

City of Mt. Vernon, Iowa

Meeting:	Mt. Vernon City Council Meeting
Place:	Mt. Vernon City Hall, 213 First Street NW, Mt. Vernon, Iowa 52314
Date/Time:	July 18, 2016 – 6:30 PM
Web Page:	www.cityofmtvernon-ia.gov
Posted:	July 15, 2016

Mayor:	Jamie Hampton	City Administrator:	Chris Nosbisch
Mayor Pro-Tem:	Marty Christensen	City Attorney:	Robert Hatala
Councilperson:	Paul Tuerler	Assis. Admin/City Clerk:	Sue Ripke
Councilperson:	Scott Rose	Deputy City Clerk:	Marsha Dewell
Councilperson:	Tom Wieseler	Chief of Police:	Doug Shannon
Councilperson:	Eric Roudabush		

Prior to the start of the regularly scheduled City Council meeting, the Mayor and City Council will be touring the Public Works Facility located in 1040 2nd Ave N, Mt. Vernon, Iowa. The tour will begin at 5:30 p.m., July 18, 2016.

- A. Call to Order**
- B. Agenda Additions/Agenda Approval**
- C. Communications:**
 - 1. Unscheduled
 - 2. True North Presentation – Workman's Compensation

If you wish to address the City Council on subjects pertaining to today's meeting agenda, please wait until that item on the agenda is reached. If you wish to address the City Council on an item **not** on the agenda, please approach the microphone and give your name and address for the public record before discussing your item. Each individual will be granted no more than five (5) minutes.

- D. Consent Agenda**

Note: These are routine items and will be enacted by one motion without separate discussion unless a Council Member requests separate consideration.

 - 1. Approval of City Council Minutes – July 5, 2016 Regular Council Meeting

- E. Public Hearing**
 - 1. None

- F. Ordinance Approval/Amendment**
 - 1. None

- G. Resolutions for Approval**
 - 1. None

- H. Mayoral Proclamation**
 - 1. None

- I. Old Business**
 - 1. None

J. Motions for Approval

1. Consideration of Claims List – Motion to Approve
2. Discussion and Consideration of City Hall Cleaning Services – Council Action as Needed
3. Discussion and Consideration of Zoning Board of Adjustment Vacancies – Council Action as Needed
4. Discussion and Consideration of Setting Public Hearing Date for an Ordinance to Adopt Chapter 48 Social Host of the Mt. Vernon Municipal Code
5. Discussion and Consideration of Pay Application #2 – Pool Filters and Heaters – Council Action as Needed
6. Discussion and Consideration of Pay Application #3 – 2015 Sanitary Sewer Improvements – Council Action as Needed

K. Reports to be Received/Filed

1. Police Report
2. Parks and Recreation Report
3. Public Works Report

L. Discussion Items (No Action)

1. Alley Policy

M. Reports of Mayor/Council/Administrator

1. Mayor's Report
2. Council Reports
3. Committee Reports
4. City Administrator's Report

N. Adjournment

Pursuant to §21.4(2) of the Code of Iowa, the City has the right to amend this agenda up until 24 hours before the posted meeting time.

If anyone with a disability would like to attend the meeting, please call City Hall at 895-8742 to arrange for accommodations.

**JUST A
REMINDER!!**

**WE ARE MEETING
AT THE PUBLIC
WORKS BUILDING
AT 5:30, BEFORE
THE REGULAR
COUNCIL MEETING.**

C. Communications

AGENDA ITEM # C – 2

**AGENDA INFORMATION
MT. VERNON CITY COUNCIL COMMUNICATION**

DATE:	July 18, 2016
AGENDA ITEM:	True North Presentation
ACTION:	None

SYNOPSIS: True North will be present to discuss the experience modification rating and how it effects the City's workman's compensation rate. The City has seen a fairly significant increase in both its modification rate and workman's compensation premium.

BUDGET ITEM: N/A

RESPONSIBLE DEPARTMENT: City Administrator

MAYOR/COUNCIL ACTION: Motion

ATTACHMENTS: Presentation

PREPARED BY: Chris Nosbisch

DATE PREPARED: 7/11/16

D. Consent Agenda

Prior to the start of the regularly scheduled City Council meeting, Mayor Hampton and council toured the Mt. Vernon City Pool located in Davis Park (2nd Ave. N.), Mt. Vernon, Iowa. The tour began at 5:30 p.m., July 5, 2016.

The Mount Vernon City Council met July 5, 2016 at the Mount Vernon City Hall Council Chambers with the following members present: Roudabush, Tuerler, Wieseler, and Rose. Absent: Christensen

Call to Order. At 6:30 p.m. Mayor Jamie A. Hampton called the meeting to order.

Agenda Additions/Agenda Approval. Motion made by Wieseler, seconded by Rose to approve the agenda. Carried all. Absent: Christensen.

Christensen arrives at 6:32 p.m.

Communications

Community Center Presentation. Guy Booth updated Council on the Community Center. Booth stated that the City has responded very positively towards the idea of a community center. Three surveys have shown that the most popular feature would be an indoor pool followed by gym space, a walking track, a social space, cardio-vascular equipment and multipurpose space. When discussing funding Booth replied that they pretty much know that there could be as much as \$3 million from LOST III. This is not all available at this time so additional funding could come from community fundraising or grants. The emphasis is staying within a budget that is well defined. Facility management has been discussed; it could be City managed or it could be a management group such as the YMCA. A key element is where it will be located. There have been good communications with the community school district. They haven't made a decision yet but there is the possibility that they may donate land for this. Cornell College has backed away from the project because of other priorities. Ed Sauter stated that sixteen different sites were looked at. The committee has narrowed those down to three sites. City Administrator Chris Nosbisch explained that if the City doesn't bond until FY18 there could be \$3.5 million available for the project. Christensen said that having this pool of money (LOST II) allows the City to apply for grants. If the City has \$3 million for the project he would like to see a design for a \$4 million project and then figure out how to make up that extra one million. He does not think we should overlook any opportunities to leverage this money to get more money from other sources. Nosbisch said that the Committee was charged with giving them a shell or project that could actually be built tomorrow with the money that is available today. Roudabush said that he thought the project should be built with what the City actually receives from grants and donations and reminded all that Cedar Rapids passed their LOST tax for 10 years only (Mount Vernon is a 20 year tax) so if they do not pass this again after 10 years Mount Vernon could see a considerable drop in their LOST III funds income.

Consent Agenda

Approval of City Council Minutes – June 20, 2016 Regular Council Meeting. Motion made by Tuerler, seconded by Wieseler to approve the Consent Agenda. Carried all.

Public Hearing

Public Hearing on Ordinance to Amend Table 4.2 Permitted Uses by Zoning Districts of the City of Mt. Vernon Municipal Zoning Code. Close Public Hearing – proceed to F-1. Mayor Hampton declared the Public Hearing open. Nosbisch explained that this is to amend Table 4.2, permitted uses by Zoning Districts. Jim Moore has requested, in front of Council, to have P & Z look at amending the district to allow retail uses in Limited Industrial zoning. Chairman Truman Jordan submitted a memo dated 6-13-2016 where the request was denied with a vote of 7-0 against. The amendment for Council discussion is to allow limited, medium and large retail in the LI district. Jim Moore addressed Council saying that because of a lack of employees, as of October, REM will no longer be in Mount Vernon. Continuing Moore said that Neal's (Neal's Water Conditioning) sells salt and he has bought 6-10 sets of washers and dryers from them for his apartments. Dick Peterson explained the P & Z decision saying that Jim Moore's request has been turned down unanimously three times. Peterson said moving retail to different sections of the City has come up several times in the past. Each time P & Z has said "no". They have maintained the sense that retail belongs in the Town Center in the Urban Corridor and they don't want to start "sprinkling" it all over town. Also, ECICOG Chad Sands was recently hired to re-write the zoning ordinance so that it is in-line with the new Comprehensive Plan. On the future land use map in the Comp Plan there are other areas designated as Light Industrial. If retail is included in LI because of the Moore request it would then have to be included in a whole new section of the City; if it's allowed one place it would have to be allowed in others. In Table 4.2 there are currently 58 permitted and conditional uses in Light Industrial. Roudabush said that in the letter (from Chairman Truman Jordan) it should have said that "any business doing retail in those areas should cease and desist at this time". Peterson said he does not think there are any retail businesses in LI. The definition of retail in the Zoning Ordinance is someone who is open every day selling goods that are commonly consumed by people. Referencing the business Moore used, Peterson stated that salt is only sold on the weekends; it cannot be bought in the middle of the week and they no longer sell appliances. Barbara Lau said that she had concerns regarding quality of life issues and safety for children in the area if retail were permitted. Mayor Hampton declared the Public Hearing closed.

