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MINUTES OF THE PROCEEDINGS
OF THE BURLINGTON, IOWA CITY COUNCIL

Meeting No. 32
April 17, 2017

The Burlington City Council met in regular session at 5:30 p.m. in the Thomas J. Smith Council Chambers, City Hall with Mayor McCampbell, Council Members Davidson, Fleming, Scott and Wilson present.

BURLINGTON CITY COUNCIL

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: Scott Seconded By: Davidson

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

DISCUSSION: Mayor McCampbell reviewed the items listed on the consent agenda to the viewing audience. Council Member Davidson announced those individuals appointed to various City commissions and boards. Leon Shahan of 1821 Mt. Pleasant Street removed the following Resolutions from the Consent Agenda for discussion at the close of the meeting: Resolution Amending Sewer User Fees Effective July 1, 2017; Resolution Amending Storm Water Utility System Fees Pursuant to Chapter 100.02 of the Burlington City Code and Resolution Amending Solid Waste Fees Effective July 1, 2017. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 5 - "AYES")

CARRIED

HEARINGS:

1. Statement: Consideration of Transit Grant Application

COMMENTS: The Assistant City Manager for Public Works stated that annually the City has a public hearing for Burlington Urban Service (BUS) to announce the intended receipts from the State and Federal funding for public transit. He stated that this year the anticipated amounts for State Transit Operating Assistance was \$229,590.00 and Federal Transit Operating Assistance

was \$401,759.00. He stated that the Transportation Improvement Plan (TIP) reflects the purchase of two medium duty buses and two light duty buses. Each of the medium duty buses are anticipated to cost \$182,500.00 with 85% potential grant funding costing \$27,383.00 in local match cost for the City for each bus and each light duty bus is anticipated at \$99,000.00 with 85% potential grant funding, costing the City \$14,850.00 in local match for each bus. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Scott Seconded By: Wilson
Motion to Close

CARRIED

Introduced By: Scott Seconded By: Davidson
Resolution Approving Transit Grant Application

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

ADOPTED

2. Statement: Consideration of a Permanent Encroachment Agreement with Martha Wolfe for Encroachment into Washington Street Right-of-Way at 313 Washington Street, Burlington, Iowa

COMMENTS: The Development and Parks Director reviewed with Council and the viewing audience the proposed permanent encroachment agreement with Martha Wolfe for encroachment into Washington Street right-of-way at 313 Washington Street. He stated that the owner would like to build a deck for exiting out of the front doors of her home. He stated that there would be no stairway to the sidewalk from the deck. He stated that the sidewalk width for pedestrians would meet ADA requirements. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Davidson Seconded By: Fleming
Motion to Close

CARRIED

Introduced By: Davidson Seconded By: Fleming
Resolution Authorizing a Permanent Encroachment Agreement with Martha Wolfe for Encroachment into Washington Street Right-of-Way at 313 Washington Street, Burlington, Iowa

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

ADOPTED

3. Statement: Consideration of Plans and Specifications for the 2017 Flood Mitigation, Phase V

COMMENTS: Leo Foley of Veenstra and Kimm reviewed the proposed plans and specifications

for the 2017 Flood Mitigation, Phase V. He reviewed the following: phase V demolition; phase V restoration; construction costs update; construction update; permit status; existing conditions; demolition limits for wall foundation; demolition and construction staging; future phase V restoration; floodwall views; floodwall bumpouts; guardrail design for openings; current paving pattern approach; future potential splash play feature; proposed master plan lighting strategy components; phase V lighting strategy; phase V lighting fixtures; Port of Burlington (demolition of 2 east bays of entryway) and future storm water pump stations. He stated that bids would be received on May 10, 2017 with the Council awarding the project on May 15, 2017. He stated that construction would commence on June 30, 2017. He stated that the project was \$6,500,000.00 plus a 10% contingency which would bring the project cost to \$7,200,000.00. Council Member Scott stated that The Hawk Eye had reported that a portion of the Depot was going to be removed, but actually it is the Port of Burlington. Leon Shahan of 1821 Mt. Pleasant Street stated that it was more critical for the City to protect the Waterworks and the WWTF than the riverfront. He further stated that he did not feel the floodwall would protect the City against a 100-year flood. Council Member Scott asked how the project would be funded. The City Manager stated that Phase V of the flood project is funded entirely with a sales tax increment grant. The majority of sales tax collected in Burlington goes to the State of Iowa. With this grant, all new sales tax created since the City was awarded the grant will instead be given back to the City of Burlington for use on the project (with a maximum amount of \$26,200,000.) All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Davidson
Motion to Close

