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MINUTES OF THE PROCEEDINGS
OF THE BURLINGTON, IOWA CITY COUNCIL

Meeting No. 17
September 2, 2008

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 Davidson, Murray, Scott and Thomas present.

BURLINGTON CITY COUNCIL

AWARD MEDAL OF MERIT TO POLICE OFFICER JASON WEBSTER

DISCUSSION: The Police Chief awarded Police Officer Jason Webster with the medal of merit for his exemplary conduct and demeanor during an extraordinary hazardous situation whereby his actions saved the life of another person. Sgt. Zahn stated that on June 17, 2008 there was a fire at one of the group homes on Northern Drive operated by Hope Haven. All clients were safely removed from the home, except for one female client who was asleep when the fire broke out. Officer Webster rushed into the building and rescued the female client, four minutes prior to the Burlington Fire Department arriving. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

PROCLAMATION OF RETIREMENT:

Ray Toal, Streets/Sewers/Vehicle Maintenance Branch Chief

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 no separate discussion of these items. If discussion was desired, that item was removed from the Consent Agenda and was considered separately.

Introduced By: Murray Seconded By: Scott

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 - AYES)

CARRIED

HEARING:

1. Statement: Consideration of an Ordinance Establishing Chapter 37 Renewable Energy and Conservation Advisory Committee of the Burlington Municipal Code

COMMENTS: The City Manager stated that Council Member Thomas had established a Renewable Energy and Conservation Committee approximately two to three years ago. He stated that the proposed Ordinance officially establishes the Advisory Committee with powers and duties. Council Member Thomas thanked the City Council for their support of the proposed Ordinance. He stated that the citizens of Burlington need to change the way they use energy. He stated that the car of today will not be the car of tomorrow. He stated that Americans needed to be less dependent on oil. He stated that the Committee will be hosting an Aldo Leopold Energy Fair at the Port of Burlington on October 11,

2008 from 9:00 a.m. to 4:00 p.m. He thanked the members of the Committee for their time and effort. Council Member Murray thanked Council Member Thomas and the entire Council for their progressive thinking for the future generation. 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

CARRIED

Introduced By: Thomas Seconded By: Scott
Motion for Preliminary Adoption of the First Reading of an Ordinance Establishing Chapter 37 Renewable Energy and Conservation Advisory Committee of the Burlington Municipal Code

DISCUSSION: None.
(VOTE: 5 - â AYESâ)

CARRIED

ORDINANCES:

Introduced By: Scott Seconded By: Thomas
1. Motion for Preliminary Adoption of the Second Reading of an Ordinance Repealing Title 17, City of Burlington Development Program (Zoning and Subdivision Regulations) and Adopting a New Title 17, City of Burlington Development Program in Lieu Thereof According to Chapter 414 of the State Code of Iowa

DISCUSSION: The City Manager stated that the Development Department will present two amendments to the proposed Ordinance concerning sidewalk requirements at the next work session. The Development Director stated that his office will provide the Council with information concerning lot coverage for R-3 and R-4 areas that will also be amended at the final reading of the Ordinance. Leon Shahan of 1821 Mt. Pleasant Street stated his concern that if he had a fire at his residence he would not be able to rebuild his home. The Development Director stated that he would be happy to meet with Leon Shahan to discuss the issue. He

stated that his department was looking at increasing the lot coverage for R-3 and R-4 areas. Council Member Davidson stated that the Council was trying to make the Ordinance more people friendly. Becky Shockley stated that the first floor of buildings in the downtown area should be allowed to be used as residential. She stated a number of buildings in the downtown area that could be used as residential homes. She felt that the proposed Ordinance was too restrictive as it restricts a handicapped person from living in the downtown. Mary Baker of 320 South 6th Street stated that in Olathe, Kansas and New Fallon,

Missouri there are sidewalks on only one side of the street. 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: Thomas
2. Motion to Amend Various Sections of the Ordinance Repealing Title 17, City of Burlington Development Program (Zoning and Subdivision Regulations) and Adopting a New Title 17, City of Burlington Development Program in Lieu Thereof According to Chapter 414 of the State Code of Iowa

DISCUSSION: The City Manager stated that the proposed amendment amends M-2 Heavy Industrial section, removes the section on wind energy systems as the Development Department will bring forth a separate Ordinance on wind energy systems at a future date and adds a section that only existing sealcoat parking areas may be maintained and resurfaced as sealcoat. 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: Ell