Ordinance Approval/Amendment

An Ordinance Amending Table 4.2 Permitted Uses by Zoning Districts of the City of Mt. Vernon Municipal Code. Motion to approve first reading and proceed with second reading/or suspend rules and proceed to third and final reading. Christensen said that Council should support the Code. Roudabush stated that industrial retail makes taxes for this community and we seem to be chasing them off; the City needs the tax base. Roudabush made a motion to approve the first reading allowing retail in the LI district, seconded by Tuerler. Roll call vote. Aye: Roudabush. Nay: Christensen, Rose, Tuerler, Wieseler. Motion fails 1-4.

An Ordinance Amending Chapter 5 Operating Procedures of the City of Mt. Vernon Municipal Code. Motion to suspend rules and proceed to third and final reading. Council was asked to vote again on amending Chapter 5 Operating Procedures of Mount Vernon when it was determined that it was not clear if two motions were made at the 6-20-2016 Council meeting. Wieseler made a motion to suspend the rules and go to the third and final reading, seconded by Rose. Roll call vote. Motion passes 5-0.

An Ordinance Amending Chapter 92 Water Rates of the City of Mt. Vernon Municipal Code. Motion to approve third and final reading. Motion to approve the third and final reading made by Rose, seconded by Tuerler. Roll call vote. Motion carries 5-0.

Resolutions for Approval. The following three resolutions (#'s 1, 2, & #3) are adopted to set the depositories and the rules associated with doing so. The names need to be changed to reflect the new Administrator and Mayor. No other changes are being proposed.

Resolution Establishing Depositories of Public Funds With Mount Vernon Bank and Trust. Christensen moved approval of Resolution #7-5-2016A related to establishing depositories of public funds with Mount Vernon Bank and Trust, seconded by Wieseler. Roll call vote. Motion carries 5-0.

Resolution Establishing Depositories of Public Funds With Hills Bank and Trust Company. Christensen moved approval of Resolution #7-5-2016B related to establishing depositories of public funds with Hills Bank and Trust Company, seconded by Rose. Roll call vote. Motions carries 5-0.

Resolution Establishing Depositories of Public Funds With Bridge Community Bank. Christensen moved approval of Resolution #7-5-2016C related to establishing depositories of public funds with Bridge Community Bank, seconded by Wieseler. Roll call vote. Motion carries 5-0.

Resolution Making Award of the Construction Contract for Mobilization and Construction of Access Improvements at Hwy 1 and Gary's Foods. At the June 20, 2016 Council decided to move forward with Alternative #2. The City solicited quotes for the project and two were received. E&F Paving Company submitted a bid for \$41,415.00 and Borst Bros. Construction bid was for \$33,447.50. This improvement will also remove the sidewalk. Christensen asked if there would be any additional engineering work to which Nobsch answered yes; the fees and contingency will be about \$10K. It is the recommendation of V & K Engineers to accept the low bid of \$33,447.50 from Borst Bros. Construction. Tuerler made a motion to approve the award of the construction contract for mobilization and construction of access improvements at Hwy 1 and Gary's Foods to Borst Bros. Const. in the amount of \$33,447.50, seconded by Christensen. Roll call vote. Motion passes 5-0.

Motions for Approval

Consideration of Claims List – Motion to Approve. Motion to approve the Claims List made by Wieseler, seconded by Rose. Carried all.

A TECH	SECURITY CAMERAS-RUT	3,379.95
ALL SECURE	SECURITY ALARM INSTALLATION	1,010.00
ALTORFER INC	EQUIP REPAIR-WAT	11.00
ANDREWS, CHRISTIAN	CONCRETE GRINDING WHEEL-RUT	22.64
BALICEK, RITA	CLEANING SERVICE-P&A	52.50
BAUMAN AND COMPANY	UNIFORMS-ALL DEPTS	1,334.10
BENHART, SHERRIE	CLEANING SERVICE-P&A	52.50
BOBCAT OF CEDAR RAPIDS	RADIATOR/SKID LOADER	674.85
BRADLEY HAUGE CPA	PROFESSIONAL SERVICES-P&A	275.00
BROWN PLUMBING COMPANY	PLUMBING-POOL BOND	19,550.00
BURROUGHS, RICHARD	CEMETERY MAINT	3,725.00
CAMPBELL SUPPLY CEDAR RAPIDS	NAIL GUN, NAILS-RUT	209.00
CAREPRO PHARMACY	SUPPLIES-POOL	102.69
CARPENTER UNIFORM CO.	UNIFORMS-PD	134.67
CARQUEST OF LISBON	VEHICLE MAINT-PW	800.06
CARQUEST OF LISBON	VEHICLE MAINT-PW	236.11
CARROLL CONSTRUCTION SUPPLY	REBAR SHEAR-RUT	390.00
CLARK, BRIAN	DOG PARK EXP	169.31
COGRAN SYSTEMS	ONLINE REGISTRATION FEES-P&REC	226.00
COLE PUBLIC LIBRARY	SUPPORT	65,000.00
COMMUNITY BAND	SUPPORT	1,000.00
COMMUNITY DEVELOPMENT GROUP	SUPPORT	15,000.00
CONSTRUCTION MATERIALS INC	ROAD MAINT-RUT	38.00
CORNELL COLLEGE MEN'S SOCCER	SPRING SOCCER LEAGUE OFFICIALS	480.00
CY'S TREE SERVICE	3 MAPLES/3RD ST SW-RUT	7,000.00