Seconded By: Fleming

CARRIED

Introduced By: Davidson

Seconded By: Wilson

Resolution Approving Plans and Specifications for the 2017 Flood Mitigation, Phase V

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

ADOPTED

4. Statement: Consideration of Plans and Specifications for the 2017 Depot Storm Sewer Improvements

COMMENTS: The Assistant City Manager for Public Works reviewed the plans and specifications for the 2017 Depot Storm Sewer Improvements with Council and the viewing audience. He stated that the project would replace existing storm infrastructure near the depot. The existing line runs south then through the BNSF yard. The existing line has collapsed and no longer adequately drains the area. The project will eliminate ponding water around the depot and would provide a discharge point for water that is accumulating in crawl space below the depot. He stated that the projected cost of the project was \$368,420.00, which was the Engineer's estimate by the firm Bolton-Menke. He stated that the City Engineer feels the projected cost to be lower. He stated that bids would be received on May 16, 2017 with the City Council awarding the project on June 7, 2017. He stated that construction should start on June 19, 2017 and should

be completed by September 8, 2017. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Fleming
Motion to Close

Seconded By: Wilson

CARRIED

Introduced By: Fleming
Resolution Approving Plans and Specifications for the 2017 Depot Storm Sewer Improvements

Seconded By: Scott

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

ADOPTED

ORDINANCE:

Introduced By: Fleming

Seconded By: Davidson

1. Motion for Preliminary Adoption of the First Reading of an Ordinance Providing for the Division of Taxes Levied on Taxable Property in the Deer Point Estates Urban Renewal Area, Pursuant to Section 403.19 of the Code of Iowa

DISCUSSION: Council Member Scott made a point of order that the same Ordinance that was voted down two weeks prior was being brought back up with no reconsideration by the City Council. He further stated that it was his understanding that once an Ordinance was defeated it could not be brought up for one year. The City Clerk stated that Attorney O'Connell had stated that a motion for reconsideration would need to take place at the time of the voting (April 3, 2017 City Council meeting) and that Attorney Josten from Des Moines had stated that the City Council could restart the process with the first reading. She urged the Council to discuss and vote on the Ordinance as it was the first reading. Ryan Nagrocki of Midwest Realty Group stated that he understood the City Council's previous concerns. He stated that there were five main benefits of the Ordinance: 1) South 14th Street would be extended along with the water line. 2) 77% of home buyers cannot purchase a home over \$260,000.00. 3) low to moderate income families would benefit (money could be used for Saunderson Heights neighborhood or North Hill neighborhood) 4) BHS students that are in the Trades Program would be building homes as he plans on donating 4-lots of which half of the profit will be donated back to the Trades Program. 5) There is a need for homes to be sold in the \$180,000.00 to \$260,000.00 range per the housing needs study. He stated that he was just working hard to do something better for the community. Patrick Cohen of 408 Iowa Street stated that the Building Trades Program has been brought back after 20 years and there has been a huge interest by the students. He stated that the trade unions have agreed to help with the program. He stated that it was an collective effort for positive change. Kim Staub, Realtor for Remax and Diane Kroll, Realtor stated that there was a need for homes in the \$180,000.00 to \$260,000.00 price range. Leon Shahan of 1821 Mt. Pleasant Street stated that this was a \$11.00 an hour town and that people will not be able to get a mortgage for homes ranging in price from \$180,000.00 to \$260,000.00. Keith Turrill of 127 Greenwood Drive stated

that he was on a fixed income and he could not afford to use his tax money to subsidize private real estate. Council Member Scott stated that he received an e-mail from Mike Pierson in that the housing study was done during the peak of employment at the fertilizer plant, so the findings would not be true now that work at the fertilizer plant is ending. He stated that since the City does not have a TIF policy, it puts people in an unfair advantage. He stated that TIF takes away money from the school system, college and the City's general fund. He further stated that it was a risk. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 4 - "AYES" - McCampbell, Wilson, Davidson and Fleming
1 - "NAY" Scott)

CARRIED

RESOLUTIONS:

Introduced By: Wilson

Seconded By: Davidson

1. Resolution Approving the Mayor's Participation in Fireball Run and Authorizing the Expenditure of Funds to Participate

