

**MINUTES OF REGULAR SESSION
HIGHLAND CITY COUNCIL
MONDAY, MAY 20, 2013**

Mayor Michaelis called the Regular Session to order at 7:00pm. Council members Schwarz, Frey, Bellm and Nicolaides were present. Others in attendance were City Manager Mark Latham, City Attorney John Long; Directors Cook, Gillespie, Korte, Rosen and Schoeck; Fire Chief Bloemker, Building & Zoning Supervisor Limestall; Treasurer Foehner, Library Director Kim, Deputy City Clerk Hediger, City Clerk Bellm; 6 citizens, and one member of the news media.

MINUTES

Councilwoman Bellm made a motion to approve the minutes of the May 6, 2013 Special and Regular Sessions as attached; seconded by Councilman Schwarz. Roll Call Vote: Schwarz, Frey, Bellm and Nicolaides voted aye, none nay. Motion carried.

PROCLAMATION

Mayor Michaelis read a document proclaiming the week of May 20 – 26 as Public Works Week in Highland.

PUBLIC FORUM

Citizens' Requests and Comments:

Jonell Safford, 1004 Lindenthal Avenue, gave comment on the proposed chicken ordinance, stating she would like the city to review again how best to permit and regulate chickens as pets. I want to get rid of the Special Use zoning by looking at the chickens as pets, as the Special Use Permit (SUP) would be too costly and thereby prohibit the enjoyment of owning chickens as pets and egg layers for many residents. I came across a fair-minded chicken ordinance from a research paper done by a student at University of New Mexico ("Residential Urban Chicken Keeping: an Examination of 25 Cities," by K T LaBadie, 2008). Highland's pet ordinance could appear similar to that of Evanston, Illinois by merely adding to the ordinances that govern animals as pets. Mrs. Safford suggested if you could view hens as pets, then you only need to add to the pets and animal ordinance chickens, rather than creating a separate and more costly ordinance. By adding the specific regulations of the newly created special use ordinance, so carefully written by Mr. Limestall, and by tweaking the existing pet/animal ordinance, the special zoning permit might be eliminated. In doing so, many more citizens would be able to enjoy the benefits and pleasures of keeping a few backyard hens as pets.

Requests of Council:

No comments or requests were made.

Staff Reports:

City Manager Latham reported a special council meeting will be held Thursday, May 30 at 7:00pm, to discuss sewer claim backups. All citizens that have submitted claims from the April 13 rains will be sent letters, so that they are aware of the meeting and can attend and voice their concerns. A representative from the city's insurance carrier will be present. Mayor Michaelis added City Manager Latham and I discussed this last week. We felt this was a good way to get everyone affected together and discuss the issues. This could be an educational meeting for everyone.

NEW BUSINESS

Approve Mayor's Appointment to the Industrial Development Commission – Councilman Schwarz made a motion to approve the mayor's appointment of Diane Korte-Lindsey to the Industrial Development Commission as attached; seconded by Councilwoman Bellm. All council members voted aye, none nay. Motion carried.

Approve Mayor's Reappointment to the Telecommunications Advisory Board – Councilwoman Bellm made a motion to approve the mayor's reappointment of Sharon Rusteberg to the telecommunications Advisory Board to serve for an additional three-year term to expire May 30, 2016 as attached; seconded by Councilman Schwarz. All council members voted aye, none nay. Motion carried.

Approve Mayor's Reappointment to the Liquor Control Commission – Councilman Schwarz made a motion to approve the mayor's reappointment of Anton Hundsdorfer to the Liquor Control Commission, all for an additional three-year term, to expire June 2016 as attached; seconded by Councilwoman Bellm. All council members voted aye, none nay. Motion carried.

Approve Mayor's Reappointment to the Police Pension Board – Councilwoman Bellm made a motion to approve the mayor's reappointment of Don Lohman to the Police Pension Board for an additional two-year term, to expire May 1, 2015 as attached; seconded by Councilman Schwarz. All council members voted aye, none nay. Motion carried.

Approve Petition to Transfer Grave Space in City Cemetery – Jacober to Plocher – Councilman Schwarz made a motion to approve petition to transfer Grave Space No. 2, in Lot No. 27, in Block No. 12 from Jean A. Jacober to Jacqueline A. Plocher as attached; seconded by Councilwoman Bellm. Roll Call Vote: Schwarz, Frey, Bellm and Nicolaides voted aye, none nay. Motion carried.