CY'S TREE SERVICE	TREE MAINT-RUT	3,150.00
DAUSENER, TANDI	REFUND-P&REC	75.00
DEPT OF TREAS	IRS FORM 720/PCORI	44.49
DUBUQUE PLUMBING & HEATING	FILTERS & HEATERS-POOL BOND	96,412.61
ELECTRONIC ENGINEERING CORP	INFORMATION SYSTEMS-PW	319.60
ELECTRONIC ENGINEERING CORP	INFORMATION SYSTEMS-PW	319.60
ELECTRONIC ENGINEERING CORP	PAGER SERVICE-EMA	11.95
EVER-GREEN LANDSCAPE NURSERY	MULCH-RUT	180.00
EVER-GREEN LANDSCAPE NURSERY	MULCH-RUT	144.00
FOREST, KATEY	SUPPLIES-POOL	19.76
GARY'S FOODS	CONC STAND-POOL	2,829.94
GARY'S FOODS	CONC STAND-POOL	65.75
GAZETTE COMMUNICATIONS	ADS/PUBLICATIONS-P&A	61.20
GORDON LUMBER COMPANY	BLDG SUPPLIES-ALL DEPTS	1,821.31
HAUSER, CAIDEN	UMPIRE PAY-P&REC	50.00
HAWKEYE READY MIX	ROAD MAINT-RUT	189.70
HAWKEYE READY MIX	STORM INLET-ST WAT	270.75
HAWKEYE READY MIX	ROAD MAINT-RUT	162.45
HAWKEYE READY MIX	STORM INLET-ST WAT	108.30
HAWKINS INC	CHLORINE-WAT	1,015.02
HERITAGE DAYS	SUPPORT	3,000.00
HORMAN, GARETT	UMPIRE PAY-P&REC	20.00
HUNTER HORMANN	UMPIRE PAY-P&REC	175.00
ICAP	INSURANCE-VEHICLES & BLDGS	68,566.57
IOWA COUNTY ATTORNEYS ASSOC	TRAINING-PD	65.00
IOWA DEPT OF NATURAL RESOURCE	ANNUAL WATER USE FEE	523.37
IOWA PRISON INDUSTRIES	TEMP SIGNS-RUT	81.60
IOWA SOLUTIONS	SAMSUNG GALAXY TABLETS-ALL DEPTS	3,490.00
IOWA SOLUTIONS INC	DBR BACKUP-ALL DEPTS	350.00
IOWA SOLUTIONS INC	QRTLY MAINTENANCE-ALL DEPTS	150.00
JOENA'S SPECIAL NEEDS	UNIFORMS-PD	44.00
KIEFER & ASSOCIATES	BACKSTROKE FLAGS	33.99
L.L. PELLING CO INC	GARYS ENTRANCE	731.85
LANGE, SARA	REFUND-P&REC	25.00
LARSON, TIM	REFUND-P&REC	25.00
LINN CO-OP OIL CO	FUEL-PW	1,039.33
LINN COUNTY PLANNING & DEVELOP	BLDG PERMIT FEES/INSPECTIONS	679.00
LISBON MT VERNON AMBULANCE	SUPPORT	13,500.00
LYNCH FORD	2016 INTERCEPTOR-PD	27,583.00
LYNCH FORD	2014 EXPLORER/OIL CHG-PD	38.31
M & K DUST CONTROL	BLACK DIRT-RUT	250.00
MARION, CITY OF	COMPOST/5TH AVE PROJECT	192.00
MATERNACH, CHERI	REFUND-P&REC	48.00
MONTICELLO EXPRESS	SUPPLIES-POOL	53.00
MOORE MEDICAL CORP	MEDICAL SUPPLIES-EMA	1,093.00
MOORE MEDICAL CORP.	MEDICAL SUPPLIES-EMA	142.96
MOUNT VERNON ACE HARDWARE	MAKITA TOOL SET-FD	470.80
MOUNT VERNON AREA ARTS COUNCIL	SUPPORT	3,500.00
MOUNT VERNON BANK & TRUST CO	NSF CHECK-PD	35.00
MOUNT VERNON LISBON SUN	ADS/PUBLICATIONS-P&REC,POOL	510.00
MOUNT VERNON LISBON SUN	ADS/PUBLICATIONS-ALL DEPTS	1,330.56
MOUNT VERNON LISBON SUN	ADS/PUBLICATIONS-P&REC,POOL	492.50
MOUNT VERNON POLICE RESERVES	SPECIAL EVENTS-PD	16.00

MOUNT VERNON, CITY OF	TRANSFER FROM VEH DEPRECIATION	27,583.00
NEAL'S WATER CONDITIONING SERV	WATER/SALT	88.25
PAYROLL	CLAIMS	57,285.80
PAYROLL	CLAIMS	76,562.91
PERSONAL TOUCH EMBROIDERY	UNIFORMS-PD	26.00
POOL TECH INC	CHEMICALS-POOL	771.85
POOL TECH INC	CHEMICALS-POOL	277.50
POOL TECH INC	CHEMICALS-POOL	37.45
PORTZEN CONSTRUCTION INC	WTP PROJECT	23,835.00
POSTMASTER	UTIL BILL POSTAGE-WAT,SEW,SW	333.94
RACOM CORP	TABLETS,MOUNTING,INSTALL-PD	9,943.13
RIES, ERIC	REFUND-P&REC	150.00
SANDRY FIRE SUPPLY LLC	THERMAL IMAGING CAMERA-FD	4,099.50
SAUTER BATY ASSOCIATES	CONCEPTUAL/PREMINARY DESIGN	1,402.50
SCHEE, DAKOTA	DEPOSIT REFUND-WAT	21.15
SCHIMBERG COMPANY	ROAD MAINT-RUT	587.52
SCHIMBERG COMPANY	SUPPLIES-WAT	485.32
SCHIMBERG COMPANY	SUPPLIES-WAT	150.02
SCHIMBERG COMPANY	SUPPLIES-WAT	80.72
SCHIMBERG COMPANY	TUBING-POOL	255.80
SE LINN COMMUNITY CENTER	SUPPORT	12,998.00
SHANNON, DOUG	MONITORS-PD	439.94
SHERWIN WILLIAMS CO.	PAINT-RUT	290.30
SIDERS, MATT	MONTHLY MILEAGE-P&REC	86.40
SIMMONS PERRINE MOYER BERGMAN	LEGAL FEES-P&A	2,472.00
STALKER RADAR	RADAR SYSTEM-PD	2,932.00
STEINMETZ, DOUGLAS	COMMENTARY-MVHPC	472.50
STETSON BUILDING PRODUCTS INC	FORM OIL,TIES-RUT	137.18
SULLIVAN, TERESA	SCIENCE CAMP-P&REC	1,020.00
TORRES, GABRIELLA	DEPOSIT REFUND-WAT	1.19
TREASURER STATE OF IOWA	SALES TAX	7,039.00
TREAT AMERICA DINING	LUNCH-PD	7.87
US BANK	CREDIT CARD PURCHASES-ALL DEPTS	4,263.52
US CELLULAR	CELL PHONE-ALL DEPTS	462.38
US CELLULAR	CELL PHONE-PD	116.17
UTILITY SERVICE INC	YR 4 PYMT-LOST II	12,449.08
VEENSTRA & KIMM INC	GARY'S GROCERY ENTRANCE	4,920.48
VEENSTRA & KIMM INC	WASTEWATER FACILITY PLAN	2,647.50
VEENSTRA & KIMM INC	MUNICIPAL POOL IMPROVEMENTS	1,166.70
VEENSTRA & KIMM INC	1ST ST N PARKING LOT LAYOUT	311.00
VEENSTRA & KIMM INC	CITY ENGINEERING GENERAL	284.00
VEENSTRA & KIMM INC	7TH ST PAVEMENT WARRANTY ISSUE	284.00
VEENSTRA & KIMM INC	2015 STR IMPROVEMENTS GENERAL	250.00
VEENSTRA & KIMM INC	PRAIRIE PARK WTP FILTER REPLAC	118.60
VETERANS MEMORIAL FUND	SUPPORT	5,000.00
WADE, LUKE	UMPIRE PAY-P&REC	30.00
WALKER AG EQUIPMENT	HUSTLER 104" DECK MOWER	23,535.50
WALKER AG EQUIPMENT	IDLER SPRING-RUT	22.72
WAPSI WASTE SERVICE	GB,RECY,LEAF-SW	22,566.59
WENDLING QUARRIES	STONE-ST WATER	31.86
WHOLESALE REPAIR, INC	#214 ENGINE REPAIR-FD	583.66
	TOTAL	667,297.15

Discussion and Consideration of Placing Solar Panels on Public Structures – Council Action as Needed. Nobsisch explained that at the last meeting there was a presentation regarding solar panels on public buildings and community solar. It was mentioned at that time that Lisbon was moving forward with an RFP process. Nobsisch said there are possibly two buildings that have the potential for solar panels. Lisbon is pursuing, through their RFP, a purchase agreement whereas someone will build and own it for the next 20 years. Nobsisch asked Council what avenues they are asking staff to pursue? Would they want staff to contact Alliant Energy to make sure all information received so far is correct and accurate? Tuerler said he would like to see staff research the potential offers and then bring forth a recommendation. Wieseler added he would like to see the process keep moving forward.

