

The Mount Vernon City Council met October 5, 2020 at the Mount Vernon City Council Chambers with the following members present: Roudabush, West, Wieseler, Herrmann and Rose.

**Call to Order.** At 6:30 p.m. Mayor Jamie Hampton called the meeting to order and reminded all guests in attendance that masks are required in public buildings unless a six foot separation can be maintained.

**Agenda Additions/Agenda Approval.** Discussion item #2 (LBC Day Camp Report) will be tabled. Motion made by Wieseler, seconded by West to approve agenda as amended. Carried all.

**Consent Agenda.** Motion made by West, seconded by Herrmann to approve Consent Agenda. Carried all.  
Approval of City Council Minutes – September 21, 2020 Regular Council Meeting  
Approval of Liquor License – Mt. Vernon Pizza Palace, LLC  
Appoint Matt Nelson and Emily Zimmon – Housing Commission

### **Public Hearing**

Public Hearing for the Amendment to the Comprehensive Plan and Land Use Map for the Creation of the Hwy 30 Bypass Overlay District (to remain tabled until October 19, 2020). Close public hearing – Proceed to G-1

### **Ordinance Approval/Amendment**

Ordinance #8-17-2020A: Amending Chapter 135 Street Use and Maintenance of the Mount Vernon Municipal Code. Motion to approve the third and final reading. Staff has not received any written or verbal communication on this ordinance since the first reading. Motion to approve the third reading of Ordinance #8-17-2020A made by Wieseler, seconded by Rose. Roll call all yes. Ordinance passes the third and final reading.

Ordinance #9-8-2020A: Amending Chapter 15 Mayor of the Mount Vernon Municipal Code. Motion to approve the third and final reading. Staff has not received any written or verbal communication on this ordinance since the first reading. Motion to approve the third reading of Ordinance #9-8-2020A made by Rose, seconded by West. Roll call all yes. Ordinance passes the third and final reading.

Ordinance #9-8-2020B: Adopting Chapter 49 Mandating Face Coverings During Public Health Emergencies of the Mount Vernon Municipal Code. Motion to approve the third and final reading. Keith Huebner stated that the Mayor had been served with a lawsuit prior to tonight's meeting and he urged Council not to proceed with the third reading and rescind the actual mask mandate. Jerry Niederhauser said he has had COVID in his family and knows people who have died from it but in his opinion this is a gross overreaction. He also said the number of people dying from it are way down and is a very low percentage and he does not want to be part of a "one world government". Shannon Thompson, an attorney representing Hunter Parks, said this is not about masks or the efficacy of masks or whether or not we wear them, the issue is that it is illegal for the City Council to pass this ordinance because only the governor is able to institute a mask ordinance. She is asking that Council reconsider this again. Siobhan Briley, also representing Hunter Parks, Keith Huebner and Global Water Services, LLC (plaintiffs in the lawsuit filed) said her personal beliefs are that everyone should wear masks but said our personal beliefs should not guide whether municipal bodies can require citizens and visitors to wear masks. She is convinced that the legal position in the papers served tonight is correct. She is urging Council to reconsider

this ordinance. Briley summarized the documents served tonight by saying that they are a petition for a declaratory judgement and injunctive relief by asking the court to determine that the City Council does not have the authority to issue a mandate requiring persons within the City to wear masks under the circumstances stated. It also includes an application for a temporary injunction while proceedings are pending. This is based on an analysis of the Iowa Constitution and the Iowa Code governing the authority to respond to a State Public Health Disaster Emergency. Only the governor has the authority to direct citizens of the State of Iowa to do certain things or refrain from certain things in the situation where there is a Public Health Disaster Emergency. The information in the Code interpreted by case law says that cities are exceeding their home rule authority when they take actions, such as requiring citizens in the city to wear masks. She ended by saying it is her belief that if Council proceeds to the third reading and passes the ordinance, there will be litigation, which will have financial consequences to the City. It was the consensus of Council members that the City Attorney should view the legal document presented tonight and get his advice and counsel before proceeding with the third reading. Herrmann made a motion to table the third reading of Ordinance 9-8-2020B, seconded by Rose. Roll call all yes. Ordinance tabled.

**Resolutions for Approval**

Resolution #9-8-2020D: Amending the Mt. Vernon Comprehensive Plan and Land Use Map for the Creation of the Hwy 30 Bypass Overlay District (to remain tabled until October 19, 2020).

Resolution #10-5-2020A: Approving and Authorizing Execution of a First Amendment to the Agreement for Private Development by and Between the City of Mount Vernon and Midwest Development Co. This amendment would authorize the developer of Spring Meadow Heights to move Phase 3 in front of Phase 2. Having a second entrance to the subdivision from Candlestick Drive would be ideal and staff is recommending approval of this agreement. Motion made by Wieseler, seconded by Roudabush to approve Resolution #10-5-2020A. Roll call all yes. Resolution passes.