3. Motion to Amend Section 17.50.106.3.c. of the Ordinance Repealing Title 17, City of Burlington Development Program (Zoning and Subdivision Regulations) and Adopting a New Title 17, City of Burlington Development Program in Lieu Thereof According to Chapter 414 of the State Code of Iowa

DISCUSSION: The City Manager stated that the proposed amendment removes a section regarding granting a variance. He stated that the section would still be enforced as it is in the State Code. Council Member Scott stated that it was

the State telling the City there was no such thing as Home Rule. Council Member

Davidson stated that he was not in favor of the amendment. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 5 - â NAYSâ)

FAILED

Introduced By: Scott

Seconded By: Thomas

4. Motion for Preliminary Adoption of the Second Reading of an Ordinance Rezoning of the Property Located at 623 Market Street from R-4, Multi-Family Residential to C-3, Central Business District (Downtown Mixed Use) Zoning District

DISCUSSION: The City Manager stated that there were no changes to the proposed Ordinance Rezoning of the Property Located at 623 Market Street from R-4, Multi-Family Residential to C-3, Central Business District (Downtown Mixed Use) Zoning District from the first reading. The Development Director reviewed with the City Council and the viewing audience the parking situation for 623 Market Street. He stated that there were 22 on-street parking spaces and if there was any future expansion to the property, then a parking lot would be required which

would allow for an additional ten parking spaces. Mary Baker of 320 South 6th Street stated that she has noticed that the property at 623 Market Street is being remodeled and wanted to know what was going in the building. The Development Director stated that he was not sure what the use would be, possibly

storage. Council Member Thomas stated that he was glad to see a reuse of the building. 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: Davidson Seconded By: Thomas

5. Motion for Final Adoption of an Ordinance Amending Section 158.03 Potable Water Material Standards of Chapter 158 Plumbing Code of the Burlington Municipal Code

DISCUSSION: The City Manager stated that there were no changes to the proposed

Ordinance Amending Section 158.03 Potable Water Material Standards of Chapter 158 Plumbing Code of the Burlington Municipal Code from the second reading. Council Member Scott questioned if there has been any input from plumbers in the

area regarding the proposed Ordinance. The City Manager stated that the City has received no input from area plumbers. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 5 - AYES)

CARRIED

RESOLUTION:

Introduced By: Davidson Seconded By: Thomas

1. Resolution Approving Purchase of Pothole Patching Machine and Emulsion Oil Storage Tank for Public Works Department, Streets Division

DISCUSSION: The City Manager stated that the Public Works Department, Streets Division, has been unable to purchase hot mix asphalt. He stated that they have

been leasing a pothole patching machine and emulsion storage tank from Hampton Equipment Company. The Operations Manager of the Streets Division stated that his office has a complete listing of all of the patching they have done in Burlington with the new pothole patching machine. He stated that the patching they did four months ago still looks good. He stated that the machine allows for patching during the winter months. He felt that four months was an adequate

time to test the machine and see if they like it. Council Member Scott asked if

this was a good alternative to the hot mix and what the cost was in comparison to the hot mix. The Operations Manager stated that it was his opinion that it was at least equal to the hot mix. He stated that the cost was \$46 per ton compared to \$75 per ton for the hot mix. Council Member Thomas stated that there seemed to be a lot of waste of pea gravel with the machine. The Operations Manager stated that he hoped to have the street sweeper run behind the machine to do cleanup. Council Member Davidson stated that the machine would be purchased with road use tax monies. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 5 - AYES)

ADOPTED

COMMENTS FROM AUDIENCE: Leon Shahan of 1821 Mt. Pleasant Street stated that he received the financial report for Huck's Harbor from the City Manager. He stated that the food and beverage sales for second quarter from 2007 to 2008 had

gone down significantly along with admission to the water park. He urged Council if they can get a buy out to take it. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Adjournment: 8:17 p.m.

Approved: September 15, 2008

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 Demolition/Nuisance Abatements for Various Properties
2. Resolution Approving a 60-Day Cigarette Suspension for Hy-Vee No. 1 for Fourth Violation of Providing Tobacco to Minors
3. Resolution Awarding Contract for the 2008 Jefferson Street Reconstruction, Main Street to Front Street

SET DATE FOR PUBLIC HEARING: SEPTEMBER 15, 2008

1. Consideration of an Ordinance Amending the Code of Ordinances of the City of Burlington, Iowa, 2003, by Amending Provisions Pertaining to Speculative Shell Buildings