

**CITY OF BERTHA**  
**REGULAR MEETING OF THE CITY OF BERTHA**  
**HELD AT THE BERTHA COMMUNITY CENTER**  
**MONDAY, OCTOBER 13, 2014**

**Members Present:** Mayor Klebs, Council members Zimmerman, Olson, Wanner & Hoernberg  
**Staff Present:** Clerk Umland, Public Works Templin and Eagle Bend Police Jares  
**Guest Present:** Trinity Gruenberg, Randy Chock, Roger Schahn, Barb Mares, Donna Klebs, Pete Wallner, Marv Stokes and Ray Stach.

**Declaring a quorum, Mayor Klebs called the meeting to order at 6:30 p.m. and the citizens recited the Pledge of Allegiance.**

**3. Review and Adopt the Consent Agenda**

**Note:** The Consent Agenda listed those items of business which are considered to be routine and/or which need no discussion. Consent items are acted upon by one motion. If discussion is desired by council, that item may be moved to an appropriate section of the regular agenda for discussion.

Mayor Klebs asked if there were any additions, corrections or deletions to be made to the Consent Agenda. **Item removed from the Consent agenda for discussion – 3E. Hobby Kennel Permit for Chad Kilbury.** Addition to the September 8, 2014, minutes on the second page under public comment to the second paragraph adding the requirements to do foster care. **Zimmerman moved, Hoernberg seconded, to approve the Consent Agenda as presented which included the following items with the corrections to the minutes and the removal of 3E; with all members present voting in favor.**

- A.** Approval of September 8, 2014 regular Council Minutes with the addition of requirements to be licensed for foster care.
  - a. Fenced- in- yard
  - b. Current vaccinations as required by the rescue organization based on vet recommendation
  - c. Licensed veterinary reference/one year prior working relationship
  - d. 2/3 personal references
  - e. Name of an approved 501(c)3 rescue organization
- B.** Approval of September disbursements and Authorized Issuance in accordance with list provided including all electronic payments. Void check 14351 – Mid Minnesota Truck Parts because the expense was for the Hewitt Fire Department. Added Claim 14390 – Fortwengler Electric Shop for an emergency repair for the fire department for \$143.80.
- C.** Reviewed bank correspondence - Investments & Bank Statement
- D.** Approved Fence permit 2014-05 to Shawn & Bonnie Nelson as presented.
- E.** Hobby Kennel Permit- Chad Kilbury removed for discussion
- F.** Adopt Resolution 2014-23 – Accepting a Minnesota DNR matching grant (50-50) in the amount of \$1,922.55 to purchase leaf blower, backpacks and gloves by the Bertha Fire Department, and authorize the appropriate signatures.
- G.** 2015 Liquor License Renewal for Long Pine Bar & Restaurant – Clerk Umland has forwarded the renewal forms to the applicant. She will submit the forms to the State of Minnesota once the forms are returned with the appropriate insurance certificates. Liquor license pending upon all fees and legal requirements being met as required by the City of Bertha and State of Minnesota’s Liquor Control Board.

**Item 3E Consent Agenda** -item was removed for further discussion on the Hobby Kennel permit for Chad Kilbury. Mayor Klebs suggested that the council put a one year moratorium on kennel licensing so the

city could get legal advice. This could give us more time to get legal opinion on how to deal with permits to avoid a law suit. Also, need to know if the law enforcement has ever received any complaints on his current animals. A notice was sent to the surrounding neighbors to get their input before the decision is made. At the September meeting, he was asked what rescue organization he was working with and he replied, "That he hadn't decided yet". This indicates he has not been approved yet to do foster care with any organization prior to applying for a permit. Mr. Kilbury in his statements at the previous meeting would indicate he was going to do foster care and then changed his statements and wanted to be allowed a third pet just for family. The previous city code does not mention anything about kennel permits. Motion by Olson, seconded by Wanner to postpone the decision of denial/approval until the city council has more information to act on the permit application. Carried.