Resolution #10-5-2020B: Accepting Work for the Project Known as the Wagon Pass with Schrader Excavating & Grading Company. The project has been completed in accordance with the plans and specifications approved by City Council. Total cost was \$126,269.15. Motion made by Rose, seconded by West to approve Resolution #10-5-2020B. Roll call all yes. Resolution passes.

**Motions for Approval**

Consideration of Claims List – Motion to Approve. Motion made by West, seconded by Wieseler to approve claims list. Carried all.

|                                 |                              |          |
|---------------------------------|------------------------------|----------|
| AAA PEST CONTROL                | PEST CONTROL-PD              | 55.00    |
| AAA PEST CONTROL                | PEST CONTROL-P&A             | 30.00    |
| AHLERS & COONEY P.C.            | MIDWEST DEV SERVICE-P&A      | 285.50   |
| ALLIANT IES UTILITIES           | ENERGY USAGE-LBC             | 3,989.24 |
| ALLIANT IES UTILITIES           | ENERGY USAGE-ST LIGHTS       | 20.93    |
| ARAMARK                         | RUGS-FD                      | 45.00    |
| ASHLEY PISARIK                  | SOCCER REFUND-P&REC          | 48.00    |
| BAUER BUILT TIRE - CEDAR RAPIDS | EQUIP MAINT-RUT              | 143.75   |
| BRADY LANHAM                    | ADDITIONAL OUTLETS-PD CONSTR | 480.00   |
| CALEB DAUSENER                  | REFEREE-P&REC                | 120.00   |
| CEDAR VALLEY HUMANE SOCIETY     | ANIMAL CONTROL               | 335.00   |
| CENTRAL IOWA DISTRIBUTING       | SUPPLIES-LBC                 | 71.40    |
| CHAPPYS REPAIR LLC              | HUSTLER PARTS-RUT            | 55.00    |
| CHRIS NOSBISCH                  | MILEAGE-P&A                  | 242.08   |
| CITY LAUNDERING CO              | SERVICES-LBC                 | 205.29   |
| CLIA LABORATORY PROGRAM         | CERTIFICATE FEE-FD           | 180.00   |

