

Ely City Council Regular Meeting Minutes, December 3, 2013

1. CALL TO ORDER:
The Ely City Council Regular Meeting was called to order by Mayor Petersen at 5:30 pm on December 3, 2013 at the Ely City Hall.
2. ROLL CALL:
Present: Council members Debeltz, Kess, Nikkola, Omerza, Polyner, Shedly and Mayor Petersen (7)
Absent: None
3. APPROVAL OF MINUTES:
Debeltz/Nikkola moved to approve minutes from November 19, 2013 Public Hearing, November 19, 2013 Regular Meeting and November 26, 2013 Study Session. Motion carried unanimously.
4. ADDITIONS OR OMISSIONS TO AGENDA:
 - A. Addition: 13.C. – Resolution 2013-041 Final Tax Levy
 - B. Addition: 12.A. – New Library Building Project
 - C. Addition: 7.A. – Todd & Scott Denio
 - D. Addition: 12.B. – City Rehab Loans
 - E. Addition: 12.C. – Soft Drink Licensing for 2015**Debeltz/Omerza moved to approve Additions A-E. Motion carried unanimously.**
5. MAYOR'S REPORT
Mayor Petersen commented on the meeting at Creek Ridge Lodge yesterday with Legislators. Discussion centered on the Legislative Session for this year which is a bonding year as well. Also spoke on LGA and tax relief. Clerk Langowski thanked Ely Area Joint Powers for putting this meeting together.
6. CONSENT AGENDA:
 - A. Motion to waive readings in entirety of all ordinances and resolutions on tonight's agenda
Nikkola/Omerza moved to approve consent agenda item A. Motion carried unanimously.
7. REQUESTS TO APPEAR:
Todd Denio approached the Council regarding his property being deemed a public nuisance. He stated that the problems with his property have been cleared up and he feels he is being unjustly targeted and harassed.
8. COMMITTEE REPORTS:
 - A. Council member Nikkola stated that ER will meet this Thursday, Dec. 5th and the Project Committee meets Monday, Dec. 9th.

Council member Omerza stated that the Park & Rec Board meets at City Hall the 1st Monday of every month and will change their meeting time from 6:00p to 5:30p. TAB will meet this Thursday, Dec. 5th at 4:00p at City Hall. She mentioned the tree lighting and holiday parade was enjoyed by all and thanked Gordon Shedly and the Chamber for coordinating the events. She also gave a brief report on the CGMC Fall Conference that she attended where she met with the Governor and Commissioners.

Council member Shedly thanked the Forest Service for their assistance with obtaining the Christmas tree in Whiteside Park and also thanked the Chamber for their organization of the Holiday Parade.
9. DEPARTMENTAL REPORTS:
 - A. Clerk-Treasurer
 - B. Fire Chief
 - C. Library Director – presented the Unattended Children Policy for the Library.
 - D. Police Chief
 - E. City Attorney
 - i. **Debeltz/Shedly moved to approve Second Reading of Ordinance 282, 2nd Series amending Chapter 11, Section 11.41 Zoning District Schedule. Roll called: Debeltz-yes, Kess-yes, Nikkola-yes, Omerza-yes, Polyner-yes, Shedly-yes and Mayor Petersen-yes. Motion carried unanimously.**

- ii. Attorney Klun stated that Mr. Venturi, owner of real property located at 36 & 46 E Conan St (old Ford garage parcels) would like to donate the real property to the City of Ely since he cannot afford the \$60,000 estimated for demolition of the buildings. The recommendation of NTS is that a Limited Phase II investigation be performed to determine whether there is soil or groundwater contamination.

Debeltz/Omerza moved to recess the meeting at 5:57pm for the Truth in Taxation Public Hearing. Motion carried unanimously.

Debeltz/Omerza moved to reopen the meeting at 6:18pm. Motion carried unanimously.

Debeltz/Nikkola moved approval to request Mr. Venturi to pay for a Limited Phase II investigation (estimated at \$3,000) and for Clerk and Attorney to work with IRRRB for their grant which would pay 2/3rds of the demolition costs. In discussion, the Phase II investigation is not weather dependant. Motion carried unanimously.

