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MINUTES OF THE PROCEEDINGS
OF THE BURLINGTON, IOWA CITY COUNCIL

Meeting No. 37
July 2, 2007

The Burlington City Council met in regular session at 7:00 p.m. in the Thomas J. Smith Council Chambers, City Hall with Mayor Ell, Council Members Campbell, Murray, Scott and Thomas present.

BURLINGTON CITY COUNCIL

1. Council Member Vacancy

Introduced By: Scott Seconded By: Campbell
â€¢ Motion to Appoint New City Council Member for Remainder of Term

DISCUSSION: None.
(VOTE: 4 - â€¢ AYESâ€¢)
CARRIED

â€¢ Swearing-in New Council Member (by City Clerk)

Council Member Murray was sworn in as Council Member by the City Clerk.

2. Select Mayor
â€¢ Nominations for Mayor (by Mayor Pro-Tem Ell)

DISCUSSION: Mayor Pro-Tem Ell reviewed the City Council's procedural rules for election with the Council and the viewing audience. Council Member Thomas nominated himself for Mayor, seconded by Council Member Scott. Council Member Murray nominated Council Member Ell for Mayor, seconded by Council Member Scott.

Council Member Campbell nominated himself for Mayor, seconded by Council Member Scott. Ballots were passed out by the City Clerk. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Scott Seconded By: Campbell
â€¢ Motion: That nominations for Mayor be closed

DISCUSSION: None.
(VOTE: 5 - â€¢ AYESâ€¢)
CARRIED

Introduced By: Campbell Seconded By: Thomas
â€¢ Motion: That Council Members May Make Comments Regarding Nominees of up to 15

Minutes per Nominee and Also That the Floor Be Opened to the General Public for a Period of Not More than 60 Seconds per Person.

DISCUSSION: Mary Baker of 320 South 6th Street felt that Mayor Pro-Tem Ell should automatically be Mayor until January 2008 when the new Mayor is elected.

Bob Saar of 317 South 5th Street welcomed Matthew Murray to the City Council. He stated that the Council Members made a great choice by selecting Matthew Murray as Council Member. He further stated that he would also like to see the Council elect Mayor Pro-Tem Ell as Mayor until January 2008 so that the City

Council can concentrate on bringing Council Member Murray along on issues. Council Member Campbell outlined his leadership skills with the Optimist Club, his leadership role as store manager at Tom's Market and Meats and his service

with other organizations in the past. Council Member Thomas stated that he has served on the City Council for 7½ years and he has the experience and leadership

qualities needed for Mayor. He stated that he is an Associate Pastor, small business owner, and has been the Mayor Pro-Tem for two terms in the past. Mayor

Pro-Tem Ell stated that he was qualified for the position of Mayor and had worked hard the past 3½ years as Mayor Pro-Tem. After round one round of balloting, Council Member Campbell received one vote, Council Member Thomas and Ell both received two votes. Council Member Thomas stated that he had the most charisma of the Council Members. Council Member Campbell stated that the Council Member he nominated looks him in the eye each day in the mirror and was not ashamed to do such. Bob Saar of 317 South 5th Street stated he still had campaign signs of Council Member Scott in his garage. He further urged Council Member Scott to swing his vote over from Council Member Thomas to Mayor Pro-Tem Ell. He further stated that Council Member Campbell was qualified to be Mayor but urged him not to prolong the process and vote for Mayor Pro-Tem Ell as Mayor. Mary Baker of 320 South 6th Street questioned what the role of Mayor Pro-Tem was. Mayor Pro-Tem Ell stated that according to State law the position of Mayor Pro-Tem fills in for the Mayor in a temporary capacity for a missed meeting, etc. He stated that for a longer term it is not allowed for the Mayor Pro-Tem to serve in the Mayor's capacity. Council Member Scott stated that Section 372.14 of the State Code explains the process. Round two ballots resulted in both Council Member Campbell and Thomas receiving one vote and Council Member Ell receiving three votes. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 4 - AYES CAMPBELL, ELL, MURRAY AND THOMAS
1 - NAY SCOTT)

CARRIED

Introduced By: Campbell Seconded By: Scott

Motion: To approve William L. Ell as Mayor for remainder of term

DISCUSSION: None.