DISCUSSION: Jason Hutcheson, Director of Greater Burlington Partnership stated that Burlington was selected as one of the cities in the adventure travel series, Fireball Run. He stated that each community has a team and the Mayor would be a perfect fit for the series. He stated that the Partnership was committed to paying for the entire cost, but found out that it may not be proper for them to pay the cost for the Mayor. He suggested that the City amend their cost of what the City gives Greater Burlington Partnership by \$7,500.00, which would be budget neutral. Council Members Davidson and Wilson stated that they would vote in favor of the Resolution if the Council will vote at a later date to keep the budget neutral per Jason Hutcheson. The City Manager stated that the City Council would need to change the formula for the third year funding for Greater Burlington Partnership. Council Member Scott questioned if the idea was legal. The City Manager stated that Council would need to renegotiate with the Greater Burlington Partnership. Council Member Scott stated that it was ridiculous that Steve Delaney at The Hawk Eye has the power to disrupt something good for the community. He stated that he understood that Steve Delaney is the watchdog and the eyes and ears for the community. He stated that prior to The Hawk Eye making an issue over it, no one cared if the Mayor was going to be on the show. He stated that since then he has received numerous e-mails and phone calls from citizens not wanting the City's tax dollars to pay for the Mayor to be on the series. He stated that the citizens he spoke with were okay with Greater Burlington Partnership paying for the cost of the Mayor being on the series as they know that the Chamber of Commerce is not out to get something from the Mayor in return for the funding. He stated that Fireball Run was an opportunity for Burlington to strut its stuff. Council Member Fleming stated that Fireball Run was great and he was in favor of the Mayor's participation. He further stated that the Mayor would be a great representative for Burlington. Council Member Wilson stated that it was really hard when you only hear from those people who are passionately opposed. She stated that she wanted to hear from people who were in favor as well. Council Member Fleming questioned if the funding change for Greater Burlington Partnership would be received by the public as

“juggling the books.” Council Member Scott stated that yes it would and that would be the headline in the newspaper. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 3 - “AYES” Wilson, Davidson and Fleming

1 - “NAY” Scott

1 - “ABSTAIN” McCampbell)

ADOPTED

Introduced By: Wilson

Seconded By: Davidson

2. Resolution Approving City of Burlington Citizen Participation Rules of Conduct

DISCUSSION: The City Manager stated that the proposed Resolution approves citizen participation rules of conduct at City Council meetings. He stated that Attorney O’Connell has provided an amendment of Letter C Remarks of Citizens to be Germane to clarify. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 5 - “AYES”)

ADOPTED

Introduced By: Wilson

Seconded By: Davidson

3. Motion to Amend Letter C Remarks of Citizens to be Germane of Exhibit “A” of the Resolution Approving City of Burlington Citizen Participation Rules of Conduct

DISCUSSION: None.

(VOTE: 5 - “AYES”)

CARRIED

Introduced By: Wilson

Seconded By: Scott

4. Resolution Approving Historical Resource Development Program Grant Application for Depot Renovation

DISCUSSION: The Assistant City Manager to Public Works stated that the Resolution Approving Historical Resource Development Program Grant Application for Depot Renovation was added to the agenda after the work session. He stated that the grant application is due on April 28, 2017. He stated that with the \$120,000.00 appropriated for the renovation of the former Grier’s space, the HRDP grant allows the City to leverage the funds already appropriated to help cover the costs of the flooring in the Great Room and Grier’s and then the windows and doors in the Grier’s space. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 5 - “AYES”)

ADOPTED

Introduced By: Wilson

Seconded By: Scott

5. Resolution Approving Change to Assessment Repayment Terms

DISCUSSION: The City Manager stated that the proposed Resolution approves a change to the assessment repayment terms for Marvel and Sandra Davis’s assessment for improvements to West Burlington Avenue from 9% interest with a 10-year assessment to 0% interest with a 15-year

assessment per City Attorney O'Connell. He stated that Attorney O'Connell spoke with Attorney Josten of Des Moines, Iowa and he concurred with Attorney O'Connell with the new terms. M00arlene McKee of 1121 South 12th Street stated that he felt Sandra Davis was assessed a lot of money which gained her nothing. He stated that the apartment complex developer should have paid for the entire assessment. The Development and Parks Director stated that Don Sheedy purchased the apartment complex from the developer several years ago. Mike Crowner stated that when driving down West Burlington Avenue it looks like the City could have avoided taking Sandra Davis's property. The City Manager stated that when the street was originally constructed the right-of-way was 50% from each adjoining property owner. Council Member Scott stated that he was disappointed that the City Council cannot do more for Sandra Davis. He stated that Council can approve a TIF project for \$836,000.00; buy out a shell building in the Business Park for \$500,000.00 and give a private baseball team \$700,000.00 after the fact and yet the City can only discount an interest rate and extend the assessment for a property owner that received no benefit other than losing part of their property. He stated that he was going to vote against the proposed Resolution, because the City has not done enough for Sandra Davis. Mayor McCampbell stated that according to the City Attorney this change is as good as it gets for Sandra Davis. Kathy Little stated that addressing Mike Crowner's statement, on the GIS website there is more land to the east that is on her mother's property so the road did jump over to the west. She further stated her parents did pay for the portion of West Avenue except for the strip of land that was agricultural. She urged the City Council to stop and think prior to voting on issues. She stated that the City owns all the way back to the property so when the road is extended, it is her understanding that they will be charged again. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 4 - "AYES" McCampbell, Wilson, Davidson and Fleming
1 - "NAY" Scott)

