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MINUTES OF THE PROCEEDINGS
OF THE BURLINGTON, IOWA CITY COUNCIL

Meeting No. 18
September 20, 2010

The Burlington City Council met in regular session at 6:30 p.m. in the Thomas J. Smith Council Chambers, City Hall with Mayor Ell, Council Members Davidson, Fleming and Reed present. Mayor Ell announced that Council Member Murray was absent due to Parent Teacher Conferences.

BURLINGTON CITY COUNCIL

PRESENTATION BY BURLINGTON STEAMBOAT DAYS:

Sue Frice, President of Steamboat Days presented the Mayor and City Council with a check for \$10,000.00 for riverfront improvements. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

PROCLAMATIONS:

Fire Prevention Week - Mark Crooks
Appreciation of Service - David Luers, Deputy Fire 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: Fleming Seconded By: Reed

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 Davidson 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: 4 - AYES) CARRIED

HEARING:

1. Statement: Consideration of an Ordinance Amending Chapter 105 Solid Waste Control of the Burlington Municipal Code

DISCUSSION: The City Manager stated that the proposed Ordinance amends Chapter 105 Solid Waste Control by designating the Des Moines County Landfill as the official sanitary disposal site for all solid waste collected within the City. He stated that a permit would be required for commercial haulers not small haulers. He stated that commercial haulers operating within the landfill's planning area already have acquired the permit because other towns already require the permit. Tim Scott of 2017 South 15th Street urged the City Council to defeat the Ordinance and stand up for small businesses. Hal Morton of the Des Moines County Landfill stated that once a commercial hauler has a permit

there are no other fees for a permit required when a new City passing an Ordinance requires a permit. Council Member Reed asked how the Des Moines County Landfill knows if a hauler is taking trash out of Des Moines County. Hal

Morton stated that it is normally complaint driven and if pursued it is a municipal infraction. He stated that 80% of the waste stream is commercial. Council Member Davidson asked if the Landfill has to send part of the fee to the

Department of Natural Resources (DNR). Hal Morton stated that the Landfill is required by the Department of Natural Resources (DNR) to send part of the fee to

them. Mayor Ell stated that the bottom line was that the City has to protect our garbage so we can make money to meet the needs and unfunded mandates. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Fleming Seconded By: Davidson
Motion to Close

CARRIED

Introduced By: Fleming Seconded By: Davidson

Motion for Preliminary Adoption of the First Reading of an Ordinance Amending Chapter 105 Solid Waste Control of the Burlington Municipal Code

DISCUSSION: None.

(VOTE: 4 - AYES)

CARRIED

ORDINANCES:

Introduced By: Davidson Seconded By: Fleming

1. Motion to Amend the Motion for Preliminary Adoption of the Second Reading of an Ordinance Rezoning Property Located in Second Addition to Strause Subdivision from M-2, Heavy Industrial to M-1 Light Industrial Zoning District

DISCUSSION: The City Manager stated that there were no changes to the Ordinance Rezoning Property Located in Second Addition to Strause Subdivision from M-2, Heavy Industrial to M-1 Light Industrial Zoning District from the first reading.

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

(VOTE: 4 - AYES)

CARRIED

Introduced By: Davidson Seconded By: Reed

2. Motion for Waiver of Preliminary Consideration and Adoption of the Second Reading and for Final Adoption of An Ordinance: An Ordinance Rezoning Property Located in Second Addition to Strause Subdivision from M-2, Heavy Industrial to M-1 Light Industrial Zoning District

DISCUSSION: None.

(VOTE: 4 - AYES)

CARRIED

Introduced By: Reed Seconded By: Davidson

3. Motion to Amend Section 50.06 Loitering by Striking the Words "regardless of" in Both Section 1 and 2 of the Proposed Loitering Ordinance

DISCUSSION: None.

