

REGULAR MEETING OF THE EMERSON CITY COUNCIL
 WEDNESDAY, APRIL 14, 2021 – 6:00 P.M.
 THIS MEETING THROUGH ZOOM FOR GENERAL PUBLIC
 ORIGINATING FROM EMERSON CITY HALL – 410 MANCHESTER
 (MAYOR PRO-TEM/COUNCIL/CITY STAFF IN PERSON AT CITY HALL)

Mayor Pro-Tem Mike Branigan called the regular meeting of the Emerson City Council to order on Wednesday, April 14, 2021, 6:00 p.m. through Zoom, originating from Emerson City Hall. This meeting was held partially electronically due to the Coronavirus and the social distancing suggestions for group gatherings.

Pledge of allegiance was recited.

Roll Call: Present: Councilperson Ann Roth, Larry Johnson, Randy Gray, Bob Huntsman, and Mike Branigan
 Absent: None

Moved by Councilperson Roth, seconded by Johnson to approve the agenda.

Roll Call: Ayes: Councilperson Gray, Huntsman, Roth, Johnson, and Branigan
 Nays: None

Motion Carried.

Moved by Councilperson Gray, second by Roth to approve consent agenda:

*Minutes from regular meeting of March 10, 2021

*Warrants for March 2021

*Financial Report for March 2021

Roll Call: Ayes: Councilperson Johnson, Gray, Huntsman, Roth, and Branigan
 Nays: None

Motion Carried.

Moved by Councilperson Johnson, seconded by Branigan to approve claims for April 2021 in the amount of \$22,058.47

Roll Call: Ayes: Councilperson Huntsman, Roth, Johnson, Gray, and Branigan
 Nays: None

Motion Carried.

Visitors opportunity to speak: None

Moved by Councilperson Roth, seconded by Branigan to approve building permit application to add step and platform to existing deck to access new pool, then adding more deck between garage and pool at 411 Lowell Avenue

Roll Call: Ayes: Councilperson Johnson, Gray, Huntsman, Roth, and Branigan
 Nays: None

Motion Carried.

Moved by Councilperson Johnson, seconded by Gray to approve building permit application to replace existing front porch, add an attached 15' deck on east side of house to allow access to front door from driveway at 411 Lowell Avenue

Roll Call: Ayes: Councilperson Huntsman, Roth, Johnson, Gray, and Branigan
 Nays: None

Motion Carried.

Moved by Councilperson Roth, seconded by Gray to approve the sidewalk repair at 611 Manchester Street, \$900 toward the cost of the concrete, as quoted.

Roll Call: Ayes: Councilperson Huntsman, Roth, Johnson, Gray, and Branigan
 Nays: None

Motion Carried.

Moved by Councilperson Johnson, seconded by Gray to approve Change Order #1 To Power Tech to fix a broken conduit and service mast during the construction project of 2019 Lift Station Electrical Improvements, in the amount of \$1,145.00

Roll Call: Ayes: Councilperson Huntsman, Roth, Johnson, Gray, and Branigan
Nays: None

Motion Carried.

Moved by Councilperson Johnson, seconded by Huntsman to approve Pay Request #1 to PowerTech in the amount of \$50,495.00 for the 2019 Lift Station Electrical Improvements, SRF Project

Roll Call: Ayes: Councilperson Roth, Johnson, Gray, Huntsman, and Branigan
Nays: None

Motion Carried.

Council discussed the current water and sewer rate ordinance that is in place and is scheduled for an increase July 1, 2021. Clerks had made contact with Chip Schultz of Northland Securities and asked him to also review the current rates/projected rates and give his advice of whether he thinks an increase is necessary this year. He advised that he feels the user rates that were put into place in 2020 should be sufficient to provide more than adequate funding for the respective utility fund operating expenditures, maintenance improvements and annual debt service.

Moved by Councilperson Huntsman, seconded by Roth to direct Clerks to write an ordinance showing no increase in water or sewer rates effective July 1, 2021 and have it on the next agenda.

Roll Call: Ayes: Councilperson Johnson, Gray, Huntsman, Roth, and Branigan
Nays: None

Motion Carried.

Kyle Dornburgh of Old Road Café and Bar had submitted a written request for street closure to host a street dance for Emerson Days on September 11, 2021 and possibly host a dirt truck racing event at Bass Park that weekend. Council is in support of events for the community but would like more information before action is taken. Attorney Fishman and the Clerks will put together a package of needed information to present to Mr. Dornburgh that will ask for specific items to be provided. This will be on next agenda for further discussion and possible action.

Fire Department Report – Liz Ungry, Chief:

*Posted “No Entry” on 502 King Street due to dangerous building and letter has been mailed to owner

*Would like to have a fire department dinner in the park on May 22 beginning at 4:00 pm. This will be on May council agenda for council action as it was not an agenda item.

*Wants to remind all citizens of the No Burning Ordinance. Mills County has their own ordinance as well and the county dispatch has to be called of any control burns. If you don't call, the county could ticket you. Recreational fires that meet city code are acceptable.