Discussion and Consideration of Department Head PTO Policy – Council Action as Needed. Nobsisch explained that the policy presented is an effort to keep the PTO offerings consistent amongst the affected employees and limiting carryover hours. This policy allows employees to earn and carryover up to 400 hours at any one given time. It also limits (depending on the years of service) the amount of PTO hours that can be claimed by an employee upon separation. Another part of the policy allows for the Council, with a recommendation from the City Adm., to allow an employees' years of service within the field in which they were hired to count towards their monthly PTO accrual rate. This policy is only for non-union employees. Rose made a motion to approve the policy as written, seconded by Tuerler. Carried all.

Discussion and Consideration of Department Head Cell Phones – Council Action as Needed. Nobsisch said that currently the City provides a cell phone to its department heads. This requires some to carry two phones; a City phone and a personal phone. The question has been asked if the City can move to a stipend in lieu of the City phone. The City pays about \$41.00 per month for those that have Smartphones and less for those who have a flip phone. Nobsisch said this is the same option that was given to him. Nobsisch continued saying he wants employees available to him 24/7 and if it's easier not carrying two phones he was fine with that as long as he has their phone number. Christensen said he was concerned with the fact that this would make their personal phone numbers public. Nobsisch agreed saying that this is the choice the employee will have to make. Christensen made a motion to approve giving department heads the option of using their personal phones and getting a \$40.00 monthly stipend or continue to use City issued as well as their personal phones, seconded by Wieseler. Carried all.

Discussion and Consideration of Quotes for Sidewalk and Driveway Repair Work – Council Action as Needed. ADA requirements were met when the 7th Street and 5th Avenue NW project were completed but have created a water and mud pooling problem. When water comes down 5th Ave from the north it backs up onto the sidewalk at the corner and deposits silt and limbs on the truncated dome. The proposed fix to this would be to lower the damming area, remove the concrete curb between and make it one unobstructed area that allows the water to continue to flow. The other issue is that when the contractor did the driveway entrance the different levels created a bit of a speed bump. The cost to fix both problems is approximately \$6,200.00. Rose motioned to approve moving forward with the corrections as outlined, seconded by Christensen. Carried all.

Discussion Items (No Action)

Demolition Ordinance – Guy Booth. Guy Booth explained that a few years ago the City Council at that time asked for a demolition ordinance. The City has a zoning ordinance that says if someone wants to build a structure in the City they have to submit plans and get a building permit. The reverse of this is that the City doesn't have any ordinances to regulate the tearing down of a structure. This ordinance provides some regulation if a building is being torn down, has some historical significance and provides a period of time whereas people can reflect on what that building means. This proposed Demolition Ordinance requires a

building permit that, if necessary, the MVHPC would weigh in on. Booth asked that the ordinance be put into the process of having a public hearing and seeing if there is any adverse reaction or if it fits into the City's overall intent to keep the community historical by saving structures that can be saved. Christensen said he believes that this should be as much about moving houses as saving and suggested a program where the City would utilize TIF money to provide potential sites for relocation. Leah Rogers said that the question has been asked on what is historical or not. The MVHPC has a baseline in the community whereas each building has been inventoried and evaluated. Roudabush suggested putting the baseline information into a database for residences to review.

Social Host Ordinance – Chief Shannon. Chief Doug Shannon stated that there has been a movement to modify Linn County's ordinance which has been fairly ineffective. There are party houses where underage drinkers gather in Mount Vernon. The Police Department has received numerous complaints regarding these issues at houses that are repeat offenders. These are not just alcohol related. They are also drug or controlled substances. Chief Shannon said that what he has tried to do with this ordinance is to work through it (Linn County Ordinance) bringing it to a point where it can be useful to Mount Vernon. One of the main points in the Linn County ordinance is that if Mount Vernon did not enact a Social Host Ordinance we would be covered by theirs. Technically, Mount Vernon already has a Social Host Ordinance in place but it only covers alcohol. Chief Shannon said that he has been to P&Z meetings that have been dealing with these nuisance properties. Discussions have been about adopting a rental code. Chief Shannon said that he has tried to merge these issues into this one proposed ordinance. Christensen asked what "otherwise has control" in the ordinance means to which Chief Shannon said the control of the property is not only the tenants of the property but anybody who is in control of the residence. Chief Shannon explained how the process would play out; for a first offense the intended purpose is an enforcement strategy, notifying landlords that there is a problem at their property. If officers find there is underage drinking or drug use, the tenants who are hosting the party would be assessed. The Police Dept would then draft a letter to the landlord (the owner of the property) notifying them that there has been violation of the Social Host Ord. The landlord can then take any action they feel is necessary to rectify the situation. Christensen asked what if the landlord lived out of state; if you're an absentee landlord how would you know what is going on. Chief Shannon said the knowingly part is the letter "bringing them into the loop" notifying them of illegal activities happening at their property. When Christensen asked what parts of the existing laws failed to curtail the problem. Chief Shannon replied that they can deal with the people, the underage drinking and drugs right away. The disconnect is in the handling of the process; this has gone on in some of these houses for a few years; there may be different renters but it's still the same location the police are called to. Christensen said that he is not comfortable with this and if there are problems with properties they should be addressed with a rental law. Tuerler said what he sees here is the ability to give a property owner the leverage to evict. Christensen said that words (in the ordinance) like "in control" and "knowingly" versus not knowingly create gray areas that allow for inconsistencies and interpretations.

Reports of Mayor/Council/Administrator

Mayor's Report. Reminded all that Heritage Days is this weekend. Thanked City Adm Nobsisch for the tablets that they now will be using.

City Administrator's Report. Nobsisch will be out of the office starting July 13, 2016 attending the Iowa City Managers Assoc. conference. Discussions continue between the four communities affected by the dispatch fee increase. Staff met with IDOT regarding tree trimming on Hwy 1. Nobsisch will not be at the August 1 council meeting; he will be on vacation from July 29 – Aug 6, 2016.

Adjournment. As there was no further business to attend to the meeting adjourned, the time being 9:31 p.m., July 5, 2016.

Respectfully submitted,
Sue Ripke
City Clerk

J. Motions for Approval

AGENDA ITEM # J – 2

**AGENDA INFORMATION
MT. VERNON CITY COUNCIL COMMUNICATION**

DATE:	July 18, 2016
AGENDA ITEM:	City Hall Cleaning Services
ACTION:	None

SYNOPSIS: City Hall was informed a week and a half ago that our current cleaning service has decided to stop offering their service to the City. The City, over the course of the year, has paid just over \$6,000 to have City Hall cleaned. There are two local companies that provide cleaning services and current members or our staff have also expressed an interest. As the amount is over my spending limit, I want to make sure Council is comfortable with the expense. If so, staff will solicit bids and return a contract to City Council.

BUDGET ITEM: N/A

RESPONSIBLE DEPARTMENT: City Administrator

MAYOR/COUNCIL ACTION: Motion

ATTACHMENTS: None

PREPARED BY: Chris Nosbisch

DATE PREPARED: 7/11/6

AGENDA ITEM # J – 3

**AGENDA INFORMATION
MT. VERNON CITY COUNCIL COMMUNICATION**

DATE:	July 18, 2016
AGENDA ITEM:	Zoning Board of Adjustment Vacancies
ACTION:	None

SYNOPSIS: The City of Mt. Vernon currently has one vacancy on the zoning board of adjustment. Staff has received one application thus far, but we cannot bring the application forward at this time. Due to the State of Iowa gender equity law, we must first seek a female to fill this role. If after three months, no female steps forward, the Council will be able to fill the position with any qualified candidate. Staff is bringing this forward to Council to increase awareness of the opening. Currently, the zoning board of adjustment membership consists of three men and one woman.