Approve Payment to American Legion to Defray Cost of Marching Band for the Memorial Day Parade – Councilwoman Bellm made a motion to approve payment of \$200.00 to the American Legion to defray cost of the marching band for the Memorial Day Parade as attached; seconded by Councilman Schwarz. Kate Broadhurst stated the parade will be Monday, May 27, with step-off at 1:00pm from the St. Paul's parking lot. The parade proceed down Main Street to Olive Street, taking Olive Street across Broadway and continuing to 12th Street, where it will turn to Poplar Street. It will turn onto Poplar Street and continue to VFW Road, ending at the VFW Post. At 2:00pm, there will be a ceremony at the VFW. Corporal Ripperda's parents will be there to lay the memorial wreath and the Highland High School Band will do their annual performance at the ceremony. Roll Call Vote: Schwarz, Frey, Bellm and Nicolaides voted aye, none nay. Motion carried.

Bill #13-33/RESOLUTION Requesting Road Closure for Memorial Day Parade – Councilman Schwarz made a motion to approve Bill #13-33/Resolution #13-05-2126 requesting road closure for Memorial Day Parade on Monday, May 27, 2013 as attached; seconded by Councilwoman Bellm. Roll Call Vote: Schwarz, Frey, Bellm and Nicolaides voted aye, none nay. Motion carried.

Bill #13-34/ORDINANCE Creating the Foreign Fire Insurance Board Within the Highland Fire Department and Establishing Rules and Regulations Therefore – Councilwoman Bellm made a

motion to approve Bill #13-34/Ordinance #2569 creating the Foreign Fire Insurance Board within the Highland Fire Department and establishing rules and regulations therefore as attached; seconded by Councilman Schwarz. Roll Call Vote: Schwarz, Frey, Bellm and Nicolaides voted aye, none nay. Motion carried.

Bill #13-35/ORDINANCE Adopting Employee Handbook – Councilman Schwarz made a motion to approve Bill #13-35/Ordinance #2570 adopting Employee Handbook as attached; seconded by Councilwoman Bellm. Roll Call Vote: Schwarz, Frey, Bellm and Nicolaides voted aye, none nay. Motion carried.

Bill #13-36/ORDINANCE Adding a New Sub-Section “(B)(3) Bulk Pricing for Delivery of Internet Data Services to Qualified Purchasers Thereof” and a New Sub-Section “(C)(3) Bulk Pricing for Delivery of RF Video and IPTV Services to Qualified Purchasers Thereof” to “Section 78-732. – Schedule of FTTP Rates and Charges” in the Code of Ordinances - Councilwoman Bellm made a motion to table; seconded by Councilman Schwarz. Roll Call Vote: Schwarz, Frey, Bellm and Nicolaides voted aye, none nay. Item tabled.

Bill #13-37/ORDINANCE Approving Intergovernmental Agreement Between the Board of Education of Highland Community Unit School District No. 5 and the City of Highland d/b/a Highland Communication Services Concerning Indefeasible Right to Use Dark Fiber and Re-Leasing of Bandwidth from the Illinois Century Network – Councilwoman Bellm made a motion to table; seconded by Councilman Schwarz. Roll Call Vote: Schwarz, Frey, Bellm and Nicolaides voted aye, none nay. Item tabled.

Bill #13-38/ORDINANCE Designating Depositories for the Funds and Money of the City of Highland - Councilwoman Bellm made a motion to approve Bill #13-38/Ordinance #2571 designating depositories for the funds and money of the City of Highland as attached; seconded by Councilman Schwarz. Roll Call Vote: Schwarz, Frey, Bellm and Nicolaides voted aye, none nay. Motion carried.

Bill #13-39/RESOLUTION Approving Agreement with Brailsford & Dunlavey, Inc. for a Feasibility Study Concerning a Fine and Performing Arts Center - Councilwoman Bellm made a motion to approve Bill #13-39/Resolution #13-05-2127 approving agreement with Brailsford & Dunlavey, Inc., in the amount of \$28,980, for a feasibility study concerning a fine and performing arts center as attached; seconded by Councilman Nicolaides. Councilman Schwarz pointed out there probably is a better way to determine if the community wants this. We send out a mailer each month with the utility billings. We could put a survey in with the billings. If people want to see such a center, then they would take the time to respond. If this is just to pay for a survey, I am not going to vote for this at that cost. City Manager Latham explained part of this is a survey on whether to build such a facility, and find out if the interest is there. More importantly, is the need and ability to support, financially, such a facility. We went out for proposals for this in January. This was the lowest cost. They would look at what type of facility there is interest in having and what types of performing groups and shows such a facility would host.

