



Agenda

Planning, Finance, Enterprise, and Economic Development Committee

Oelwein City Hall, 20 Second Avenue SW, Oelwein, Iowa

5:30 PM

February 24, 2025

Oelwein, Iowa

Mayor: Brett DeVore

Committee Members: Matt Weber, Karen Seeders, Lynda Payne

Pledge of Allegiance

Discussions

1. Consideration of a motion to review and recommend to Council the Demolition Assistance Policy.

Adjournment

In compliance with the Americans with Disabilities Act, those requiring accommodation for Council meetings should notify the City Clerk's Office at least 24 hours prior to the meeting at 319-283-5440

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Item 1.

MAILING ADDRESS:
P.O. Box 2457
Cedar Rapids, IA 52406-2457

To: Mayor, City Council, and City Administrator

From: City Attorney Doug Herman

Re: Demolition Assistance Grant Policy

Date: February 10, 2025

Dear Mayor and Council:

Dylan asked that I review your Demolition Assistance Grant Policy, update terms in a way that will ‘broaden’, my terms, its applicability, and to also address the following questions or concerns that were raised by one or some of you.

1. Because the City Council approved ‘grants’ to applicants where the facts and circumstances of the application appeared to fall outside of the Grant Policy, my opinion on whether the Council is at risk of ‘getting in trouble’ for failing to follow the previously approved policy.

Response: Policies are approved by Resolution, generally, as are Applications for Grant assistance. Generally speaking, resolutions are all on equal ground, both require a majority vote of the Council. A resolution approving a ‘Policy’ has no greater weight than a resolution approving a ‘Grant’. That said, it is important to consider the following:

- a. If a Resolution, in this case approving a Grant Application, is not consistent with the Grant Policy, why is the policy being ignored and/or why is the policy not being amended to make the desired Grant Application approval fit within the Policy? Approving Grant Applications that are not eligible for approval under the Policy will send a message to the Community that the Policy, and maybe other policies in general, do not carry much meaning or weight. Not a good message to send.
- b. What kind of ‘trouble’ could come to pass by the Council not following previously approved policy?
 - i. Confusion of residents over the policy or lack thereof.
 - ii. Questions of ‘favoritism’ amongst the public, where one might argue that a ‘grant’ was given to someone because of who they are or who they know. Unfairness.
 - iii. Argument by public/others who may submit a Grant Application that doesn’t fit the Policy that “John got a grant for a project that was not eligible so why can’t I?” (Puts the Council in a difficult spot.”

- iv. Comments in annual audit by Auditor that City Council identified by Policy a “public purpose” but is spending money outside of that Policy, the auditor potentially arguing that doing so is not for a public purpose and therefore a wrongful expenditure of public funds.
 - a. In my opinion, this risk is minimal, particularly if the Council Resolution approving the Grant makes specific findings as to why the Grant is being approved, that the demolition serves a public interest, and even if the grant falls outside the Grant Policy, the grant award is substantially consistent with the policy, or something along those lines.
2. Whether the Council could be found to be guilty of discriminating against parties/persons/entities by not making the Grant available to everyone, regardless of circumstances? (Applicants where the ‘property’ is or has been income producing, for example)

Response: The short answer is no, so long as the reason for the differences is not constitutionally prohibited.

- a. The Council has great discretion to determine what is or is not a good use of public dollars, particularly when spending money in the form of a grant. Most importantly, the City must find there is a public purpose. The City may also determine, by Policy, that it wants to promote certain projects and/or that a grant or incentive is important and necessary or appropriate in certain circumstances, but not all.
 - i. So long as the policy cannot be read to directly or indirectly discriminate against certain protected classes, including by age, ancestry, race, disability, gender, military status, religion, sex, and the like, the Council has, in my opinion, no concerns.