BUDGET ITEM: N/A

RESPONSIBLE DEPARTMENT: City Administrator

MAYOR/COUNCIL ACTION: Motion

ATTACHMENTS: None

PREPARED BY: Chris Nosbisch

DATE PREPARED: 7/11/16

AGENDA ITEM # J – 4

**AGENDA INFORMATION
MT. VERNON CITY COUNCIL COMMUNICATION**

DATE:	July 18, 2016
AGENDA ITEM:	Setting Public Hearing – Social Host
ACTION:	None

SYNOPSIS: This is the time set for establishing the public hearing date for Chapter 48 Social Host ordinance. The public hearing will be held on Monday, August 1, 2016 at 6:30 p.m. Attached is a copy of the social host ordinance that has been proposed, although discussion of the ordinance will need to be held until the public hearing.

BUDGET ITEM: N/A

RESPONSIBLE DEPARTMENT: Police Chief

MAYOR/COUNCIL ACTION: Motion

ATTACHMENTS: Social Host Ordinance

PREPARED BY: Chris Nosbisch

DATE PREPARED: 7/11/16

AN ORDINANCE
RELATING TO THE PROVISION OF ALCOHOLIC BEVERAGES OR CONTROLLED
SUBSTANCES BY ADULTS TO UNDERAGE PERSONS AT SOCIAL GATHERINGS
AND PROVIDING PENALTIES.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF MOUNT VERNON,
IOWA:

Section 1. Purpose.

Pursuant to the authority granted under Iowa Code section 364, this Ordinance is enacted to protect and preserve the rights, privileges, and property of the residents of Mount Vernon and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of the residents of Mount Vernon. The purpose of this ordinance is to prohibit the consumption of controlled substances including any synthetic versions or alcoholic beverages by persons under the age of twenty-one at gatherings where adult persons knowingly tolerate, allow, or permit the illegal possession and consumption of controlled substances or alcoholic beverages by persons under the age of twenty-one (21) on property they own or control.

The City Counsel of Mount Vernon finds that the occurrence of social gatherings at premises where alcoholic beverages are being possessed, served to, or consumed by persons under the age of twenty-one (21) or where controlled substances including any synthetic versions are being illegally possessed, served, or consumed by any persons is harmful to such persons themselves and a threat to public welfare, health, and safety.

The City Counsel of Mount Vernon further finds that adult persons who are in control of premises where a gathering is taking place and either knowingly tolerate, allow, or permit the illegal possession and consumption of controlled substances by

any persons or alcoholic beverages by persons under the age of twenty-one (21) are not fulfilling their responsibility to ensure public welfare, health, and safety. This ordinance will establish penalties for adult persons who knowingly tolerate, allow, or permit the illegal possession and consumption of controlled substances by any persons or alcoholic beverages by persons under the age of twenty-one (21) to ensure that all hosts of social gatherings confirm that those activities are not occurring on premises under their control.

Section 2. Definitions.

a. "Adult Person" means any person age eighteen (18) or older.

b. "Juvenile" means any person under the age of eighteen (18).

c. "Parent" means any person having legal custody of a juvenile:

(1) As a natural parent, adoptive parent, or stepparent; or

(2) As a legal guardian; or

(3) As a person to whom legal custody has been given by order of the court.

d. "Underage person" means any individual under the age of twenty-one (21).

e. "Alcoholic Beverage" means any beverage containing more than one half of one percent of alcohol by volume including alcoholic liquor, wine, or beer.

f. "Premises" means any home, yard, farm, field, land, apartment, condominium, hotel, or motel room or other dwelling unit, hall or meeting, park or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically, for a

party or other social function, and whether owned, leased, rented, or used with or without permission or compensation. "Premises" does not include property that is licensed to sell or serve alcoholic beverages.

g. "Social Gathering" means any group of three (3) or more persons who have assembled or gathered together for a social occasion or other activity.

Section 2. Prohibited Acts.

a. An adult person who is the owner or lessee of, or who otherwise has control over, premises, shall not knowingly tolerate, allow, or permit, during a social gathering:

(1) Any person on such premises to possess or consume controlled substances or synthetic alternatives (As defined by Iowa Code sections 124 and 155A); or

(2) Any person under the age of twenty-one (21) on such premises to possess or consume any alcoholic beverage (As defined by Iowa Code section 123.47(2)).

b. The presence of any adult person who is the owner or lessee of, or who otherwise has control over, a premises during the time that any person possesses or consumes controlled substances or synthetic alternatives or any person under the age of twenty-one (21) possesses or consumes any alcoholic beverages on such property shall be prima facie evidence that such adult had knowledge or should have had the knowledge that such activities were occurring.

c. If a person under the age of eighteen (18) hosts a social gathering and the parent(s) of the person under the age of eighteen (18) knows or reasonably should know of the social gathering and knows or reasonably should know that the consumption or controlled substances or synthetic alternatives by any person or alcoholic beverages by any person under the age

of twenty-one (21) is occurring, the parent(s) shall be liable for violations of this Ordinance.

Section 3. Defenses.

a. It shall be an affirmative defense to this Ordinance if an adult person in control of a premises where a social gathering is taking place takes reasonable steps to prevent the possession and consumption of alcohol by persons under the age of twenty-one (21) and the possession and consumption of controlled substances including any synthetic versions by any persons while on such premises.

b. Reasonable steps include, but are not limited to:

(1) Ensuring that minors do not consume alcoholic beverages by controlling access to alcoholic beverages after verifying the age of persons attending the gathering by inspecting drivers' licenses or other government-issued identification cards; or

(2) Prohibiting the illegal consumption or possession of controlled substances, including the abuse of medications or use of synthetic alternatives at the gathering; or

(3) Supervising the activities of minors at the gathering; or

(4) Notifying law enforcement of any illegal or unsafe activities.

Section 4. Exceptions.

a. This Ordinance does not apply to the following situations:

(1) When an individual's action is permitted under Iowa Code section 123.47(2); or

(2) When alcohol is consumed during a legally protected religious observance; or

(3) When alcohol is consumed solely between an underage person and his or her parents while present in the parents' household; or

(4) When a person who hosts, permits, or allows a social gathering seeks immediate assistance from local law enforcement; or

(5) When landlords have begun and are continuing with the process of evicting tenants who are in violation of this Ordinance.

Section 5. Penalties.

a. A violation of the provisions of this ordinance shall be enforced as a municipal infraction in accordance with Iowa Code section 364.22.

AGENDA ITEM # J – 5

**AGENDA INFORMATION
MT. VERNON CITY COUNCIL COMMUNICATION**

DATE:	July 18, 2016
AGENDA ITEM:	Pay Application #2 – Pool Filters
ACTION:	None

SYNOPSIS: This is the final pay application for the pool filters in the amount of \$5,074.35. Included with the pay application is a letter from V&K Engineering recommending that the pay application be approved.

BUDGET ITEM: N/A

RESPONSIBLE DEPARTMENT: City Administrator

MAYOR/COUNCIL ACTION: Motion

ATTACHMENTS: Letter and Pay Application

PREPARED BY: Chris Nosbisch

DATE PREPARED: 7/11/16



VEENSTRA & KIMM, INC.

860 22nd Avenue - Suite 4 • Coralville, Iowa 52241-1565
319-466-1000 • 319-466-1008(FAX) • 888-241-8001(WATS)

July 12, 2016

Chris Nosbisch
City Administrator
City of Mount Vernon
213 1st Street NW
Mount Vernon, IA 52314

MOUNT VERNON, IOWA
2016 SWIMMING POOL IMPROVEMENTS
POOL FILTERS & HEATERS
PARTIAL PAY ESTIMATE NO. 2 (final)

Enclosed is one copy of Partial Payment Estimate No. 2 (final) for the retainage under the contract between the City of Mount Vernon and Dubuque Plumbing & Heating Company.

We have reviewed the estimate and recommend payment to Dubuque Plumbing & Heating Company in the amount of \$5,074.35.

By separate cover we have forwarded three copies of Partial Payment Estimate No. 2 (final) to Dubuque Plumbing & Heating Company for signature and return to the City of Mount Vernon.