**4. Public Comment-** Randy Chock informed the city council that they have 60 days to change their ways and become more business friendly or a lawsuit will ensue. He stated there is currently state and federal investigation going and they found issues. He wanted to give the council a chance to redeem themselves before the taxpayers have to pay for their mistakes. He stated the city council is here to represent the citizens and not give their opinions. Council Member Zimmerman stated that the revolving loan committee asked him to provide proof that the back taxes are paid and a clear title is provided before they would revisit the application. Once he provides the committee with that information they requested, they will call a meeting and present the council with a recommendation. Mr. Chock informed the council that the committee could not ask for some of the information that is required on the form. Mr. Chock felt that the committee misused privileged information and the entire situation was mishandled. The council discussed the importance of having meetings recorded if needed to be used in court if they ever have legal action taken against them.

Ray Stach was in attendance to discuss a letter he received from the city informing him to purchase dog license. It stated that he had so many days to have his pets licensed or he would be served with an administrative fine. At the bottom of the letter was written, if you do not have a dog please contact the city office instead he attended the council meeting.

***At 7:10 p.m. Mayor Klebs opened the public hearing for the vacating of an alley.***

A petition had been submitted by adjoining property owners on the alley between Lots 1-12 and Lots 13-18 Block 1 of Original Townsite Addition of Bertha. The only property owner from the neighborhood present was Roger Schahn. Notice was published for two weeks and property owners within 350 feet were sent letters informing them of the public hearing within 10 days prior to the hearing. The purpose of the public hearing is to hear any comments on vacating the 14 foot wide alley. The argument for vacating the alley was to eliminate the developed lawns from being rut up by thru traffic. The council discussed pros and cons on vacating city alleys. The consensus of the council was once you vacate an alley you lose control. The finding of the council was that the alley should not be vacated and would not be in the city's best interest. One option that was discussed to eliminate residents from damaging the unimproved alley was install signs at both entrances, "No Thru Traffic". The council felt they would only receive minimal additional taxes to the city. No further comments were received regarding vacation of the alley. Mayor Klebs closed the public hearing at 7:35 p.m.

Barb Mares informed the council the alley abutting her property was vacated. The council asked Clerk Umland to check into what other allies in the city possibly are vacated.

## **RECONVENED CITY COUNCIL MEETING**

**A.** A motion was made by Olson and seconded by Hoemberg to approve Resolution 2014-18 to deny the request to vacate the east-west alley between Central Ave N and 1<sup>st</sup> Ave NE in the City of Bertha. All in favor. Motion carried.

**B.** Project to correct the drainage issue at 300 Block of Klimek Rev. Addition – Korblick will be in town this week.

**C.** Bertha Authority Project - 1st Street and 1<sup>st</sup> Ave Drainage abutting Pete's Storage Units – Read correspondence related to this project

Clerk Umland sent an email to Jeff S. (USDA) stating the drainage problems that are a result of the construction project and Moore Engineering has not solved the problems what course of action can the city do.

Jeff S. (USDA) responded, "If you feel Moore hasn't fulfilled their contract w/the city, then you'd want to discuss it w/the city attorney." I remember that we discussed this issue w/the runoff at the warranty inspection, but at that time it wasn't clear if it was related to design, construction, the lay of the property in question, or some other factor.

Clerk Umland sent an email to Jeff S. (USDA) asking if the city could hold retainage and put it in an escrow account until the problem is solved so it wouldn't hold up the closing.

Jeff S. (USDA) responded that it was not allowed to be held by RD until the time that they needed to pay for eligible expenses. If there are legitimate issues remaining then the city would have until 4/21/15 to make the final funding request. If an exception was granted then the drop dead date for forwarding the funds would be 9/30/15.

Mayor Klebs stated that he had Clerk Umland send an e-mail to Hugh Veit (Moore Engineering) requesting in writing what they plan to do to correct this drainage problem.

Hugh Veit responded that he felt it had to do with existing drainage was inadequate and is compounded by the way the storage building was situated on the southeast corner of the intersection. He stressed that during construction that Moore Engineering tried to mitigate the drainage problem at this intersection as much as possible given the circumstances.