(VOTE: 5 - AYES)

CARRIED

Motion: Swearing-In Mayor (by City Clerk)

Council Member Ell was sworn in as Mayor by the City Clerk.

3. Select Mayor Pro-Tem (only if necessary)

Motion: Nominations for Mayor Pro-Tem (by Mayor)

DISCUSSION: Council Member Scott nominated Council Member Thomas for Mayor Pro-Tem, seconded by Council Member Murray. Mayor Ell nominated Council Member Campbell for Mayor Pro-Tem, seconded by Council Member Scott. Ballots were passed out by the City Clerk.

Introduced By: Scott

Seconded By: Campbell

Motion: That nominations for Mayor Pro-Tem be closed

DISCUSSION: After round one of balloting, Council Member Campbell received two votes and Council Member Thomas received three votes. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 5 - AYES)

CARRIED

Introduced By: Campbell Seconded By: Scott

â € Motion: To approve Garry Thomas as Mayor Pro-Tem for remainder of term

DISCUSSION: None.

(VOTE: 5 - â AYESâ)

CARRIED

â € Swearing-In Mayor Pro-Tem (by City Clerk)

Council Member Thomas was sworn in as Mayor Pro-Tem by the City Clerk.

CONSENT AGENDA: To the Public:

All matters listed under Item I., Consent Agenda, having been discussed were considered to be routine by the City Council and were enacted by one motion. There was not separate discussion of these items. If discussion was desired, that item was removed from the Consent Agenda and was considered separately.

Introduced By: Campbell

Seconded By: Scott

MOTION: To approve all items listed under Item I., Consent Agenda.

DISCUSSION: Mayor Ell reviewed the items listed on the consent agenda to the viewing audience. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 5 - â AYESâ)

CARRIED

HEARINGS:

1. Statement: Consideration of an Ordinance Rezoning the Property Located at 211 North 3rd Street (Capitol Theater) to Include an H-1, Historical Preservation Overlay District

COMMENTS: The City Planner stated that the proposed Ordinance rezones the property located at 211 North 3rd Street (Capitol Theater) to include an H-1, Historical Preservation Overlay District. He stated that staff, the City Planning Commission and the Historic Preservation Commissioner were unanimously in support of rezoning the property to an H-1, Historical Preservation Overlay District. He stated that the building to the south of the Capitol Theater would

not be included in the H-1 designation at this time. Mary Baker of 320 South 6th Street questioned why the building to the south of the Capitol Theater was not included in the H-1, Historical Preservation Overlay. The City Planner stated that the owner of the Capitol Theater has chosen to not include the building to the south as a part of the H-1, Historical Preservation Overlay. Council Member Thomas stated renovation of the old Capitol Theater was a good project. He further stated that he remembered the days of working at the theater as a doorman. Council Member Murray stated that he use to own the Capitol Theater many years ago. He stated that the building was a great example

of art deco. He hoped that the Council and the public were excited about the renovation of the Capitol Theater. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Thomas Seconded By: Scott

Motion to Close

(VOTE: 5 - â AYESâ)

CARRIED

Introduced By: Thomas Seconded By: Scott

Motion for the Preliminary Adoption of the First Reading of an Ordinance

Rezoning the Property Located at 211 North 3rd Street (Capitol Theater) to Include an H-1, Historical Preservation Overlay District

DISCUSSION: None.