Please sign all copies of the partial payment estimate forwarded to you by Dubuque Plumbing & Heating Company in the spaces provided and return one signed copy to our office and one copy to Dubuque Plumbing & Heating Company with payment.

If you should have any questions or comments concerning the enclosed information, please contact us at 319-466-1000.

VEENSTRA & KIMM, INC.

Dave Schechinger
DRS:mmc
5131-035
Enclosure



July 12, 2016

PAY ESTIMATE NO. 2 (final)
2016 SWIMMING POOL IMPROVEMENTS -
POOL FILTERS & HEATERS
MOUNT VERNON, IOWA

Dubuque Plumbing & Heating
205 Stone Valley Drive
Dubuque, IA 52003

Contract Amount \$103,900.00
Contract Date March 7, 2016
Pay Period

BID ITEMS							
	Description	Unit	Estimated Quantity	Unit Price	Extended Price	Quantity Completed	Value Completed
1.1	Pool filters with valves	Ea.	2	\$ 26,200.00	\$ 52,400.00	100%	\$ 52,400.00
1.2	Piping	LS	1	\$ 23,000.00	\$ 23,000.00	100%	\$ 23,000.00
1.3	6" Butterfly valve	LS	10	\$ 360.00	\$ 3,600.00	100%	\$ 3,600.00
1.4	6" Flexible connector	LS	1	\$ 800.00	\$ 800.00	100%	\$ 800.00
1.5	Flow meter	LS	2	\$ 1,800.00	\$ 3,600.00	100%	\$ 3,600.00
1.6	Pool heater (outdoor style with 2" piping and 8 - 2" ball valves)	LS	2	\$ 10,250.00	\$ 20,500.00	100%	\$ 20,500.00
Contract Price:					\$ 103,900.00		\$ 103,900.00

SUMMARY			
		Total Approved	Total Completed
Contract Price		\$ 103,900.00	\$ 103,900.00
Approved Change Order (list each)	Change Order No. 1	\$ (2,413.04)	\$ (2,413.04)
	Revised Contract Price	\$ 101,486.96	\$ 101,486.96

Stored			
Total Earned		\$	101,486.96
Retainage			
Total Earned Less Retainage		\$	101,486.96
Total Previously Approved (list each)	Pay Estimate No. 1	\$ 96,412.61	

Percent Complete 100% Total Previously Approved \$ 96,412.61
Amount Due This Request \$ 5,074.35

The amount \$5,074.35 is recommended for approval for payment in accordance with the terms of the contract.

Prepared By:
Dubuque Plumbing & Heating

Recommended By:
Veenstra & Kimm, Inc.

Approved By:
Mount Vernon, Iowa

Signature: _____

Signature:  _____

Signature: _____

Name: _____

Name: Dave Schechinger

Name: _____

Title: _____

Title: Engineer

Title: _____

Date: _____

Date: July 12, 2016

Date: _____



VEENSTRA & KIMM, INC.

860 22nd Avenue - Suite 4 • Coralville, Iowa 52241-1565
319-466-1000 • 319-466-1008(FAX) • 888-241-8001(WATS)

July 12, 2016

Dubuque Plumbing & Heating Company
205 Stone Valley Drive
Dubuque, IA 52003

MOUNT VERNON, IOWA
2016 SWIMMING POOL IMPROVEMENTS
POOL FILTERS & HEATERS
PARTIAL PAY ESTIMATE NO. 2 (final)

Enclosed please find three copies of Partial Payment Estimate No. 2 (final) for the retainage under the contract between the City of Mount Vernon and Dubuque Plumbing & Heating Company.

We have reviewed the estimate and will be recommending acceptance of the payment to Dubuque Plumbing & Heating Company by the City of Mount Vernon in the amount of \$5,074.35.

Please sign all copies of the partial payment estimate in the space provided. Please forward all signed copies of Partial Payment Estimate No. 2 (final) to the City of Mount Vernon.

Should you have any questions or comments, please contact us at 319-466-1000.

VEENSTRA & KIMM, INC.

A handwritten signature in black ink, appearing to read 'D. Schechinger', is written over a faint, larger version of the signature.

Dave Schechinger
DRS:mmc
5131-035
Enclosure

AGENDA ITEM # J – 6

**AGENDA INFORMATION
MT. VERNON CITY COUNCIL COMMUNICATION**

DATE:	July 18, 2016
AGENDA ITEM:	Pay Application #3 – 2015 Sewer
ACTION:	None

SYNOPSIS: This is the final pay application for the pool filters in the amount of \$12,271.44. Included with the pay application is a letter from V&K Engineering recommending that the pay application be approved.

BUDGET ITEM: N/A

RESPONSIBLE DEPARTMENT: City Administrator

MAYOR/COUNCIL ACTION: Motion

ATTACHMENTS: Letter and Pay Application

PREPARED BY: Chris Nosbisch

DATE PREPARED: 7/11/16



VEENSTRA & KIMM, INC.

860 22nd Avenue - Suite 4 • Coralville, Iowa 52241-1565
319-466-1000 • 319-466-1008(FAX) • 888-241-8001(WATS)

July 12, 2016

Chris Nosbisch
City Administrator
City of Mount Vernon
213 1st Street NW
Mount Vernon, IA 52314

MOUNT VERNON, IOWA
2015 SANITARY SEWER IMPROVEMENTS
PARTIAL PAY ESTIMATE NO. 3 (final)

Enclosed is one copy of Partial Payment Estimate No. 3 (final) for the retainage under the contract between the City of Mount Vernon and Ricklefs Excavating, Ltd.

We have reviewed the estimate and recommend payment to Ricklefs Excavating, Ltd. in the amount of \$12,271.44.

By separate cover we have forwarded three copies of Partial Payment Estimate No. 3 (final) to Ricklefs Excavating, Ltd. for signature and return to the City of Mount Vernon.

Please sign all copies of the partial payment estimate forwarded to you by Ricklefs Excavating, Ltd. in the spaces provided and return one signed copy to our office and one copy Ricklefs Excavating, Ltd. with payment.

Should you have any questions or comments concerning the enclosed information, please contact us at 319-466-1000.

VEENSTRA & KIMM, INC.

A handwritten signature in black ink, appearing to read 'Dave Schechinger', is written over a horizontal line.

Dave Schechinger
DRS:mmc
5136
Enclosure



VEENSTRA & KIMM, INC.

860 22nd Avenue, Suite 4 • Coralville, Iowa 52241-1565
 319-466-1000 • 319-466-1008(FAX) • 888-241-8001(WATS)