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| CLIFTON LARSON ALLEN              | AUDITOR FEES-P&A               | 2,625.00  |
| COGRAN SYSTEMS                    | ONLINE REGISTRATION FEES-P&REC | 350.00    |
| CONFLUENCE INC                    | CORRIDOR STUDY                 | 788.46    |
| DE NOVO MARKETING                 | MONTHLY MAINT-LBC              | 300.00    |
| DELTA DENTAL                      | INSURANCE-ALL DEPTS            | 1,348.92  |
| DOUGLAS STEINMETZ                 | CONSULTATION-MVHPC             | 75.00     |
| FELD FIRE                         | TOOLS-FD                       | 308.70    |
| GALLS INC                         | UNIFORMS-PD                    | 177.63    |
| GARY'S FOODS                      | SUPPLIES-PD                    | 11.79     |
| GORDON LUMBER COMPANY             | BLDG SUPPLIES-PD,RUT           | 66.40     |
| GRAYBILL COMMUNICATIONS           | EQUIP MAINT-SEW                | 42.80     |
| HAWKEYE ELECTRIC CEDAR RAPIDS     | ADD OUTLET-LBC                 | 275.40    |
| HAWKEYE FIRE & SAFETY CORP        | SUPPLIES-WAT                   | 104.20    |
| HAWKEYE FIRE & SAFETY CORP        | SUPPLIES-RUT                   | 50.40     |
| HAWKEYE FIRE & SAFETY CORP        | SUPPLIES-RUT                   | 42.90     |
| IOWA DEPT OF NATURAL RESOURCES    | ANNUAL WATER USE FEE-WAT       | 95.00     |
| IOWA ONE CALL                     | LOCATES-WAT,SEW                | 77.40     |
| IOWA PRISON INDUSTRIES            | BENCH (2)-PD                   | 788.00    |
| IOWA SOLUTIONS INC                | MONTHLY MAINT-ALL DEPTS        | 866.40    |
| JACOB MASTERS                     | REFEREE-P&REC                  | 215.00    |
| JASON BLINKS                      | FITNESS MEMBERSHIP-PD          | 100.00    |
| JASON BLINKS                      | FITNESS MEMBERSHIP-FD          | 100.00    |
| JOE'S QUALITY WINDOW CLEANING     | WINDOW CLEANING-PD             | 150.00    |
| JOE'S QUALITY WINDOW CLEANING     | WINDOW CLEANING-PD             | 120.00    |
| JORDAN AXTELL                     | REFEREE-P&REC                  | 290.00    |
| JP SCHERRMAN INC                  | ASSY,OIL FILTER-RUT            | 25.99     |
| JP SCHERRMAN INC                  | EQUIP REPAIR-RUT               | 249.78    |
| JP SCHERRMAN INC                  | KUBOTA REPAIRS-RUT             | 46.94     |
| KAYDEN PENDERGRASS                | REFEREE-P&REC                  | 120.00    |
| KONICA MINOLTA BUSINESS SOLUTIONS | MAINTENANCE PLAN/COPIES        | 130.38    |
| LINN CO-OP OIL CO                 | FUEL-PW                        | 2,090.44  |
| LYNCH FORD                        | ANTI-FREEZE-WAT,SEW            | 105.94    |
| MARTIN EQUIPMENT                  | SUPPLIES-RUT                   | 16.16     |
| MATT SIDERS                       | LABEL TAPE-LBC                 | 24.02     |
| MEDIACOM                          | PHONE/INTERNET-LBC             | 657.18    |
| MEDIACOM                          | PHONE/INTERNET-FD              | 321.28    |
| MEDIACOM                          | PHONE/INTERNET-WWTP            | 286.94    |
| MEDIACOM                          | PHONE/INTERNET-P&REC           | 223.06    |
| MENARDS                           | TOOLS-LBC                      | 1,212.30  |
| MENARDS                           | SUPPLIES-LBC                   | 20.01     |
| MIDWEST SAFETY COUNSELOR          | CALIBRATION-FD                 | 90.00     |
| MIDWEST WHEEL                     | SUPPLIES-RUT                   | 337.08    |
| MIDWEST WHEEL                     | VEHICLE REPAIRS-RUT            | 259.38    |
| MOTION FITNESS CO                 | T-WALL-LBC                     | 11,500.00 |
| MOUNT VERNON ACE HARDWARE         | EQUIP REPAIR-FD                | 389.44    |
| MOUNT VERNON ACE HARDWARE         | SUPPLIES-ALL DEPTS             | 700.09    |
| MOUNT VERNON POLICE RESERVES      | SPECIAL EVENTS PAY-PD          | 6.16      |
| MOUNT VERNON POLICE RESERVES      | SPECIAL EVENTS-PD              | 6.00      |
| NATALIE HAND                      | SOCCER REFUND-P&REC            | 43.00     |
| NEAL'S WATER CONDITIONING         | WATER/SALT-P&A                 | 70.25     |
| P&K MIDWEST INC                   | JD 5075 TRACTOR                | 3,220.00  |
| P&K MIDWEST INC                   | JD 5075 BLADES-RUT             | 559.06    |
| P&K MIDWEST INC                   | EQUIP MAINT-RUT                | 184.86    |
| P&K MIDWEST INC                   | EQUIP MAINT-RUT                | 127.20    |

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| PATTY LYNCH                   | REFUND-LBC                   | 25.00      |
| PAYROLL                       | PAYROLL                      | 85,463.96  |
| PIGOTT INC                    | FURNITURE DEPOSIT-CITY HALL  | 20,943.02  |
| POSTMASTER                    | NEWSLETTER-P&A,SW            | 459.91     |
| POSTMASTER                    | UTIL BILL POSTAGE-WAT,SEW,SW | 386.85     |
| PRICE INDUSTRIAL ELECTRIC INC | SOFT STARTER/BLOWER #1-SEW   | 4,500.00   |
| RCL PRODUCTS                  | CONSULTING/QUIET ZONE PROJ   | 10,400.00  |
| RYDER BUNCH                   | REFEREE-P&REC                | 60.00      |
| SARA BRANNAMAN                | SOCCER REFUND-P&REC          | 35.00      |
| SHERWIN WILLIAMS CO.          | SOCCER FIELD PAINT-P&REC     | 277.94     |
| STAPLES INC                   | SUPPLIES-P&A                 | 55.73      |
| STAPLES INC                   | SUPPLIES-ALL DEPTS           | 29.96      |
| STAR EQUIPMENT LTD            | SKID LOADER MAINT-RUT        | 142.68     |
| SUN LIFE ASSURANCE COMPANY    | INSURANCE-ALL DEPTS          | 1,219.70   |
| TORK AUTO LLC                 | SIREN SPEAKERS (2)-FD        | 300.00     |
| TORK AUTO LLC                 | 2009 F350 MAINT-FD           | 84.00      |
| TREASURER STATE OF IOWA       | WET TAX                      | 3,195.00   |
| TREASURER STATE OF IOWA       | SALES TAX                    | 1,808.00   |
| TRYSTIN LASHLEY               | REFEREE-P&REC                | 60.00      |
| TYLER PANOS                   | REFEREE-P&REC                | 120.00     |
| US BANK                       | CREDIT CARD PURCHASES        | 7,700.65   |
| US CELLULAR                   | CELL PHONE-P&REC,WAT,SEW     | 172.62     |
| VEENSTRA & KIMM INC           | 3RD ST NATURE PARK TRAIL-GEN | 2,462.21   |
| VEENSTRA & KIMM INC           | HWY 30 BYPASS COORDINATION   | 500.00     |
| VEENSTRA & KIMM INC           | 8TH AVE QUIET ZONE           | 166.50     |
| VERIZON CONNECT               | INFORMATION SYSTEMS-PW       | 194.28     |
| WALTER TAYLOR                 | DEPOSIT REFUND-WAT           | 63.13      |
| WAPSI WASTE SERVICE           | GB,RECYL-SW                  | 22,314.27  |
| WELLMARK                      | INSURANCE-ALL DEPTS          | 18,148.77  |
| WELTER STORAGE                | SUPPLIES-RUT                 | 952.00     |
| TOTAL                         |                              | 220,939.71 |