- iii. Attorney Klun presented the three proposed resolutions declaring three real properties located in the City of Ely a public nuisance. The resolutions give the property owners 30 days to get their property in order. She also stated that they are very willing to work with anyone to help them as much as they can through this process.

Nikkola/Omerza moved approval of Resolution #2013-042 declaring the real property at 205 E Camp St a public nuisance pursuant to the Ely City Code. WHEREAS, the City of Ely is a Municipal Corporation governed under the Charter of the City of Ely with powers vested in its City Council; and WHEREAS, the City of Ely is authorized to exercise its municipal powers for the promotion of health and safety; WHEREAS, pursuant to Ely City Code Sec. 10.27, subd. 4(12) “accumulations in the open of discarded or disused machinery, household appliances, . . . or other materials, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from such accumulation” is a public nuisance; WHEREAS, pursuant to Ely City Code Sec. 10.42, “it is unlawful to park or store any unlicensed, unregistered or inoperable vehicle, household furnishings or appliances on private property, unless housed within a lawfully erected building, and any violation is hereby declared to be a nuisance; provided, that a single vehicle that is actively being restored or repaired and that is under cover when restoration or repair is not being performed shall not be deemed to be a nuisance within the provisions of this Section;” WHEREAS, pursuant to the Ely City Code Sec. 10.27, Subd. 6, the Council is authorized to determine whether a nuisance exists and order that the nuisance be abated within the time prescribed by the Council. NOW, THEREFORE, the City Council of the City of Ely, finds that: (1)The conditions that exist on the real property located at 205 East Camp Street is a public nuisance pursuant to Ely City Code Sec. 10.27, subd. 4(12) and Ely City Code Sec. 10.42. (2)The tax parcel code for the real property is 030-0280-00220. The registered owner pursuant to St. Louis County tax and real property records is Loustari Trust, the trust of the taxpayers of record David and Mary Zupec, 1124 East Camp Street, Ely, MN 55731. Todd Denio is currently occupying the premises and is a tenant. (3)John Lahtonen, Chief of Police for the City of Ely, has received numerous complaints from neighbors regarding the condition of the real property. Chief Lahtonen has reviewed these complaints and visually inspected the condition of the real property. Chief Lahtonen sent correspondence to Mr. Denio and David and Mary Zupec on June 11, 2013 notifying them that the property is in violation of City’s public nuisance ordinance. Chief Lahtonen issued Mr. Denio and David and Mary Zupec a civil citation on June 19, 2013. (4)Kelly M. Klun, City Attorney for the City of Ely, has also received complaints regarding the condition that exists on the real property. Correspondence was sent via certified mail to Mr. Denio and the Zupecs on July 9, 2013 notifying them the condition of the property is a violation of Ely City Code. The correspondence also enclosed photographs of the nuisance condition and directed the parties to abate the nuisance within 30 days. (5)Pursuant to an agreement between Todd Denio and the City of Ely, Mr. Denio was to remove a motor vehicle from the property, remove and store all items located along his garage, complete work on a gazebo, complete work on the roof and keep the lawn cut and maintained. (6)Improvement has been made to the real property; however, the condition of the real property remains as follows: (a)There is a new motor vehicle on the real property with expired tabs as depicted in Exhibit A; (b)A pile of wood, sheet metal and other miscellaneous items remain scattered along and in back of the garage as depicted in Exhibit B; (c)Miscellaneous items remain in the yard as

depicted in Exhibit C. (7)The condition that exists on the real property located at 205 East Camp Street is a public nuisance that shall be abated within 30 days of the execution of this Resolution. **BE IT ORDERED**, by the City Council of the City of Ely, that: The condition that exists on the real property located at 205 East Camp Street is a public nuisance that shall be abated within 30 days of the execution of this Resolution. Notice is hereby given to Mr. Todd Denio, the trustees of the Loustari Trust, David Zupec and Mary Zupec that the City of Ely will move the St. Louis County District Court, Sixth Judicial District, at Virginia, Minnesota for Summary Enforcement of this Order unless corrective action is taken or unless an answer is filed within 20 days. The City of Ely will seek reimbursement for all costs incurred enforcing this Order.