July 12, 2016

PAY ESTIMATE NO. 3 (Final)
2015 SANITARY SEWER IMPROVEMENTS
MOUNT VERNON, IOWA

Ricklefs Excavating, Ltd.
 12536 Buffalo Rd.
 Anamosa, IA 52205

Contract Amount \$237,370.00
 Contract Date April 20, 2015
 Pay Period Retainage

BID ITEMS							
	Description	Unit	Estimated Quantity	Unit Price	Extended Price	Quantity Completed	Value Completed
1	Mobilization	LS	xxxxx	xxxxx	\$ 40,000.00	100%	\$ 40,000.00
2	Construction Survey	LS	xxxxx	xxxxx	\$ 2,000.00	100%	\$ 2,000.00
3	Erosion Control	LS	xxxxx	xxxxx	\$ 100.00	100%	\$ 100.00
4	Traffic Control	LS	xxxxx	xxxxx	\$ 1,500.00	100%	\$ 1,500.00
5	Stabilizing Materials	Tons	200	\$ 14.00	\$ 2,800.00	102.08	\$ 1,429.12
6	Grannular Surfacing	Tons	240	\$ 14.00	\$ 3,360.00	240	\$ 3,360.00
7	Silt Fence	LF	700	\$ 1.50	\$ 1,050.00	0	\$ -
8	Surface Removal	LS	xxxxx	xxxxx	\$ 6,000.00	100%	\$ 6,000.00
9	Topsoil/Borrow Material	CY	255	\$ 12.00	\$ 3,060.00	27	\$ 324.00
10	Rock Excavation	CY	50	\$ 30.00	\$ 1,500.00	0	\$ -
11	Manhole Removal	Ea.	2	\$ 350.00	\$ 700.00	2	\$ 700.00
12	Grannular Backfill	Tons	1850	\$ 10.00	\$ 18,500.00	1850	\$ 18,500.00
13	Sanitary Manhole Drop Connection	Ea.	1	\$ 2,500.00	\$ 2,500.00	1	\$ 2,500.00
14	Manholes	Ea.	5	\$ 3,600.00	\$ 18,000.00	5	\$ 18,000.00
15	Sanitary Sewer Pipe, in Place						
	15.1 8" PVC Truss	LF	667	\$ 110.00	\$ 73,370.00	710	\$ 78,100.00
	15.2 AWWA C-900	LF	40	\$ 112.00	\$ 4,480.00	40	\$ 4,480.00
16	Sanitary Sewer Connection		12	\$ 1,200.00	\$ 14,400.00	14	\$ 16,800.00
17	Connection to Existing System	Ea.	1	\$ 300.00	\$ 300.00	1	\$ 300.00
18	PCC Pavement						
	18.1 7" Driveway	SY	94	\$ 55.00	\$ 5,170.00	164	\$ 9,020.00
	18.2 8" Repair	SY	518	\$ 60.00	\$ 31,080.00	502	\$ 30,120.00
19	Water Main Adjustment Open Cut	LS	xxxxx	xxxxx	\$ 6,000.00	100%	\$ 6,000.00
20	Water Service Conflicts	Ea.	6	\$ 250.00	\$ 1,500.00	2	\$ 500.00
Contract Price:					\$ 237,370.00		\$ 239,733.12

SUMMARY			
		Total Approved	Total Completed
Contract Price:		\$ 237,370.00	\$ 239,733.12
Approved Change Order (list each)	Change Order No. 1	\$ 5,695.74	\$ 5,695.74
	Revised Contract Price:	\$ 243,065.74	\$ 245,428.86

Stored
Total Earned \$ 245,428.86
Retainage
Total Earned Less Retainage \$ 245,428.86

Total Previously Approved (list each)	Pay Estimate No. 1	\$ 231,799.75	
	Pay Estimate No. 2	\$ 1,357.67	

Total Previously Approved \$ 233,157.42
Amount Due This Request \$ 12,271.44

Percent Complete 100%

The amount \$12,271.44 is recommended for approval for payment in accordance with the terms of the contract.

Prepared By:
Ricklefs Excavating, Ltd.

Recommended By:
Veenstra & Kimm, Inc.

Approved By:
Mount Vernon, Iowa

Signature: _____
 Name: _____
 Title: _____
 Date: _____

Signature:  _____
 Name: Dave Schechinger
 Title: Engineer
 Date: July 12, 2016

Signature: _____
 Name: _____
 Title: _____
 Date: _____



VEENSTRA & KIMM, INC.

860 22nd Avenue - Suite 4 • Coralville, Iowa 52241-1565
319-466-1000 • 319-466-1008(FAX) • 888-241-8001(WATS)

July 12, 2016

Ricklefs Excavating, Ltd.
12536 Buffalo Rd.
Anamosa, IA 52205

MOUNT VERNON, IOWA
2015 SANITARY SEWER IMPROVEMENTS
PARTIAL PAY ESTIMATE NO. 3 (final)

Enclosed are three copies of Partial Payment Estimate No. 3 (final) for the retainage under the contract between the City of Mount Vernon and Ricklefs Excavating, Ltd.

We have reviewed the estimate and will be recommending acceptance of the partial payment estimate to Ricklefs Excavating, Ltd. by the City of Mount Vernon in the amount of \$12,271.44.

Please sign all copies of the partial payment estimate in the spaces provided. Forward all signed copies of the partial payment estimates to the City of Mount Vernon.

If you have any questions or comments regarding the enclosed information, please contact us at 319-466-1000.

VEENSTRA & KIMM, INC.

A handwritten signature in black ink, appearing to read 'Dave Schechinger', is written over a faint, larger version of the signature.

Dave Schechinger
DRS:mmc
5136
Enclosure

AGENDA ITEM # K – 1 - 3

**AGENDA INFORMATION
MT. VERNON CITY COUNCIL COMMUNICATION**

DATE: July 18, 2016

AGENDA ITEM: Reports

ACTION: None

SYNOPSIS: Given the short turn around and events for the beginning of this month, any staff report that has not been provided in this packet will be presented at the City Council meeting.

BUDGET ITEM: N/A

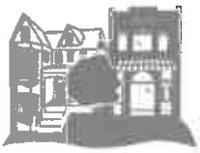
RESPONSIBLE DEPARTMENT: Department Heads

MAYOR/COUNCIL ACTION: Motion

ATTACHMENTS: None

PREPARED BY: Chris Nosbisch

DATE PREPARED: 7/11/16



Public Works Report

July 18th, 2016

Parks

Nature park had tree damage in the last storm. City staff was able to clean it up and remove the debris.

Elliott Park

City staff is working on new siding for the Elliott shed near the batting cage. They will also add about 50 square feet of storage to the shed by moving the south wall and extending the roof line. This will also help keep water out of the shed. Water runoff from rains continually keeps the concrete floor wet. Some grading around the shed footing along with the roof line will help keep the slab dry. City staff will also add lighting to the shed.

Trees

With the recent storm 4 large trees and branches dropped in various places around town. One tree landed on a house in the 300 block of A Avenue SE. Another landed on a vehicle in the 200 block of 3rd Avenue NW. City staff did a great job of removing all the downed trees. Staff was also able to go around town and pick up debris from the city streets.

The IDOT has approached the city with concerns on Highway 1. The over growth of trees in the ROW and over the State Highway have created hazards for passing oversized loads. The city has evaluated the trees and decided it would be in the best interest of the city to trim the trees along Highway 1 to code. Code states trees over the roadway should be trimmed to 18 feet. Trees over the sidewalk should be trimmed to 9 feet. It is currently the homeowners' responsibility to keep the trees to code. With the high volume of traffic and staging of equipment, along with the homeowners not being able to coordinate work being done the city feels it would be best if city staff takes on the job of trimming the trees along Highway 1. This will allow all the trees to be done at a single time. The city will do one block at a time to minimize traffic control concerns. Only one lane will be shut down at a time. The city will try to coordinate the work with the closing of Highway 1 north of town.

Streets and ROW

City staff has now attempted to seed 5th Avenue 2 times. Each time we do this we receive heavy rains which erode the seeding and grading. The city is looking into a better mulch for the hydro seeding unit. The current batch of mulch is not holding like staff expects it should. We have actually spoken with the manufacturer and they have said they have had numerous complaints on the mulch. City staff would like to wait until fall to attempt a 3rd seeding. This will allow staff to save time by not requiring us to water the seeding every day along with hopefully avoid these heavy rains.

AGENDA ITEM # L – 1

**AGENDA INFORMATION
MT. VERNON CITY COUNCIL COMMUNICATION**

DATE: July 18, 2016

AGENDA ITEM: Alley Policy

ACTION: None

SYNOPSIS: In an attempt to start a larger discussion, I have provided the Council with a policy that could be adopted as it relates to alleys. I have reached out to my colleagues in other communities, and there are not a lot of alley policies in place. I am providing you a “starting” policy that can be used for discussion. I believe this also covers the concerns that have been raised by property owners in the vicinity of 1st Ave. North and 3rd St. NE. The goal is to determine when an alley can be used, when it should be vacated, and who provides maintenance.