I have attached an updated draft ‘broadened’ policy for your review. I am guessing a bit as to what you may or may not want in the policy and you can definitely tighten it up more, condition it more, etc., if desired. For example, is a residential lot or commercial lot eligible for demolition assistance whether the applicant owns adjacent property or intends to improve the lot, or for other reasons? A couple of examples:

1. Resident(or Non-Resident) acquired residential property via tax sale, does not own adjacent property, and wants to demolish home so that lot may be listed for sale. Eligible?)
2. Resident(or Non-Resident) inherited downtown building in need of demolition, owns no adjacent property, has no plans to improve the property, only plans to own it and/or market it. What if owner is known to be independently wealthy? What if owner has unrealistic value of lot when vacant? What if owner has been a problem owner over the years with this or other property, with code enforcement issues? Eligible? Should eligibility requirements include ‘need’

and not code noncompliance history, or should it really come down to the positive impact the demolition will have on the City?

Let me know what questions or input you might have.

Sincerely yours,

Douglas D. Herman

Douglas D. Herman

LYNCH DALLAS, P.C.



Policy: City Demolition Assistance Grant

Adopted by Resolution: _____

Date: _____

The City of Oelwein ("City") wants to improve the community by removing structures that are found by the City Council to be either unsafe and uninhabitable by residents, or in such a condition as to not be safely occupied for commercial purposes. To help achieve this goal, the City Council found it appropriate, and in the public interest, to provide for a "Demolition Assistance Grant" to promote and assist with the demolition expenses of such structures.

Program Rules:

- The maximum award shall not exceed fifty percent (50%) of the eligible demolition expenses or five thousand dollars (\$5,000.00), whichever is less.
- The Council will consider the following factors during review and consideration of Applications:
 - Whether Applicant will be adding the property where demolition is proposed to occur to adjacent property owned by Applicant.
 - The Council will give additional weight and value to Applications under this circumstance.
 - In considering whether 'value' is added, the Council may consider whether the adjoining property will, in the opinion of the Council, be more appealing, and, therefore, likely more valuable, after demolition.
 - Whether Applicant will be adding value to the property by the construction of improvements on the property.
 - Timelines and certainty of proposed improvements to the property.

Program Procedure:

- Applicant to complete and submit City Demolition Assistance Application.
- Applicant to provide at least two (2) demolition bids with the Application.
- Before Council consideration of Application, City Code Enforcement staff must be allowed access to complete an inspection of the property, after which a written inspection report will be generated.
- Completed Applications with Inspection Reports will be reviewed by the City "Planning, Finance, Enterprise, and Economic Development Committee" ("Committee") for recommendation to the City Council.
 - The Committee meeting will be a public meeting and Applicant will be given advance notice of the date and time of the meeting at which the Application will be considered.
 - Committee may recommend funding, denial of funding, partial funding, or funding, full or partial, subject to conditions.



- Committee recommendation will be provided to City Council for consideration at a regular or special meeting of the City Council. Applicant will be given advance notice of the date and time of the Council meeting.
- If City Council approves partial or full funding, the Applicant will be given written notice of the approval, and any conditions that may apply.
- After approval:
 - Applicant moves forward with chosen contractor to plan the demolition.
 - Prior to demolition, Contractor pulls a demolition permit from the City.
 - After completion of demolition, as confirmed by City code enforcement inspection, the Applicant submits proof of expenses, in a manner deemed acceptable to the City, including but not limited to landfill tickets and copies of paid invoices.
- Upon completion of demolition and submission of evidence of eligible expenses as noted above, the City will reimburse Applicant the appropriate sum, consistent with prior City Council approval.
- Should City staff find that reimbursement is not warranted, whether in the amount approved by the Council or in no amount at all, City staff shall report such conclusion(s) to the Applicant in writing, with appropriate analysis and explanation
 - Applicant may appeal the City staff determination to the City Council by written appeal to be submitted to the City Council within seven (7) working days of the City staff decision.

Because circumstances may vary from application to application, and project to project, the City Council reserves discretion to vary from the above and foregoing project guidelines when deemed appropriate and otherwise found to be in the best interest of the City.