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MINUTES OF THE PROCEEDINGS
OF THE BURLINGTON, IOWA CITY COUNCIL

Meeting No. 19
October 6, 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. Boy Scout Troop No. 1 led the City Council in the Pledge of Allegiance.

BURLINGTON CITY COUNCIL

PROCLAMATIONS:

- * Midwest League Champions - Dave Walker
- * Domestic Violence Awareness Month - Char Blodgett
- * Community Planning Month - Eric Larson
- * Aldo Leopold Day - Garry Thomas

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: Thomas 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. Council Member Murray announced those individuals appointed to various City commissions and boards. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTES: 5 - AYES)

CARRIED

HEARINGS:

1. Statement: Consideration of an Ordinance Rezoning Property at 713 North Main Street from C-2, General Commercial Zoning District to C-3, Central Business District (Downtown Mixed Use) Zoning District

COMMENTS: The City Manager stated that the property at 713 North Main Street was previously used for apartments. The Development Director stated that the proposed Ordinance rezones the property at 713 North Main Street from C-2, General Commercial Zoning District to C-3, Central Business District (Downtown Mixed Use) Zoning District. He stated that the C-2 ties in with the zoning of the area south of Highway 34. He stated that the Zoning Commission voted 5-0 in favor of the rezoning. He stated that the building was in disrepair and the new owners have tuck pointed and painted the home. David Weiss of 124 South 7th Street, co-owner of the property, stated that it was his desire to turn the home into an extended family residence not an apartment building. He reviewed the

history of the home with the City Council and the viewing audience. Council Member Scott questioned David Weiss why he wasn't requesting the property be rezoned to residential. David Weiss stated that the Zoning Commission had suggested the C-2, General Commercial Zoning District instead of R-3 Residential Zoning District. He stated that since the property would be used as a single or two-family home, it would not be taxed as a commercial property according to the Des Moines County Treasurer. 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 Rezoning Property at 713 North Main Street from C-2, General Commercial Zoning District to C-3, Central Business District (Downtown Mixed Use) Zoning District

DISCUSSION: None.

(VOTE: 5 - AYES)

CARRIED

2. Statement: Consideration of a Permanent Encroachment Agreement between the City of Burlington and United Pentecostal Church for a Handicap Accessible Ramp at 1748 South Street

COMMENTS: The City Manager stated that the proposed encroachment agreement was with United Pentecostal Church for a handicap accessible ramp onto City right-of-way. He stated that there was no sidewalk on the City right-of-way. The Development Director presented an aerial view of the proposed property. Pastor James Simms, of the United Pentecostal Church, stated they will tear down

the present ramp as it was too steep and will create a new ramp. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Davidson Seconded By: Murray
Motion to Close

CARRIED

Introduced By: Davidson Seconded By: Scott
Resolution Approving Permanent Encroachment Agreement between the City of Burlington and United Pentecostal Church for a Handicap Accessible Ramp at 1748 South Street

DISCUSSION: None.

(VOTE: 5 - AYES)

ADOPTED

3. Statement: Consideration of Plans and Specifications for the Ongoing Sealcoat Reclamation Project

COMMENTS: The Public Works Director reviewed the plans and specifications for the Ongoing Sealcoat Reclamation Project with the City Council and the viewing audience. He stated that the budget available and the construction estimate were both \$759,000.00. The project will be funded as follows: \$725,000.00 with General Obligation Bonds; \$18,500.00 from property owners and \$15,500.00 from the Parks Department. He stated that the City will receive bids on November 5, 2008, award contract on November 17, 2008 and construction will start June 2009 and should be completed by September 2009. Council Member Scott stated that he

was thrilled with the project. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Scott
Motion to Close

Seconded By: Murray

CARRIED

Introduced By: Scott
Resolution Approving Plans and Specifications for the Ongoing Sealcoat Reclamation Project

Seconded By: Davidson

DISCUSSION: None.
(VOTE: 5- "AYES")

ADOPTED

ORDINANCES:

Introduced By: Scott
1. Motion to Amend the Motion for Preliminary Adoption of the Second Reading of an Ordinance Amending the Code of Ordinances of the City of Burlington, Iowa, 2003, by Amending Provisions Pertaining to Speculative Shell Buildings