*Made calls to get quotes on fire building gutters and downspouts. One call was a “no”, one call never showed up, and the third call was with Stephens Home Improvement of which a bid was received

*She will contact Fire Department volunteers to see if they can assist with the City Clean-Up Days of April 22, 23, 24

Moved by Councilperson Johnson, seconded by Gray to accept the bid from Stephens Home Improvement for fire station building gutter and downspouts in the amount of \$2,707.50

Roll Call: Ayes: Councilperson Huntsman, Roth, Johnson, Gray, and Branigan

Nays: None

Motion Carried.

There was no action on the EMS siren but Mayor Pro-Tem Branigan explained the situation that the one siren is non-functional and the importance of getting the order placed, as it could take time to get the new controller here.

Moved by Councilperson Roth, seconded by Johnson to begin the process to get rid of the 410 King Street property (sale of city property)

Roll Call: Ayes: Councilperson Gray, Huntsman, Roth, Johnson, and Branigan
Nays: None

Motion Carried.

Moved by Councilperson Roth, seconded by Johnson to have City Attorney Fishman and his paralegal put into motion to get 408 Manchester Street as an abandoned property.

Roll Call: Ayes: Councilperson Gray, Huntsman, Roth, Johnson, and Branigan
Nays: None

Motion Carried.

Moved by Councilperson Johnson, seconded by Gray to approve the Evans Park basketball court fence recommendation of removing west side fence and repair east side fence only, for \$1200 with quote from Stephens Home Improvements.

Roll Call: Ayes: Councilperson Huntsman, Roth, Johnson, Gray, and Branigan
Nays: None

Motion Carried.

Moved by Councilperson Branigan, seconded by Huntsman to approve Communications Center 28E Agreement for Fiscal Year 2020-2021 between Mills County, Iowa and City of Emerson, Iowa and authorize payment of \$3,504.00.

Roll Call: Ayes: Councilperson Roth, Johnson, Gray, Huntsman, and Branigan
Nays: None

Motion Carried.

No action on City Hall front ADA compliance as no bid was received yet.

Moved by Councilperson Roth, seconded by Gray to approve Resolution No. 2021-11
**RESOLUTION TO RE-INVEST OR OTHER ACTION OF MONIES FROM CD
MALVERN BANK MATURING APRIL 10, 2021 (council voted to leave CD at
Malvern and let it automatically renew)**

Roll Call: Ayes: Councilperson Huntsman, Roth, Johnson, Gray, and Branigan
Nays: None

Motion Carried.

Moved by Councilperson Roth, seconded by Johnson to approve the 1st reading of the Proposed Ordinance to Amend the Code of Ordinances of the City of Emerson, Iowa Pertaining to Dangerous and Vicious Animals.

Roll Call: Ayes: Councilperson Gray, Huntsman, Roth, Johnson, and Branigan
Nays: None

Motion Carried.

Moved by Councilperson Roth, seconded by Johnson to waive the 2nd and 3rd readings of the Proposed Ordinance to Amend the Code of Ordinances of the City of Emerson, Iowa Pertaining to Dangerous and Vicious Animals.

Roll Call: Ayes: Councilperson Gray, Huntsman, Roth, Johnson, and Branigan
Nays: None

Motion Carried.

Moved by Councilperson Roth, seconded by Johnson to adopt Ordinance No. 368
AMENDMENT TO ORDINANCE TO AMEND THE CODE OF ORDINANCES

OF THE CITY OF EMERSON, IOWA PERTAINING TO DANGEROUS AND
VICIOUS ANIMALS

BE IT ENACTED by the City Council of the City of Emerson, Iowa:

SECTION 1. SECTION MODIFIED. The Code of Ordinances of the City of Emerson, Iowa is hereby amended by repealing subsection 55A.01(2) and the following adopted in lieu thereof:

55A.01(2). "Vicious animal" means an animal that meets one or more of the following:

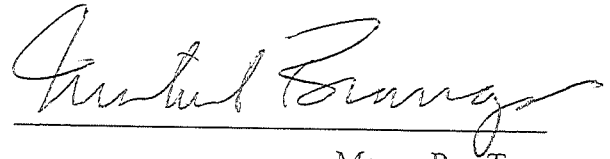
- (1) Any animal that while in violation of sections 55.07 and 55.08 claws, bites, or otherwise inflicts injury to a person or domestic animal without provocation;
- (2) Any animal that while in violation of sections 55.07 and 55.08 attempts to claw or bite a person or domestic animal without provocation;
- (3) Any animal that has the propensity to claw, bite, or otherwise inflict injury to a person or domestic animal without provocation and such propensity is known or reasonably ought to be known to the owner thereof. Regardless of whether an animal is in compliance with section 55.07 or 55.08 or both sections, if an animal meets one or more of the following criteria, the animal will be deemed to have a propensity to claw, bite, or otherwise inflict injury to a person or domestic animal without provocation: (1) has more than one incident of clawing, biting, or inflicting injury to a human or domestic animal unprovoked, (2) has more than one incident of attempting to claw or bite a human or domestic animal unprovoked;
- (4) Any animal that has been trained for dog fighting, animal fighting, or animal baiting, or is owned or kept for such purposes;
- (5) Any dog trained to attack human beings upon command or spontaneously in response to human activities except dogs owned by and under the control of the police department, a law enforcement agency of the State of Iowa or the United States or a branch of the armed forces of the United States;
- (6) Any animal on a cord, chain or similar restraint while off the premises of its owner that is unable to be controlled to prevent the animal from clawing, biting, or inflicting injury to a person or domestic animal unprovoked; or
- (7) Any animal that has bitten, clawed, or inflicted injury to a person and as a result of the bite, claw, or injury the person dies or needs surgery regardless of whether the animal is in compliance with section 55.07 or 55.08 or both.