ADOPTED

Introduced By: Davidson

Seconded By: Wilson

5. Resolution Amending Sewer User Fees Effective July 1, 2017

DISCUSSION: The Director of Administrative Services stated that the Sewer User Fees, Storm Water Utility System Fees were increased by 3% to keep up with the rising cost of sewer separation. She stated that the Solid Waste Fees were increased by \$.25. Leon Shahan of 1821 Mt. Pleasant Street stated that it was just wrong. He stated that the City Council is running long term residents out of the community. He stated that his mother's water and sewer combined bill is \$20.00 a month. Mike Crowner stated that the Water Company now offers water meters for residential as an option. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 5 - "AYES")

ADOPTED

Introduced By: Davidson

Seconded By: Fleming

6. Resolution Amending Storm Water Utility System Fees Pursuant to Chapter 100.02 of the Burlington City Code

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

ADOPTED

Introduced By: Davidson Seconded By: Fleming
7. Resolution Amending Solid Waste Fees Effective July 1, 2017

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

ADOPTED

COMMENTS FROM AUDIENCE: Freddie Starling of 517 South 7th Street stated his concern with the rising cost of everything including property taxes. He also stated that DeEdwin and Gladys White Park has been neglected over the years and hoped to see a shelter house built prior to Juneteenth. He stated that his prior concerns for electrical and the water fountain at the park have been addressed. The Development and Parks Director stated that the City has applied for a Wellmark Foundation grant with no local match to be used for an open air shelter house. He stated that the area where the open air shelter will be built is littered with sewers. He stated that the City will not know until mid to late summer about the grant award, so no open air shelter will be built until the grant is awarded. Freddie Starling asked if Council would put up a make shift tent to be used for Juneteenth. Patrick Cohen of 408 Iowa Street stated that he would be able to help with the tent. Freddie Starling suggested the City Council give up their salary for the Mayor to be on the Fireball Run show. Leon Shahan of 1821 Mt. Pleasant Street stated his concern that the TIF was coming back as he thought the Council was going to adopt a TIF policy. The City Manager stated that it was the desire from a couple of the City Council members to bring back the TIF Ordinance for approval. He stated that the Council would be discussing a TIF Policy at a future work session. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Adjournment: 7:18 p.m.

Approved: May 1, 2017

Kathleen P. Salisbury, MMC
City Clerk

Shane A. McCampbell
Mayor

(See recording 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 Amending Septic Haulers Fees Effective July 1, 2017
2. Resolution Approving Submittal of Title VI Program for the Burlington Urban Service Transit System
3. Resolution Authorizing Entering into an Agreement with the Iowa Department of Agriculture and Land Stewardship Related to a Water Quality Initiative Grant Awarded for the Construction of a Green Alley in Downtown Burlington
4. Resolution Approving an Amendment of Access Agreement with Mac's Convenience Stores, LLC for Granting Access to the Subject Premises for the Purpose of Locating a Remediation Station and Conducting Environmental Investigation and Remediation Work

SET DATE FOR PUBLIC HEARINGS:

1. Consideration of a Permanent Encroachment Agreement with Art Guild of Burlington, Inc. for Encroachment into City Right-of-Way Adjacent to the Property Located at 301 Jefferson Street, Burlington, Iowa (May 1, 2017)
2. Consideration of an Ordinance Vacating and Selling a Portion of Spruce Street Right-of-Way Located West of South Main Street and a Portion of Alley Right-of-Way Located North of Spruce Street and West of South Main Street, Burlington, Iowa (May 1, 2017)
3. Consideration of Plans and Specifications for the 2017 Sealcoat Streets Program (May 1, 2017)
4. Consideration of Plans and Specifications for the 2017 Burlington Flint River Trail, Phase I South (May 1, 2017)
5. Consideration of 2017 Amendment to Urban Renewal Plan for Burlington Consolidated Urban Renewal Area Related to Apollo High School Property Disposition (May 15, 2017)

6. Consideration of Acquisition and Development Agreement Related to Urban Renewal Project in Connection with Apollo High School Property Disposition (June 5, 2017)

APPOINTMENTS:

Human Rights Commission: Ann Distelhorst, Linda Robinson, Den Powell and Kandi Glick

Economic Development Advisory Committee: Joel Sieren