Councilman Frey stated he is not against such a center. I am just wondering if there is better option than spending \$30,000 for a study. City Manager Latham stated I am not sure where we would go from here without the study. There are several people in the community with a strong interest in this. This is not just a center for performances, such as what you see Hard Road Theatre. There are other activities and interests at such facilities as providing dance, music, pottery and art classes, which could be offered. Councilman Frey asked, with our school systems struggling financially, is there a possibility of working with the schools on this. Mayor Michaelis stated the school actually came to us with an interest in such a facility; however, due to constraints in budgets and space, it never has seemed to work out. Councilwoman Bellm stated without a feasibility study, we would not be able to apply for any grants. You have to have these studies in-hand before you have any chance of getting any grants. I would imagine such a facility would have approximately a \$10M budget to construct. Councilman

Frey questioned, with library membership dropping, would it be possible to look at offering such programs through the library to compliment and expand there. Mayor Michaelis stated the most important thing this study needs to show is, if there is an interest in such a center, that it be would be self-sustaining. Roll Call Vote: Frey and Bellm voted aye; Schwarz and Nicolaides voted nay. Mayor Michaelis voted aye. Motion carried.

Bill #13-40/RESOLUTION Authorizing Extension of the Rebates to “First Purchasers” of Building Permit Fees for Single-Family Residences Newly Constructed Within the City’s Corporate Limits, Applicable to Building Permits Issued After June 1, 2009 – Councilwoman Bellm made a motion to approve Bill #13-40/Resolution #13-05-2128 authorizing extension of the rebates to “first purchasers” of building permit fees for single-family residences newly constructed within the city’s corporate limits, applicable to building permits issued after June 1, 2009 as attached; seconded by Councilman Frey. Councilman Schwarz stated, when this initiative started the housing market was dropping. With the economy picking up, why are we still offering this? Building & Code Supervisor Kevin Limestall stated real estate agents have told us that this rebate makes the sale. Councilman Schwarz contended he does not believe it really influences the buying decision that much. Roll Call Vote: Frey, Bellm and Nicolaides voted aye, Schwarz voted nay. Motion carried.

Bill #13-41/RESOLUTION Approving Equipment Lease Agreement with PNC Equipment Finance, LLC for Turf Maintenance Equipment – Councilman Schwarz made a motion to approve Bill #13-41/Resolution #13-05-2129 approving equipment lease agreement with PNC Equipment Finance, LLC for turf maintenance equipment as attached; seconded by Councilwoman Bellm. Councilman Schwarz inquired how do you feel this will be cheaper. Director Rosen stated to purchase it is \$17,000 over 4 years. To lease over four years, the cost is \$15,000 per year. Include in there our maintenance cost over four years, which was \$18,000. The initial budgeting for purchase from our budget was a consideration, also. The lease program also says they will have the equipment back in service within 24 hours; otherwise, they would provide us with a replacement unit. Director Rosen clarified this lease is for two pieces of equipment: a Toro mower and a field groomer. Over 40% of our mowing is done with this Toro mower. Councilman Schwarz stated, personally, he feels, in the long run, it would be better for us to own the equipment.

Councilwoman Bellm inquired about the indemnity clause. Attorney Long explained their lease agreement includes an indemnity stating, because they are still the owner of the equipment, if there should be an accident, they would not have any liability. They would not be liable for any attorney fees and judgments against PNC, for whatever reason, and we would agree to pay all those costs in any case(s) brought against PNC, LLC. Our insurer would not cover us in such a case. PNC explained they are the largest provider of financing on these pieces of equipment for golf courses, municipalities, etc. and this is standard practice. Councilman Schwarz inquired if there is some benefit to owning the equipment. Director Rosen stated staff does look after the equipment really well, when they know it is ours. He pointed out the overall savings on the term of the lease, for this department, over the four years, is \$11,000, which is a large amount for the department’s budget. Councilman Schwarz asked if the equipment could be purchased at some point. City Attorney Long suggested looking at another financing company. Deputy City Clerk reported the term of the lease is forty-eight months, with an option to purchase the equipment at fair market value at that time. Councilwoman Bellm asked Director Rosen, if money were not an issue, would you prefer to lease or own the equipment. Director Rosen acknowledged there is a nice thing about ownership; however, maintenance on the equipment is another issue. Councilwoman Bellm asked if there is any thing we can do with the budget. Director Rosen noted we put \$80,000 into reserves, which for the future. Director of Finance Kelly Korte explained it would require an amendment to the budget. Roll Call Vote: Schwarz, Frey, Bellm and Nicolaides voted nay, none aye. Motion failed.