(VOTE: 5 - â AYESâ)

CARRIED

2. Statement: Consideration of a Residential Sewer Lateral Program

COMMENTS: The City Manager reviewed the property owner's responsibility and the

City's responsibility for the proposed residential sewer lateral program. Financing for the program would include a \$.50 per month fee on residential water bills with an estimated 10,000 accounts or \$60,000.00 annual income. He stated that City residential sewer account customers were the only accounts eligible for the program. A repair program for existing would not apply to new services. The City Planner reviewed his memo of June 29, 2007 which stated that

any individual who has built a new home within the last 19 years (since 1988) has had PVC or ductile iron pipe installed. Records indicate 495 new homes. He

further stated that approximately 1500 customers have either private septic system, those that do not have a gravity system but are pumped through a lift station, and those that have the sewer main in their front yards or within the right-of-way would not need the program. Public Works has requested that any new main sewer lines be installed within the right-of-way not within the roadway

for some time now. Because of this change in the sewer main location many customers would never have to cross or enter into the roadway. He further stated that approximately 20 property owners annually have already replaced their sewer lines in the roadway. He further stated that in summary nearly 2,200 customers out of 10,000 would potentially not benefit from the program. Al Sparks of 302 South Garfield stated that he was not against the program but felt Council needed to do critical thinking as to how to reduce costs and find the needed funds for the program. Council Member Scott stated that seventeen years ago he purchased a home and two months later had to replace his broken sewer at a cost of \$5,000.00. He stated that recently a property owner paid \$11,000.00 to replace a broken sewer line. He stated that there were different ratings of PVC that do not hold up. He stated that his business does not make sewer repairs in the City right-of-way, so he would not personally be making any

monies from the program, but he just wanted to help out the property owner that ends up having to pay for repairing a sewer line break. He urged the public to speak or contact the City Council as the program will be Council-driven.

Council Member Thomas stated that he canvassed 36 property owners and all were in favor of the program. He stated that he received one negative response from a phone caller. Mayor Ell stated that he understood the financial dilemma placed on property owners. He was concerned with the legality of the program. He stated that 2,200 property owners would not benefit from the program. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Scott

Seconded By: Thomas

Motion to Close

CARRIED

(VOTE: 5 - â AYESâ)

ORDINANCES:

Introduced By: Scott

Seconded By: Campbell

1. Motion to Amend the Motion for Preliminary Adoption of the Second Reading of

an Ordinance Vacating and Selling a 33-Foot Wide Portion of Bock Street Right-of-Way, Being Part of Lots 25 and 26 in Matteson and Woodburnâ s Subdivision, City of Burlington, Des Moines County, Iowa

DISCUSSION: The City Manager stated that there were no changes to the Ordinance Vacating and Selling a 33-Foot Wide Portion of Bock Street Right-of-Way, Being Part of Lots 25 and 26 in Matteson and Woodburnâ s Subdivision from the first reading. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 5 - â AYESâ)

CARRIED

Introduced By: Scott

Seconded By: Campbell

2. Motion for Waiver of Preliminary Consideration and Adoption of the Second Reading and for Final Adoption of an Ordinance: An Ordinance Vacating and Selling a 33-Foot Wide Portion of Bock Street Right-of-Way, Being Part of Lots 25 and 26 in Matteson and Woodburnâ s Subdivision, City of Burlington, Des Moines County, Iowa

DISCUSSION: None.

(VOTE: 5 - â AYESâ)

CARRIED

Introduced By: Scott

Seconded By: Campbell

3. Motion for the Preliminary Adoption of the Second Reading of an Ordinance Vacating All Public Right-of-Way Located Within the Boundaries of the Manor Revisited Project Area, City of Burlington, Des Moines County, Iowa

DISCUSSION: The City Manager stated that there were no changes to the Ordinance Vacating All Public Right-of-Way Located Within the Boundaries of the Manor Revisited Project Area, City of Burlington, Des Moines County, Iowa from the first reading. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 5 - â AYESâ)

CARRIED

HEARING:

1. Statement: Consideration of Sale of All Public Property Located Within the Boundaries of the Manor Revisited Project Area

COMMENTS: The City Manager recommended that the City Council hold the public hearing then continue the approval of the Resolution for the Sale of All Public Property Located Within the Boundaries of the Manor Revisited Project Area to the July 16, 2007 City Council Meeting. He stated that the purchase agreement and titles to the property needed to be completed. He stated that the demolition

of the property was moving forward and would be completed in two to three weeks.