Seconded By: Davidson

DISCUSSION: The City Manager stated that there were no changes to the Ordinance amending the Code of Ordinances of the City of Burlington, Iowa, 2003, by amending provisions pertaining to speculative shell buildings 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
2. Motion for Waiver of Preliminary Consideration and Adoption of the Second Reading and for an Ordinance Amending the Code of Ordinances of the City of Burlington, Iowa, 2003, by Amending Provisions Pertaining to Speculative Shell Buildings

Seconded By: Davidson

DISCUSSION: None.
(VOTE: 5 - â AYESâ)

CARRIED

Introduced By: Davidson
3. Motion for Final Adoption 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 Continued from the September 15, 2008 City Council Meeting

Seconded By: Scott

DISCUSSION: The City Manager stated that the proposed 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 was continued from the September 15, 2008 City Council Meeting due to one outstanding issue of first floor residential development. Steve Frevert of Downtown Partners stated that the board was against the update that would restrict first floor residential in a C-3 district. Bob Breuck of 11801 147th Avenue, West Burlington stated that there was a State Main Street architect in Burlington last week looking at a building for a couple that is interested in using it for a residence. He urged Council to slow down and look further into the issue before adopting the proposed Ordinance that restricts first floor development. Becky Shockley of 550 Division Street urged the Council to let property owners

use their buildings for other purposes than commercial. Chuck Siekman of 914 North Third Street stated that in Europe there is a mix of residential and commercial. He also urged Council not to control how property owners use their buildings. After considerable discussion by the City Council, a motion was made and approved that removed any reference to Y*1 that would have restricted first floor development in the C-3 district of Burlington. 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

4. Motion to Amend Section 17.20.092 General Regulations by removing any reference to Y*1 which would have restricted first floor residential in a C-3 district from the proposed 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: None.

(VOTE: 5 - â AYESâ)

CARRIED

RESOLUTION:

Introduced By: Murray

Seconded By: Scott

1. Resolution Authorizing Quiet Zone Improvements in Downtown Burlington

DISCUSSION: The City Manager stated that the Federal Railroad Administration has approved the City's application to create a Quiet Zone in Burlington. He stated that the application did not provide improvements at Third Street, Fourth Street and Fifth Street. He stated that there is funding available from BNSF Railroad and the State of Iowa to assist in funding improvements to the crossings at Third Street, Fourth Street and Fifth Street. He stated that the proposed improvements would be as follows: closing Third Street crossing; construction of a 100-foot median on either side of the tracks at Fourth Street and construction of a 60-foot median on either side of the tracks on Fifth Street and realignment of Market Street. The Public Works Director stated that now all the crossings would be scheduled in one phase. Becky Shockley thanked the City Council for authorizing the Quiet Zone improvements as it will be a positive step for the downtown. She further thanked the Public Works Director and his staff for their work. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 5 - â AYESâ)

ADOPTED

INSERT CITY CLAIMS, PAYROLL & DISBURSEMENT OF FUNDS

COMMENTS FROM AUDIENCE: Leon Shahan of 1821 Mt. Pleasant Street questioned the City Council if they were going to exercise their option on the water park and wondered if Randy Winegard could come up with the monies to repay the City with the present economy. He also stated that he felt it was wrong that diabetics are not a protected class under the American Disability Act. The City Manager stated that the quarterly report on the water park was due in a couple of weeks.

He stated that the City Council would review the quarterly report and then make

their decision. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Adjournment: 8:31 p.m.

Approved: October 20, 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 Facilities Service Agreement with Interstate Power and Light Company
3. Resolution Approving Fiscal Year 2007-2008 Street Finance Report, Road Use Tax
4. Resolution Awarding the Purchase of Patrol Squad Cars for the Burlington Police Department
5. Resolution Authorizing Installation of Street Lights in Downtown Burlington and the Removal of the Existing Street Light System

SET DATE FOR PUBLIC HEARINGS:

1. Consideration of an Ordinance Amending Chapter 34 Human Rights Commission (October 20, 2008)
2. Consideration of an Amendment to Ordinance No. 3220, an Ordinance Creating the Sunrise West Planned Unit Development Overlay District, by Making Changes to Section 4. Land Use Requirements and Section 11. Pedestrian Sidewalks (November 3, 2008)

APPOINTMENTS:

Economic Development Advisory Committee: Mike Edwards, Owen Sloan, Elizabeth Sallly,
Jim Davidson, Dennis Bockenstedt