Roll called: Debeltz-no, Kess-no, Nikkola-yes, Omerza-yes, Polyner-yes, Sheddy-yes and Mayor Petersen-yes. Motion carried 5 to 2.

Sheddy/Nikkola moved approval of Resolution #2013-043 declaring the real property at 1041 E Washington St a public nuisance pursuant to the Ely City Code. WHEREAS, the City of Ely is a Municipal Corporation governed under the Charter of the City of Ely with powers vested in its City Council; and **WHEREAS**, the City of Ely is authorized to exercise its municipal powers for the promotion of health and safety; **WHEREAS**, pursuant to Ely City Code Sec. 10.27, subd. 4(12) “accumulations in the open of discarded or disused machinery, household appliances, . . . or other materials, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from such accumulation” is a public nuisance; **WHEREAS**, pursuant to Ely City Code Sec. 10.42, “it is unlawful to park or store any unlicensed, unregistered or inoperable vehicle, household furnishings or appliances on private property, unless housed within a lawfully erected building, and any violation is hereby declared to be a nuisance; provided, that a single vehicle that is actively being restored or repaired and that is under cover when restoration or repair is not being performed shall not be deemed to be a nuisance within the provisions of this Section”; **WHEREAS**, pursuant to the Ely City Code Sec. 10.27, Subd. 6, the Council is authorized to determine whether a nuisance exists and order that the nuisance be abated within the time prescribed by the Council. **NOW, THEREFORE**, the City Council of the City of Ely, finds that: (1)The conditions that exist on the real property located at 1041 E. Washington Street are a public nuisance pursuant to Ely City Code Sec. 10.27, subd. 4(12) and Ely City Code Sec. 10.42. (2)The tax parcel code for the real property is 030-0200-00720. The registered owner pursuant to St. Louis County tax and real property records is Luthera A. Smith, P.O. Box 471, Ely, MN 55731. (3)John Lahtonen, Chief of Police for the City of Ely, has received numerous complaints from neighbors regarding the condition of the real property. Chief Lahtonen has reviewed these complaints and visually inspected the condition of the real property. Chief Lahtonen has issued Ms. Smith a Notice of Violation of the City Code. Ms. Smith has not complied with the Notice of Violation. (4)Kelly M. Klun, City Attorney for the City of Ely, has also received complaints regarding the condition that exists on the real property. Correspondence was sent via certified mail to Ms. Smith on August 13, 2013 notifying her of the condition of the property is a violation of Ely City Code. The correspondence also enclosed a photograph of the nuisance condition and directed Ms. Smith to abate the nuisance within 30 days. Ms. Smith has not complied with the correspondence request. (5)The condition that exists on the real property is as follows: (a)Miscellaneous items located inside a trailer and in front of the garage as depicted in Exhibit A and Exhibit B; (b)Miscellaneous debris items scattered on the lawn as depicted in Exhibit B; (c)Unlicensed motor vehicle, boat and trailer as depicted in Exhibit C; and (d)Blue camper as depicted in Exhibit D. (6)The condition that exists on the real property located at 1041 East Washington Street is a public nuisance that shall be abated within 30 days of the execution of this Resolution. **BE IT ORDERED**, by the City Council of the City of Ely, that: The condition that exists on the real property located at 1041 East Washington Street is a public nuisance that shall be abated within 30 days of the execution of this Resolution. Notice is hereby given to Ms. Luthera Smith that the City of Ely will move the St. Louis County District Court, Sixth Judicial District, at Virginia, Minnesota for Summary Enforcement of this Order unless corrective action is taken or unless an answer is filed within 20 days. The City of Ely will seek reimbursement for all costs incurred enforcing this Order.

In discussion, Luthera Smith stated that she never received notification that her property needed to be cleaned up. Attorney Klun stated she did receive notification regarding her property by certified mail on August 13, 2013. The Police Chief has also spoken with her regarding this matter. She also stated she

was told by the Ely Police that the trailer in her yard did not need to be registered if it was not on City property or in the right of way. The other trailer on her property is being stored there by someone else.

Roll called: Debeltz-yes, Kess-yes, Nikkola-yes, Omerza-yes, Polyner-yes, Sheddy-yes and Mayor Petersen-yes. Motion carried unanimously.