He reiterated the specifics of this situation:

1. Pre-existing drainage was inadequate,
2. Drainage issues were compounded by the building itself, and
3. Funding sources preclude any significant improvements to drainage.

Based on these findings, nothing additionally can be done within the intersection within the scope of the utility improvement project. This summarizes the letter received from Hugh Veit concerning the drainage issue. Mr. Wallner stated prior to construction he did not have any drainage problem. Barb Mares stated she now has problems with standing water on her property on 4<sup>th</sup> Street. The council felt the next step is to contact the city attorney and see what option the city has to resolve this problem.

### **6. Communication Report**

#### **A. Review the enterprise reports no questions**

**B. Fire/Ambulance Report - Mr.** Wallner stated the department is working on getting more volunteers on the department by increasing the response area from 4 miles to 7miles. This will overlap with the Hewitt response area but was approved with the Hewitt Chief. Entry level age was 20 years old and has been reduced to 18 year of age. Last week they celebrated fire prevention week. The department decided to install a banner on the highway advertising the need for volunteers. Clerk Umland will have a notice put on the city website informing the public that they are in need of new recruits for ambulance service or/and fire department. Ms. Wanner informed the council that the EMS regulatory board has changed the process of recertification of EMT's.

**C. Law Enforcement** - Mr. Berndt was absent from the meeting but Mr. Jares the part-time officer stop by to attend the meeting. Mayor Klebs received the September activity report from Mr. Berndt. The report showed violations as follows: 23-citizen calls, 4-citations, 4-warnings, 0-arrests, 5-public assists, 1-investigations and 1-vehicle unlock.

**D. Public Works** – Supervisor Templin presented the September monthly activity report. **Motion by Wanner, seconded by Hoemberg to approve purchasing 2 signs-“No thru Traffic” with posts and a spray foam kit to be used on the water tower base and at the old lift station. Carried.** The cost of the kit is approximately \$370.00. Mr. Templin was asked to get the flag pole painted and install a new rope.

**E. Clerk’s Report** – *see overview of the October agenda.* Clerk Umland informed the council that she received a call from a member of New Life Church about regulations on riding go-karts on their property. The council felt that the city could not regulate since they will be riding on their own property.

## **7. Committee Reports – None**

## **8. Meetings/Conference/Correspondence**

**A. Rebirth of a Legend 2015 Winnipeg to Willmar I-500** – reviewed the map of the route the riders will take. The racers will fuel up in Bertha and several spectators are expected to watch the racer as they pass thru.

**B. Pera-** attended a meeting in Brainerd on October 7<sup>th</sup> learning about the new regulations

**C. New version of CTAS** – will be available within the next month & showed us the new format

**D. Dog application** – presented a dog license application. Motion by Olson, seconded by Hoemberg to approve the application with new fees after two corrections are made. Carried. The changes were every dog over six (was 3) months of age must be licensed with the City. The other correction was \$10.00 fee for foster care permit not \$5.00. The residents will have to pay a higher annual fee for having non-spayed/Neutered dogs. Clerk Umland presented the council with information on having MN SNAP (Minnesota Spay Neuter Assistance Program) come to Bertha. Their mission is to help end suffering and death of companion animals in Minnesota due to pet overpopulation by providing high-quality, affordable and accessible spay and neuter services to those in need. Their mobile surgical unit travels to a pre-scheduled destination for the day at no cost to the sponsor. Motion by Wanner, seconded by Olson approving Clerk Umland to schedule the MN SNAP mobile unit to come to Bertha in the middle of April. Carried.

**E. First Net Safety Training** – reviewed – will use LMC for safety training once our agreement with MacNeil Environment terminates. This service is free to the city with NJPA picking up part of the fee.

Clerk Umland was asked to look into getting a digital taping system and have information available for the next meeting.

## **9. Adjournment**

There was no further business to come before the City Council, Councilmember Hoemberg moved, Member Wanner seconded the motion to adjourn. With all members in favor motion was carried. The meeting adjourned at 8:45 p.m.