Bill #13-42/RESOLUTION Approving Funding of IL 143 Sidewalk Extension Project Through Motor Fuel Tax - Councilman Schwarz made a motion to approve Bill #13-42/Resolution #13-05-2129 approving funding of IL 143 Sidewalk Extension Project through Motor Fuel Tax as

attached; seconded by Councilwoman Bellm. Roll Call Vote: Schwarz, Frey, Bellm and Nicolaides voted aye, none nay. Motion carried.

Award Bid #13-00000-00-GM for 2013 MFT Maintenance Materials – Councilwoman Bellm made a motion to award Bid #13-00000-00-GM for 2013 MFT Maintenance Materials as attached; seconded by Councilman Schwarz. Roll Call Vote: Schwarz, Frey, Bellm and Nicolaides voted aye, none nay. Motion carried.

Approve Construction Engineering Agreement with Oates Associates, Inc. for the Iberg Road Extension (PW-15-06) - Councilman Schwarz made a motion to approve Construction Engineering Agreement with Oates Associates, Inc. for the Iberg Road Extension (PW-15-06) in the amount of \$355,615.94 as attached; seconded by Councilwoman Bellm. Councilman Schwarz asked how we verify that this is “fair and reasonable”. Director Joe Gillespie explained we are not allowed to go out for bids on engineering contracts. Oates Associates has been involved with the project since the preliminary stage. I did review the hours and scope of proposed work entailed. They will be doing the staking, observation of construction of bridge, and construction inspection. Roll Call Vote: Schwarz, Frey, Bellm and Nicolaides voted aye, none nay. Motion carried.

Discussion – Proposed Chicken Ordinance – Councilman Schwarz expressed I appreciate the fact that the fee will only make it feasible to Mrs. Safford or a few others. However, I feel the Special Use Permit (SUP) and that process respects the opinion and wishes of neighbors. Therefore, I feel that is the best option. Councilwoman Bellm asked what the costs are. Building and Zoning Code Supervisor Kevin Limestall replied there is a \$200 application fee. Councilwoman Bellm asked if that is a perpetual or annual fee. Supervisor Limestall clarified the annual permit fee is \$200 each year. They may apply for the perpetual permit also. Councilwoman Bellm stated she has not looked at the existing pets and animals ordinance. If we consider the chickens as pets, then it falls under the animal control ordinance. Can we specify that they be kept in a cage, if we used that ordinance? Supervisor Limestall reported the pet ordinance does address that. City Manager Latham pointed out while we have a licensing program for dogs and cats, I would guess that only about 30% of those are tagged.

Mayor Michaelis asked for direction from council. Councilwoman Bellm noted with them considered as a pet, there is no real way for enforcement. She asked Mrs. Safford for suggestions on enforcement. Mrs. Safford explained other communities have ordinances allowing for chickens as pets. Supervisor Limestall noted Alton, Illinois is one of the communities. Mrs. Safford stated the restrictions Mr. Limestall has written are much stricter; however, I am okay with them. I think they are good. Councilman Nicolaides asked have we seen the ordinance from Brentwood, Missouri, which approved this a few weeks ago. Mrs. Safford added Evanston, Illinois approved it was well, with a very strict ordinance. Most of the cities have the chickens approved under pet ordinance. Most chickens will hang out and stay close to their nest and coop; they are not roamers like dogs and cats. City Attorney Long expressed he does not feel anything less than the Special Use Permit (SUP) should be allowed. Councilman Schwarz expressed he would want to keep it in the SUP process, so the neighbors have input; however, I would like to see the costs lower. Councilwoman Bellm suggested making it a perpetual SUP, with a reduced cost. I would like us to look at how other communities handle this under the pet ordinance. We could review this after one year. Mayor Michaelis summarized the council’s direction is to have the city attorney draft an ordinance after review of other cities’ pet ordinances.

REPORTS

Approve Warrants #913 & #914 – Councilwoman Bellm made a motion to approve Warrants #913 & #914 as attached; seconded by Councilman Schwarz. Roll Call Vote: Schwarz, Frey, and Bellm voted aye, none nay. Councilman Nicolaides abstained. Motion carried.

Councilman Schwarz made a motion to adjourn; seconded by Councilwoman Bellm. All council members voted aye, none nay. Motion carried and meeting adjourned at 8:01pm.

Joseph Michaelis, Mayor

Barbara Bellm, City Clerk