Omerza/Nikkola moved approval of Resolution #2013-044 declaring the real property at 1230 E White St a public nuisance pursuant to the Ely City Code. WHEREAS, the City of Ely is a Municipal Corporation governed under the Charter of the City of Ely with powers vested in its City Council; and **WHEREAS,** the City of Ely is authorized to exercise its municipal powers for the promotion of health and safety; **WHEREAS,** pursuant to Ely City Code Sec. 10.27, subd. 4(12) “accumulations in the open of discarded or disused machinery, household appliances, . . . or other materials, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from such accumulation” is a public nuisance; **WHEREAS,** pursuant to Ely City Code Sec. 10.42, “it is unlawful to park or store any unlicensed, unregistered or inoperable vehicle, household furnishings or appliances on private property, unless housed within a lawfully erected building, and any violation is hereby declared to be a nuisance; provided, that a single vehicle that is actively being restored or repaired and that is under cover when restoration or repair is not being performed shall not be deemed to be a nuisance within the provisions of this Section;” **WHEREAS,** pursuant to the Ely City Code Sec. 10.27, Subd. 6, the Council is authorized to determine whether a nuisance exists and order that the nuisance be abated within the time prescribed by the Council. **NOW, THEREFORE,** the City Council of the City of Ely, finds that: (1)The conditions that exist on the real property located at 1230 East White Street is a public nuisance pursuant to Ely City Code Sec. 10.27, subd. 4(12) and Ely City Code Sec. 10.42. (2)The tax parcel code for the real property is 030-0360-00090. The registered owner pursuant to St. Louis County tax and real property records is Scott A. Denio, 1420 E. White Street, Ely, MN 55731. (3)John Lahtonen, Chief of Police for the City of Ely, has received numerous complaints from neighbors regarding the condition of the real property. Chief Lahtonen has reviewed these complaints and visually inspected the condition of the real property. Chief Lahtonen sent correspondence to Mr. Denio on May 30, 2013 notifying Mr. Denio that his property is in violation of City’s public nuisance ordinance. Chief Lahtonen issued Mr. Denio a civil citation on June 19, 2013. (4)Kelly M. Klun, City Attorney for the City of Ely, has also received complaints regarding the condition that exists on the real property. Correspondence was sent via certified mail to Mr. Denio on July 9, 2013 notifying him the condition of the property is a violation of Ely City Code. The correspondence also enclosed photographs of the nuisance condition and directed Mr. Denio to abate the nuisance within 30 days. (5)Pursuant to an agreement between Scott Denio and the City of Ely, a 30 yard dumpster was brought to the property and Mr. Denio was to use the dumpster to clean up his property and repay the City of Ely for expenses incurred for delivery and removal of the dumpster. (6)Improvement has been made to the real property, however, the condition of the real property remains as follows: (a)School bus that appears in non-working order and miscellaneous items located along the garage and upon the real property as depicted in Exhibit A; (b)Tires, a pile of wood, a trailer and other miscellaneous items scattered along the back of the property as depicted in Exhibit B; (c)Additional piles of wood and uncut grass and brush as depicted in Exhibit C. (7)The condition that exists on the real property located at 1230 East White Street is a public nuisance that shall be abated within 30 days of the execution of this Resolution. **BE IT ORDERED,** by the City Council of the City of Ely, that: The condition that exists on the real property located at 1230 East White Street is a public nuisance that shall be abated within 30 days of the execution of this Resolution. Notice is hereby given to Mr. Scott Denio that the City of Ely will move the St. Louis County District Court, Sixth Judicial District, at Virginia, Minnesota for Summary Enforcement of this Order unless corrective action is taken or unless an answer is filed within 20 days. The City of Ely will seek reimbursement for all costs incurred enforcing this Order.

In discussion, Mr. Scott Denio spoke on behalf of his property stating that he is very willing to clean it up but needs more time due to his disability. He also requested a list of what is being required of him to clean up his property. He stated the bus on his property has been converted into a camper but is not yet registered.

Roll called: Debeltz-yes, Kess-no, Nikkola-yes, Omerza-yes, Polyner-yes, Sheddy-yes and Mayor Petersen. Motion carried 6 to 1.

