to Mouw, and Mouw stated that it was an accident that his dog got out of his kennel. Schreurs asked DeGoei if she saw the dog in question and did it resemble a pit bull, and DeGoei said yes. Mouw asked DeGoei what the great dane did when DeGoei approached it, DeGoei stated that it growled at him.

Mouw stated that he does not have any evidence at this time. Schreurs asked Mouw if his dog is of the pit bull breed, Mouw stated yes. Schreurs asked Mouw if his dog has been out of it's kennel without a leash or muzzle, Mouw stated yes.

Exhibits #1 and #2 were entered as part of the record. At this time Schreurs went through City Code Chapter 56, section 56.01, paragraph 1 Any dog with a known propensity, tendency or disposition to attack, unprovoked, as evidenced by its habitual or repeated chasing, snapping or barking at human beings or domestic animals so as to potentially cause injury or to otherwise endanger their safety. Roll call was taken. Ayes: Popkes and Hindt. No: Rensink.

Schreurs went through City Code Chapter 56, section 56.01, paragraph 2 A dog which has attacked or bitten any person (without provocation) or when propensity to attack or bite persons exists and such propensity is known to the owner, or ought reasonably to be known to the owner thereof. Roll call was taken. No: Popkes, Hindt and Rensink.

Schreurs went through City Code Chapter 56, section 56.01, paragraph 3 Any dog of that breed known variously as: A. The bull terrier breed of dog; B. The staffordshire bull terrier breed of dog; C. The american pit bull terrier breed of dog; D. The american staffordshire terrier breed of dog; E. Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers; or F. Any dog which has the appearance and characteristics of being predominately of the breeds of bull terrier, staffordshire bull terrier, american pit bull terrier, american staffordshire terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers, or a combination of any of these breeds. Roll call was taken. Ayes, all.

A motion was made by Popkes and seconded by Rensink that the pit bull breed dog belonging to Scott Mouw be removed from City limits in the time frame of 3 days, as set forth in the City of Sheldon Code of Ordinance Chapter 56.03, paragraph 2. Rensink asked for clarification on the motion. A motion was made by Popkes and seconded by Rensink that the pit bull breed dog belonging to Scott Mouw be removed from City, or to cause it to be destroyed in a humane manner, in the time frame of 3 days, as set forth in the City of Sheldon Code of Ordinance Chapter 56.03, paragraph 2. Roll call was taken. Ayes all. Motion carried.

Lynn Rolfsmeier, Rich Haack and Connie Van Meeteren spoke on behalf of the Sheldon Community Garden Committee. They stated that a committee has been formed and that a grant has been written and funded for \$1,000 for the Community Garden. Their goal this first year is for 20 gardeners in 10' X 20' garden plots.

A motion was made by Hindt and seconded by Popkes to approve Resolution R11-4021 Approving a Resolution for funding from the Hazard Mitigation Grant Program with the City's 15% local match of \$5,466.90. Roll call was taken. Ayes: Rensink, Seehusen, Hindt, and Popkes. Motion carried. This resolution will replace R11-4019.

A motion was made by Rensink and seconded by Hindt to approve the Capital Improvement Program Update for the Sheldon Regional Airport. Roll call was taken. Ayes, all. Motion carried.

A motion was made by Seehusen and seconded by Hindt to approve the purchase of a handicap accessible chair lift for the Outdoor Aquatic Center in the amount of \$7,540. Roll call was taken. Ayes, all. Motion carried. This is due to the new federal ADA requirements. This will be taken from the Aquatic Center reserve fund.

Wynja stated that some of the parts and pumps for the 2011 Industrial Park are on backorder. Due to these backordered items, a time extension is being requested by the Contractor. A motion was made by Popkes and seconded by Hindt to approve the 2011 Industrial Park Utility Project completion date of June 1, 2012. Roll call was taken. Ayes, all. Motion carried. A motion was made by Rensink and seconded by Popkes to approve pay estimate #2 for \$227,162.59 to H&W Contracting for the 2011 Industrial Park Improvement Project. Roll call was taken. Ayes, all. Motion carried.

A motion was made by Seehusen and seconded by Popkes to approve Resolution R11-4022 A Resolution For Construction Sidewalk Improvements and Preparation of Preliminary Plans, Cost Estimate, Preliminary Plat and Schedule herein referred to as the 2011 Sidewalk Improvement Project, for the following properties: 1601 E 9th Str, 1041 Garfield Ave, 321 Washington Ave, 507 Washington Ave, 1701 N 1st Str, 111 17th Ave, 224 N 5th Ave, 302 W 7th Str, 304 W 7th Str, 620 Park Row, 409 W 9th Str, 1004 Railroad Ave, 1313 S 10th Ave, 520 11th Str, 702 11th Str, 809 11th Str, 818 11th Str, 610 10th Str, 809 10th Str, 1134 9th Str, 602 6th Ave, 921 6th Str, 803 6th Str, 621 6th Str, 611 6th Str, 817 5th Ave, 404 8th Ave, and 144 N 3rd Ave. Roll call was taken. Ayes: Popkes, Rensink, Hindt, and Seehusen. Motion carried.

Public Works Director Todd Uhl is reminding people to scoop their sidewalks.

Rensink suggested we remind people of the ordinances regarding parking vehicles in the public right of ways and over sidewalks.

A motion was made by Rensink and seconded by Hindt to adjourn the meeting at 5:48 p.m. Roll call was taken. Ayes, all. Motion carried.

Angela Beckman, Deputy Clerk