

Subject to change as finalized by the City Clerk.
For a final official copy, contact the City Clerks office at (319)753-8124.

MINUTES OF THE PROCEEDINGS
OF THE BURLINGTON, IOWA CITY COUNCIL

Meeting No. 39
August 3, 2009

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

PROCLAMATION: National Night Out - Darren Grimshaw

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.

(VOTE: 5 - AYES)

CARRIED

HEARINGS:

1. Statement: Consideration of Permanent Encroachment Agreement Between the City of Burlington and Virginia Burrus for a Handrail Located Within City Right-of-Way at 512 Columbia Street, Burlington, Iowa

COMMENTS: The City Manager stated that the proposed encroachment agreement provides for installation of a handrail to help the property owner get up and down the steps that are located in the City right-of-way at 512 Columbia Street.

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: Scott

CARRIED

Introduced By: Davidson Seconded By: Thomas

Resolution Approving Permanent Encroachment Agreement Between the City of Burlington and Virginia Burrus for a Handrail Located Within City Right-of-Way at 512 Columbia Street, Burlington, Iowa

DISCUSSION: None.

(VOTE:5- "AYES")

ADOPTED

2. Statement: Consideration of an Ordinance Rezoning the Property Located at 1204 Washington Street (Hibernia Hall) to Include a H-1, Historical Preservation Overlay Zoning District as Allowed by Section 17.20.50 of the Burlington Municipal Code

COMMENTS: The City Manager stated that the proposed Ordinance rezones the property located at 1204 Washington Street (Hibernia Hall) to include an H-1, Historical Preservation Overlay Zoning District. The Development Director reviewed the aerial view of the proposed rezoning with the City Council and the viewing audience. Council Member Davidson asked if the property is sold if the H-1, Historical Preservation Overlay Zoning District remains with the property. The Development Director stated that the zoning would stay with the property. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Murray Seconded By: Scott
Motion to Close CARRIED

Introduced By: Murray Seconded By: Thomas
Motion for Preliminary Adoption of the First Reading of an Ordinance Rezoning the Property Located at 1204 Washington Street (Hibernia Hall) to Include a H-1, Historical Preservation Overlay Zoning District as Allowed by Section 17.20.50 of the Burlington Municipal Code

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

RESOLUTIONS:

Introduced By: Scott Seconded By: Thomas
1. Resolution Awarding Contract for the 2009 Railroad Quiet Zone Project

DISCUSSION: The City Manager stated that the bids for the 2009 Railroad Quiet Zone Project were below the Engineer's estimate by a substantial amount of money. He stated that Downtown Partners, Inc. would be looking at the cost of using decorative type barriers at the request of Council Member Davidson. The Public Works Director reviewed the 2009 Railroad Quiet Zone Project with the City Council and the viewing audience. He stated that the low bidder for the project was M.J. Daly Construction Company, Inc. in the amount of \$307,498.70. He stated that the project should be completed by the end of November, 2009. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.
(VOTE: 5 - AYES) ADOPTED

Introduced By: Scott Seconded By: Davidson
2. Motion to Amend Exhibit A of the Resolution Approving Termination of Agreements Relating to the Community Aquatic Center by Providing for a New Exhibit A

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

Introduced By: Scott Seconded By: Davidson
3. Resolution Approving Termination of Agreements Relating to the Community Aquatic Center Tabled from the July 6, 2009 City Council Meeting

DISCUSSION: The City Manager read a prepared statement in which he spoke about perceptions and that some citizens have been so focused on the outcome, they have failed to see the overall picture yet others have jumped to a conclusion without gathering all of the facts. He gave the history of the agreement for the Community Aquatic Center. He further reminded the City Council and the viewing audience that the original 2004 agreement for the Community Aquatic Center did not include a buyout. He stated that Randy Winegard had offered the buyout to the City in 2006 for a two-year period and then extended the buyout for an additional year to November 2009. He explained that under the proposed termination agreement the City would not be responsible for % of the capital costs and % of the operating loss reduced by % of the projected 3rd quarter profit. The Finance Director reviewed with the City Council and the viewing audience the comparison of Huck Harbor's payment offers with alternative one (exercise the existing option in November 2009 less % of the capital costs and less % of the operating loss reduced by % of the projected 3rd quarter profit)

and an alternative two (take the new offer, 10 payments of \$180,000.00). He explained that the difference was just less than \$31,000.00 over a ten-year period. Leon Shahan of 1821 Mt. Pleasant Street stated that as a taxpayer he was concerned that the City was not going to get his money back. Owen T. Sloan of 1721 South 14th Street, Marlan McKee of 1121 South 12th Street and Dean Phenicie stated that they were against the 10-year pay back plan as it will cost

tax dollars in the long run and the money could be used now for streets, sewers,

Dankwardt Park pool or Cascade Bridge. Mary Baker of 320 South 6th Street stated that Fun City and the Aquatic Center were an asset to the City and urged the City Council to approve the 10-year pay back. Randy Winegard of 3000 Kirkwood Street stated that he was disappointed by the newspaper and felt that the partnership with the City has been a positive experience. He commended the City Council that entered into the original agreement for the Community Aquatic Center. He stated that the Community Aquatic Center has brought thousands of people to Burlington and they have spent their money at restaurants and gas stations. He hoped that this has not been a negative experience for the City that they would not consider entering into a public-private partnership again. He stated that the Community Aquatic Center generates a lot of activity for their hotel and their restaurants and it is a benefit to them to keep it open. He stated that Great River Entertainment has a very positive cash flow as it includes the Pzazz Resort Hotel, the casino, restaurants and the Event Center. Gary Hoyer, Chief Executive Officer for Great River Entertainment stated that the terms of the agreement have been amended per the City Attorney and felt it was fair and within the spirit of the deal. He urged the City Council's support

for the amended agreement. Council Member Davidson stated that there was nothing in the original agreement that said the City would get their \$1,800,000.00 back. He stated that the present buy back agreement was not just with Huck's Harbor but was with Great River Entertainment. Council Member Thomas stated that he appreciates Gary Hoyer and Randy Winegard's honesty as they want to do what is best for Burlington. He stated that he was still having

problems with the City sharing the capital improvements and major repairs of the

original agreement and he felt there should have been better communications by Great River Entertainment. Council Member Murray stated that this has been a difficult decision for him as many citizens have spoken with him. He stated that Randy Winegard was willing to invest in Burlington and believes that Burlington is a winner. He questioned where the City would be if Randy Winegard

had not invested in Burlington. He stated that the complex has been a money

maker for the city via sales tax and hotel/motel tax with Des Moines County as the top grosser in tourism for Southeast Iowa. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 4- â AYESâ ELL, MURRAY, SCOTT AND DAVIDSON

1- â NAYâ THOMAS)

ADOPTED

COMMENTS FROM AUDIENCE: None.

Adjournment: 8:37 p.m.

Approved: August 17, 2009

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 Authorizing the Mayor and City Clerk to Execute a FEMA PAL Agreement Contingent on Acceptance of Responsibility by Trustees of North Bottoms Levee and Drainage District
3. Resolution Authorizing the Filing of an Application for the Certified Local Government (CLG) Special Grant Round for Completion of a Historic Survey of the Downtown Warehouse District Area

APPOINTMENTS:

Human Rights Commission: Donald Lutz