Inflicting injury is defined as breaking the skin of a person or domestic animal.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the 14 day of April, 2021, and approved this 14 day of April, 2021.



Mayor Pro-Tem

ATTEST:

Mary L. Bolton

Mary L. Bolton, City Clerk

Roll Call: Ayes: Councilperson Gray, Huntsman, Roth, Johnson, and Branigan
Nays: None

Motion Carried.

Moved by Councilperson Roth, seconded by Huntsman to approve Resolution No. 2021-10
RESOLUTION ESTABLISHING ZOOM COORDINATOR FOR CITY COUNCIL MEETINGS OR ANY OTHER CITY MEETINGS (Council's re-vote after Mayor Pro-Tem's veto from original passage on March 10, 2021)

Roll Call: Ayes: Councilperson Johnson, Gray, Huntsman, and Roth
Nays: Councilperson Branigan

Motion Carried.

Moved by Councilperson Roth, seconded by Johnson to order security cameras for city hall and use for safety grant application through ICAP.

Roll Call: Ayes: Councilperson Gray, Huntsman, Roth, Johnson, and Branigan
Nays: None

Motion Carried.

Discussion took place on the sewer plant generator. It was too late to get on the auction as motioned at last meeting. City Maintenance Todd Franks had contact that there might be someone out of Texas that buys generators. He will take pictures and send an e-mail.

Trees that are dying, or might be danger to the public, that are located inside the city right-of-way was discussed. Franks to get quotes on tree and stump removals for next agenda.

Franks updated Council on the west well elbow replacement and rebuilding the west well pump. Part can be paid from current budget and part in next fiscal year budget.

Rock for Bradford & Burlington streets was discussed with no action taken, as it's being considered daily maintenance.

Councilpersons Gray and Huntsman will work with Franks on obtaining information for options to replace the city pickup. This will be on a future agenda.

Public Works maintenance report – Todd had nothing more to report. A written report had been provided in council packet.

Mayor's report – by Mayor Pro-Tem Branigan: reminded citizens of city-wide clean-up days and also of the open burning information received from Chief Ungry

Moved by Councilperson Johnson, seconded by Gray to authorize Deputy Clerk to attend Clerk Meeting – Lunch & Learn on April 21, 2021 in Henderson, sponsored by Midwest Assistance Program

Roll Call: Ayes: Councilperson Huntsman, Roth, Johnson, Gray, and Branigan
Nays: None

Motion Carried.

Clerk Report – Mary Bolton and Lana Moyers: written report had been submitted but additional comments at meeting:

*School district is looking for Emerson property for their community clean up day on April 30, 2021

*Reminder to council of financial process for city clean-up days

Kyle Dornburgh with Old Road Café and Bar was not on-line earlier but had since joined the meeting. Mayor Pro-Tem Branigan allowed Council to go back to the agenda item and he was advised of their discussion and direction to the attorney and clerks to prepare paperwork.

Additional items as may come before the Council:

*Councilperson Huntsman – questioned service repair spots in streets that need some concrete (Todd is talking with Drew Magers about getting these done)

*Power line at Bass Park is hanging low

*Bass Park bathrooms need cleaned out

*Councilperson Johnson commented that the clerks need the password for the zoom account as the zoom access is back to the clerks

Items for upcoming agenda:

*Fire department request to use Evans Park on May 22 – 4:00 pm

*Resolution for minimum bid on sale of 411 King Street property

*Stipulations for requests from Old Road Café and Bar of street dance and dirt event

*Front door ADA

*Concrete near kiosk

*Ordinance on water and sewer rates

*Tree removal quotes

*Truck replacement

*Generator status

*Process update on Manchester and King Street properties

*Add Attorney Report to future agendas

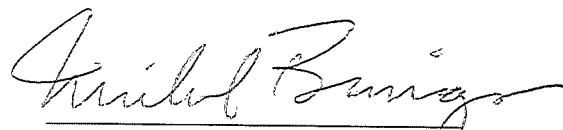
Moved by Councilperson Johnson, seconded by Huntsman to adjourn the meeting.

Roll Call: Ayes: Councilperson Roth, Johnson, Gray, Huntsman, and Branigan

Nays: None

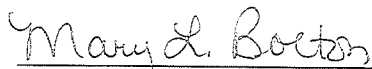
Motion Carried.

Meeting Adjourned.



Michael Branigan, Mayor Pro-Tem

ATTEST:



Mary L. Bolton, City Clerk