F. City Engineer

10. COMMUNICATIONS:

A. All Night Graduation Party – request for donation

11. CLAIMS FOR PAYMENT:

A. City and EUC claims for December 3, 2013 - \$143,986.02.

Nikkola/Debeltz moved to approval of claims for payment item A. Motion carried unanimously.

12. OLD BUSINESS:

A. Council member Kess asked the council to consider doing a full design build process for the new library building. We would get the ideas of several different architects rather than just working with the one we have on hand and reconsider hiring just one contractor. Council member Polyner stated the City should decide on a final design for the library before they pick a contractor. Clerk Langowski stated this could be discussed further at the next Projects meeting on Monday, December 9th with the JPJ Engineering and their architect. He also stated that the City does not have a contract with anyone for the new Library building but there is a contract with JPJ Engineering and the Meyers Group for the City Hall renovation.

Nikkola/Omerza moved approval to have a Special Council meeting with the Project Committee on December 9, 2013 at 5:00pm at the Joint Maintenance Facility along with the City's current architect and engineer. Motion carried unanimously.

Kess/Debeltz moved to approve allowing for the City Rehabilitation loans to be used for residential demolition projects and to offer the loans with a 2% interest rate. Rehabilitation loan funds were originally made available through AEOA. The Clerk will check with AEOA to determine if any stipulations for use of the funds still exist. Motion carried unanimously.

Mayor Petersen would like the City to do away with the requirement for Soft Drink Licenses for any establishment that sells soft drinks beginning January 1, 2015. This will be looked into by the Clerk's office.

13. NEW BUSINESS:

A. Debeltz/Nikkola moved to approve signing partial payment estimate no.#2 to Utility Systems of America for \$176,588.85 for Project No#13-727, Chapman St Alleys 8th to 10th Aves. Motion carried unanimously.

B. Debeltz/Nikkola moved to approve Resolution #2013-040 approving the City of Ely budget for the fiscal year 2014. WHEREAS, the Ely City Council is responsible for properly managing and maintaining the City's finances; and WHEREAS, the Ely City Council is ultimately responsible for the accountability of the City's expenditures and revenues; and WHEREAS, by the Ely City Council as follows: Section 1. The annual budget for the City of Ely for the Fiscal Year beginning January 1, 2014 and ending December 31, 2014 is hereby adopted and incorporated herein by reference. Section 2. The sums and amounts of money herein set forth are hereby appropriated to respective accounts and funds therein set forth for expenditure during the Fiscal Year 2014, for each of the several items set forth in the budget. NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Ely, Minnesota does hereby adopt this resolution. Kess motioned to amend the motion to include lowering the Equipment Replacement fund from \$140,000 to \$100,000 and to use the \$40,000 to lower the tax levy even further. Motion failed due to lack of a second. Roll called: Debeltz-yes, Kess-no, Nikkola-yes, Omerza-yes, Polyner-yes, Sheddy-yes and Mayor Petersen-yes. Motion carried 6 to 1.

C. Nikkola/Omerza moved to approve Resolution #2013-041 approving and adopting final tax levy collectible in 2014. WHEREAS, the City of Ely is required by Minnesota Law to adopt a proposed levy for 2014, and to certify it to the St Louis County Auditor. NOW, THEREFORE BE IT RESOLVED that the Ely City Council adopts and approves the following sums of money to be levied for the current year, collectible in 2014, upon taxable property in the City of Ely, for the following purposes: General Fund - \$1,191,200; Library Fund - \$218,300; Debt Service - \$211,300; Total Levy -

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\$1,620,800. **BE IT ALSO RESOLVED**, that the Ely City Clerk/Treasurer is hereby instructed to transmit a certified copy of this resolution to the County Auditor of St. Louis County, Minnesota.

Roll called: Debeltz-yes, Kess-no, Nikkola-yes, Omerza-yes, Polyner-yes, Sheddy-yes and Mayor Petersen-yes. Motion carried 6 to 1.

14. OPEN FORUM

15. Nikkola/Omerza moved to adjourn the meeting at 7:17pm. Motion carried unanimously.

Claire Huisman
Deputy Clerk