BUDGET ITEM: N/A

RESPONSIBLE DEPARTMENT: City Administrator

MAYOR/COUNCIL ACTION: None

ATTACHMENTS: Proposed Policy

PREPARED BY: Chris Nosbisch

DATE PREPARED: 7/11/16

City of Mt. Vernon

City Alley Policy

Adopted, _____, 2016

Purpose:

The City of Mt. Vernon is providing general guidelines for the maintenance, development, use, and vacation of alleys in an effort to provide for consistency and efficiency in those matters.

ALLEY POLICY

Alley Vacations: If, upon receipt of an application, it is deemed that the alley right of way is no longer needed by the City of Mt. Vernon, the alley may be vacated and sold by the City as allowed in Chapter 354.23 of the State Code of Iowa.

If vacated, each adjoining property owner shall be allowed to purchase the portion of the alley right of way adjacent to their property. In the event that a property owner refuses to purchase their portion of the alley, it will be offered to the property owner purchasing the adjacent alley. A signed waiver from the refusing property will be made a part of the vacating instrument.

Property owners wishing to have an alley vacated will pay fair market value for the vacated right of way. In the event that the City Council determines that it is in the best interest of the City of Mt. Vernon to maintain an easement on the vacated right of way, the City may decrease the asking price.

Alley Maintenance: As outlined in Chapter 135 of the Mt. Vernon Municipal Code, alley right of ways are to be maintained by the adjacent property owner. In the event that additional rock is needed in an alley, a property owner may fill out a request for action form at City Hall. The expense of the rock is to be covered by the requesting property owners.

It is recognized by the City that certain alleys may need to be maintained or upgraded by the City in the event it is negatively affecting other City services. This may include, but is not limited to sealcoat, patching, grading and/or paving.

Alley Improvements: A resident may request that an undeveloped alley be partially or fully developed. In such a case, the property owner making the request is responsible for the initial cost of the road materials, labor and installation of the improvements. Any cost sharing with the other residents is the responsibility of the requesting party to arrange. Regardless of whether the cost will be shared between neighbors or not, all neighbors adjacent to the alley or portion of alley to be developed must agree in writing via the form provided by the City prior to any work proceeding. The form will be processed administratively and kept on file.

Alley Use: An alley right of way is considered to be improved by the City if it has been graded to City specifications and received at least one full treatment of rock, sealcoat or asphalt (the entire alley right of way, not just portions). The alley right of way shall not be utilized by the general public as a means of access unless the alley has been improved to City specifications. All alley right of ways shall allow access to City of Mt. Vernon personnel and any utility providing service within the city limits of Mt. Vernon. The City of Mt. Vernon may, at any time, cause an alley right of way to be improved to city standards and opened to use by the general public.



SIMMONS PERRINE MOYER BERGMAN PLC

115 Third Street S.E., Suite 1200
Cedar Rapids, Iowa 52401-1266
Telephone: (319) 366-7641
Facsimile: (319) 366-1917

MEMORANDUM

TO: Bob Hatala
FROM: Mike Kaufmann
RE: Mt. Vernon Alley Use Issue
DATE: 7/8/16

Question Presented

What are a city's obligations concerning alleys and alley rights-of-way?

Conclusion

A city is not obligated to improve an alley right-of-way to be used as an alley. Once improved, however, a city must keep the alley open, in repair, and free from nuisance, unless it is vacated by ordinance.

Analysis

Iowa law requires that, with certain exceptions, cities must "keep all public grounds, streets, sidewalks, alleys, bridges, culverts, overpasses, underpasses, grade crossing separations and approaches, public ways, squares, and commons open, in repair, and free from nuisance."¹ Iowa Code § 364.12(2); *see also Smith v. J.C. Penney Co.*, 194 N.W.2d 794, 799 (Iowa 1967).

¹ "Public ways and grounds may be temporarily closed by resolution," or, following notice, they "may be vacated by ordinance." Iowa Code § 364.12(a). Further,

[t]he abutting property owner is responsible for the removal of the natural accumulations of snow and ice from the sidewalks within a reasonable amount of time and may be liable for damages caused by the failure of the abutting property owner to use reasonable care in the removal of the snow or ice.

Id. at § 364.12(b).

This means that a city must keep alleys unobstructed, *Pederson v. Town of Radcliffe*, 284 N.W. 145, 146 (1939); free from weeds and other nuisances, Iowa Code 657.2;² see also Op. Atty. Gen. 1938, at 802;³ and reasonably safe and open for travel by the public, *Rowell v. Williams*, 29 Iowa 210, 214 (Iowa 1870).

² Iowa Code § 657.2 contains a list of nuisances:

1. The erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.
2. The causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.
3. The obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.
4. The corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. The obstructing or encumbering by fences, buildings, or otherwise the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.
6. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, places resorted to by persons participating in criminal gang activity prohibited by chapter 723A, or places resorted to by persons using controlled substances, as defined in section 124.101, subsection 5, in violation of law, or houses where drunkenness, quarreling, fighting, or breaches of the peace are carried on or permitted to the disturbance of others.
7. Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard, or alley or of a railroad or street railway track as to render dangerous the use thereof.
8. Any object or structure hereafter erected within one thousand feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation, including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.
9. The depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by dealers in such articles within the fire limits of a city, unless in a building of fireproof construction, is a public nuisance.
10. The emission of dense smoke, noxious fumes, or fly ash in cities is a nuisance and cities may provide the necessary rules for inspection, regulation and control.
11. Dense growth of all weeds, vines, brush, or other vegetation in any city so as to constitute a health, safety, or fire hazard is a public nuisance.
12. Trees infected with Dutch elm disease in cities.

Iowa Code § 657.2.

³ Cities and towns are within meaning of “owner” and/or “person” as those terms are employed in § 317.10, and hence there is a primary duty upon cities and towns to cut, burn or otherwise destroy all noxious weeds growing within parkings, streets and alleys in the corporate limits, and any other weeds growing therein as render streets and alleys unsafe for public travel. Op. Atty. Gen. 1938, p. 802.

Those using an alley have a right to rely on the alley being reasonably safe for travel. *Robinson v. City of Cedar Rapids*, 69 N.W. 1064, 1064 (Iowa 1897). This duty to maintain alleys, however, does not relieve property owners from the duty not to obstruct them so as to endanger the safety of those traveling on the alleys, or liability for damage and injury resulting from the obstruction. *J.C. Penney Co.*, 194 N.W.2d at 579. Failure of a small town to remove the obstruction or improve the alley when necessary does not constitute abandonment. *Kuehl v. Town of Bettendorf*, 161 N.W. 28, 31 (1917).

These duties do not appear to apply to alley rights-of-way. An alley right-of-way is not an alley; it is merely “[t]he right to build and operate [an alley] on land belonging to another.” *Right-of-Way*, BLACK’S LAW DICTIONARY (10th ed. 2014). An alley right-of-way is thus the precursor, or potential precursor, to an alley. A city is not obligated to improve a right-of-way for use as an alley. *See Stoessel v. City of Ottumwa*, 289 N.W. 718, 719 (Iowa 1940) (“[A] wide discretion is vested in cities and towns in the opening, control and vacation of streets and alleys.”). The duty to maintain an alley attaches when it is opened for public use. *See Rowell*, 29 Iowa at 214; *see also* Iowa Code § 364.12(2).

**CITY OF MT. VERNON
CITY ADMINISTRATOR
REPORT TO THE CITY COUNCIL
July 18, 2016**

- Although this is my first year and I have no benchmark in which start from, I thought Heritage Days was a success.
- The capital improvements program is currently underway. Staff will continue to add projects to the document over the next month and a half. The document will be presented to the Finance Committee initially and then forwarded on to the entire Council.
- Letters have been sent to all of the property owners adjacent to a street that will be temporarily effected by the sealcoat treatment.
- There was some minor damage reported at the pool over the weekend. The automated vacuum was damaged and will need to be replaced. The extent of the damage is estimated to be around \$2,500. Staff is asking anyone who may have information about the incident to contact the Mt. Vernon Police Department.