(VOTE: 4 - AYES)

CARRIED

Introduced By: Reed

Seconded By: Davidson

4. Motion for Preliminary Adoption of the Second Reading of an Ordinance Repealing Section 50.06 Penalty and Adopting in Lieu Thereof New Sections 50.06 Loitering and 50.07 Penalty of Chapter 50 Public Peace of the Burlington Municipal Code

DISCUSSION: The Mayor stated that a motion has been entertained and seconded which amends Section 50.06 Loitering by striking the words "regardless of" in

both sections 1 and 2 of the Ordinance. The City Manager stated that the amendment does not change the intent of the Ordinance, just the language. He further stated that the amendment was the only change to the Ordinance since the

public hearing. Those who spoke against the proposed Ordinance were as follows:

Leon Shahan of 1821 Mt. Pleasant Street, Al Sparks of 302 South Garfield Avenue;

Rita Lewis of 420 Maple Street and Brad Shoemaker of Orchard Street. Many of those who spoke against the Ordinance were concerned that the Ordinance was unconstitutional, gives Police too much power and the Ordinance is too broad and

vague. They also felt that there needed to be more activities for youth. Those

who spoke in favor of the proposed Ordinance were as follows: Tim Scott of 2717 South 15th Street; Mary Baker of 320 South 6th Street; Jamie Weiss of 810 Elm Street; Matt Oaks of 319 South 6th Street; Becky Anderson of 218 South 6th Street and Dave Lloyd of 706 Elm Street. Many of those who spoke felt that there

was a problem with people loitering and intimidation. They felt that the citizens should be able to trust the Police Department in making right decisions. Council Member Davidson stated that the Loitering Ordinance would not preclude people from protesting and socializing on their front porch. He stated that if people are not willing to discipline themselves then someone else

has to do it for them by providing a law for Police Officers to enforce. Council Member Reed stated that loitering was not just a South Hill problem nor were they targeting certain people. He stated that business owners on Maple Street are scared. Bob Fleming stated that he was in favor of the proposed Ordinance and realized it was not a cure to the problem, but was a tool that would help the Police Department. Mayor Ell stated that he was not in favor of the proposed Ordinance as it was too vague and he felt it violated the first amendment of the Constitution. All present had opportunity to speak and nothing

additional was filed in the office of the City Clerk.

(VOTE: 3 - AYES FLEMING, REED AND DAVIDSON

1 - NAY ELL)

CARRIED

COMMENTS FROM AUDIENCE: The following citizens spoke about littering in the South Hill area: Todd Oetken of 413 Maple Street, Matt Oaks representing South Hill Neighborhood Association, Becky Anderson of 218 South 6th Street, Mary Baker of 320 South 6th Street, David Lloyd of 706 Elm Street and Jamie Weiss of 810 Elm Street. Many of those who spoke stated that "no littering signs" needed

to be placed in South Hill Park. The Police Chief stated that the actual act of

littering has to be witness by the Police Department or have the name of the person doing the littering on the item. The City Manager suggested that the South Hill Association submit their request in writing so that staff can review and forward onto the City Council. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Adjournment: 8:33 p.m.

Approved: October 4, 2010

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 Authorizing the Mayor to Sign State of Iowa Department of Transportation Landscaping Funding Agreement 2010-TPP-002 for Landscaping Along Highway 61-Roosevelt Avenue
2. Resolution Approving Fiscal Year 2009-2010 Street Finance Report, Road Use Tax
3. Resolution Authorizing the Filing of an Application for Iowa Federal Recreational Trails Program Funding for Construction Costs for Phase I of the Flint River Trail Located in the City of Burlington, Iowa
4. Resolution Authorizing the Filing of an Application for Statewide Transportation Enhancement Funds for Development Costs for Phase I of the Flint River Trail Located in the City of Burlington, Iowa
5. Resolution Approving Purchase of a Single Axle Dump Truck for Street and Sewer Division of Public Works

SET DATE FOR PUBLIC HEARINGS: OCTOBER 4, 2010

1. Consideration of Plans and Specifications for the Burlington, Iowa Wastewater Treatment Facility Improvements Project - 2010
2. Sale of the East 39 feet of Lot No. 884 in the Original City of Burlington, Des Moines County, Iowa

APPOINTMENT:

Environmental Protection Board - Darven Kendell