|                              |  |            |
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| CAPITAL IMPROVEMENT PROJECTS |  | 31,509.52  |
| GENERAL FUND                 |  | 22,811.18  |
| LBC                          |  | 9,488.08   |
| LOST III COMMUNITY CENTER    |  | 12,325.35  |
| LOST III TRAILS              |  | 2,462.21   |
| PAYROLL                      |  | 85,463.96  |
| POLICE STATION CONSTRUCTION  |  | 480.00     |
| ROAD USE TAX FUND            |  | 8,764.31   |
| SEWER FUND                   |  | 11,452.58  |
| SOLID WASTE                  |  | 25,585.35  |
| STORM WATER FUND             |  | 670.31     |
| WATER FUND                   |  | 9,926.86   |
| TOTAL                        |  | 220,939.71 |

Discussion and Consideration of Pay Application #15 – 2019 Wastewater Treatment Plant Improvements – Council Action as Needed. Motion made by Wieseler, seconded by Herrmann to approve Pay Application #15 – 2019 Wastewater Treatment Plant Improvements in the amount of \$25,950.72. Carried all.

Discussion and Consideration of Pay Application #1 – South Alley Improvements – Council Action as Needed. Motion made by Rose, seconded by West to approve Pay Application #1 – South Alley Improvements in the amount of \$59,471.71. Carried all.

Discussion and Consideration of Pay Application #3 – Nature Park Trail – Council Action as Needed. Motion made by Wieseler, seconded by Herrmann to approve Pay Application #3 – Nature Park Trail in the amount of \$3,207.25. Carried all.

Discussion and Consideration of Pay Application #3 - Wagon Pass – Council Action as Needed. Motion made by Rose, seconded by Herrmann to approve Pay application #3 – Wagon Pass in the amount of \$193.23. Carried all.

Discussion and Consideration of Service Agreement with ECICOG – Housing Rehabilitation Grant – Council Action as Needed. The City of Mount Vernon is contracting with ECICOG to administer the local low to moderate income housing grant project. There will be two grants of \$4,000 awarded under the program and ECICOG will receive \$600 per grant to administrate the applications. Motion made by Herrmann, seconded by West to approve service agreement with ECICOG. Carried all.

#### **Reports to be Received/Filed**

Public Library Year End Report. Cathy Boggs with Cole Public Library presented Council with the library's year-end report for 2019-2020. The library continues to do curbside pickup, story time to-go and book bundles. Books are being provided to day camp members through the LBC. There will be a drive-in puppet show coming up this week.

#### **Discussion Items (No Action)**

Possible 28E Agreement for Police Services. Chief Shannon met with Lisbon City Council last week to discuss the proposed 28E agreement for police services and reviewed the proposed contract. The only feedback received from them was trying to come up with some type of cap on the dollar amount or how much of an increase they would see each year from their proposal. Beyond that everything was positive as far as the language in the contract. This agreement would allow for more stable scheduling and provide better resources for both communities.

LBC Day Camp Report. Tabled.

#### **Reports of Mayor/Council/Administrator**

Council Report

City Administrator's Report. The second meeting (Zoom) for the Hwy 30 bypass will be Wednesday, October 7, 2020.

As there was no further business to attend to the meeting adjourned the time being 7:57 p.m., October 5, 2020.

Respectfully submitted,  
Marsha Dewell  
Deputy Clerk