He stated that the property would be sold to Robert Muir Company for \$2,400,000.00. He further stated that Robert Muir Company would make designs for a future shopping mall. Council Member Scott stated that he would like to see the public hearing continued to allow for more comments from citizens. He made a motion to continue the hearing to the July 16, 2007 City Council Meeting.

Mayor Ell seconded the motion. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Scott

Seconded By: Ell

Motion to Continue to the July 16, 2007 City Council Meeting

(VOTE: 5 - â AYESâ)

CARRIED

COMMENTS FROM AUDIENCE: Jerry Wiley of 3004 Fleming Court and Pat Singsank of 2907 Flint Hills Drive stated that they received a letter from the City regarding sale of all public property located within the boundaries of the Manor

Revisited Project area. They questioned if their property was involved. The City Manager explained that those properties was not a part of the Manor Revisited Project and that they were invited to the public hearing as they live within 200 feet of the area. He stated that purchase of those properties would be strictly market driven. Al Sparks of 302 South Garfield Avenue stated that he was not against the residential sewer lateral program but was against adding \$.50 monthly to his water bill to pay for the program. He urged Council to do critical thinking on the program. He stated that Council Member Scott had done his homework, but questioned if the other council members had done theirs. He further stated that he was glad that Bill Ell was selected as Mayor. Council Member Thomas stated that he took exception to Al Sparks comments in regard to the City Council not doing their homework on the residential sewer lateral program. He stated that he had done his own canvassing of property owners. Council Member Scott stated that every year as part of the budget process the City Council looks at programs and decides which programs they will keep or get rid of due to lack of funds. Mary Baker of 320 South 6th Street stated that when

she served on the City Council she was always looking up things, visiting libraries and taking pictures. She stated that \$11,000.00 bill for a broken sewer would be a hardship to most property owners. Todd Oetken of Burlington questioned why City Hall had bottled water on the 2nd and 3rd floors and a drinking fountain on the 1st floor. He stated that bottled water was expensive and a waste of tax monies. The City Manager explained that the pipes were broken and the cost of tearing into the walls of a historic building and the cost of replacing the pipes far exceeded the cost of having bottled water. Jerry Buckles stated that he did not like the City's logo and urged Council to

get a new logo that represents the present. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Adjournment: 8:42 p.m.

Approved: July 16, 2007

Kathleen P. Salisbury, MMC
City Clerk

William L. Ell
Mayor

(See tapes on file in the office of the City Clerk for complete discussion and documentation.)

ITEM I.
Consent Agenda

FINANCES AND MISCELLANEOUS
Minutes of Previous Meetings
Payroll and City Claims

BEER, LIQUOR, WINE AND CIGARETTES

REPORTS AND BONDS

RESOLUTIONS:

1. Resolution Approving Refund of Liquor License for The Hub Towne House, Inc. dba/The Hub Towne House
2. Resolution Approving Outdoor Service Area for Paddlewheel Lounge, Inc.

dba/Paddlewheel Lounge for Events on July 14, 2007, August 12, 2007, August 19, 2007 and September 28-29, 2007

3. Resolution Awarding Contract for the 2007 Memorial Auditorium Restroom Project
4. Resolution Awarding Contract for the 2007 Burlington RecPlex Trail, Phase I
5. Resolution Approving Purchase of a Used Case Dozer for Public Works Department
6. Purchase Approving Purchase of Memorial Auditorium Stage Rigging System from Beck Studios, Inc.
7. Resolution Approving Final Payment for Demolition and Removal of Phase I Structures â Manor Revisited Projectâ