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MINUTES OF THE PROCEEDINGS
OF THE BURLINGTON, IOWA CITY COUNCIL

Meeting No. 19
October 4, 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, Murray and Reed present.

BURLINGTON CITY COUNCIL

PROCLAMATIONS:

- * Rachel's Challenge - David Vavroch
- * Domestic Violence Awareness Month - Ruby McGraw
- * Community Planning Month - Eric Larson
- * Red Ribbon Week - Michelle Randall

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: Davidson

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. 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 Resolution of Necessity Providing for the Special

Assessment of the 2011 Alley Reconstruction, from Approximately 150 Feet North of Lucas Avenue to Mt. Pleasant Street, Approximately 200 Feet West of Gertrude Street

COMMENTS: The City Manager stated that the 2011 Alley Reconstruction, from Approximately 150 Feet North of Lucas Avenue to Mt. Pleasant Street, Approximately 200 Feet West of Gertrude Street was originally petitioned by the majority of the property owners of the alley requested. He stated that now property owners representing approximately 58% of the property have sent letters

opposed to the project due to the cost. He suggested to the City Council to vote the project down, which would kill the project. Chester Louck of 1803 Mt. Pleasant Street stated that he was unable to submit a letter, but he was also against the project. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Murray
Motion to Close

Seconded By: Davidson

VOTE: 5 - â AYESâ)
CARRIED

Introduced By: Fleming Seconded By: Murray
Resolution of Necessity Providing for the Special Assessment of the 2011 Alley
Reconstruction, from Approximately 150 Feet North of Lucas Avenue to Mt.
Pleasant Street, Approximately 200 Feet West of Gertrude Street Tabled from the
September 7, 2010 City Council Meeting - FAILED

DISCUSSION: None.

(VOTE: 0 - â AYESâ
5 - â NAYSâ DAVIDSON, ELL, FLEMING, MURRAY AND REED) FAILED

2. Statement: Consideration of Plans and Specifications for the 2011 Alley
Reconstruction, from Approximately 150 Feet North of Lucas Avenue to Mt.
Pleasant Street, Approximately 200 Feet West of Gertrude Street

COMMENTS: The City Manager stated that since the 2011 Alley Reconstruction, from
Approximately 150 Feet North of Lucas Avenue to Mt. Pleasant Street,
Approximately 200 Feet West of Gertrude Street has failed, there was no sense in
discussing the plans and specifications. He suggested that the City Council
introduce the Resolution and not second it, therefore, the Resolution will die.
All present had opportunity to speak and nothing additional was filed in the
office of the City Clerk.

Introduced By: Murray Seconded By: Davidson
Motion to Close
(VOTE: 5 - â AYESâ)
CARRIED

Introduced By: Murray Seconded By: No Second
Resolution Approving Plans and Specifications for the 2011 Alley
Reconstruction, from Approximately 150 Feet North of Lucas Avenue to Mt.
Pleasant Street, Approximately 200 Feet West of Gertrude Street

DISCUSSION: None. DIED DUE TO NO SECOND

3. Statement: Consideration of Plans and Specifications for the Burlington, Iowa
Wastewater Treatment Facility Improvements Project - 2010

COMMENTS: The City Manager stated that the WWTF Superintendent and Michael Hilde
of Howard R. Green were present to discuss the plans and specifications for the
Wastewater Treatment Facility Improvements Project - 2010. He stated that the
improvements will increase the capacity of the operation of the WWTF, but will
not increase the amount of pollution into the Mississippi River. He stated that
the City filed for a construction permit several months ago. He stated that the
Iowa Department of Natural Resources Antidegradation policy was recently
approved by the Environmental Protection Agency. This policy will require a
review of the existing effluent discharge permitted quantities of flow and
loadings to the receiving stream. The additional analysis is performed to show
that any increased discharge flows and loadings will not degrade the receiving
stream or the economic feasibility to increase treatment to a level that will
not degrade the receiving stream. He urged the City Council to close the public

hearing on the plans and specifications and table it to the November 15, 2010 City Council meeting so that the City can comply with the rules of the Iowa Department of Natural Resources. The WWTF Superintendent reviewed the following

with the City Council and the viewing audience: diagrams of the project; why consider the improvements?; Tier I Improvements versus Tier II Improvements; Tier II Cost Comparison; Selected Treatment Facility Improvements (anaerobic benefits); odors; odor fighting technology options; plant improvements total cost; space at plant with improvements and why consider the improvements. Leon Shahan of 1821 Mt. Pleasant Street stated that he felt it was unfair for all citizens to pay for an industry that would need the improvements made to the plant in order to do business in Burlington. The WWTF Superintendent stated that the improvements were not just for one industry. He stated that the Iowa Department of Natural Resources did an inspection of the plant and was mandating

the City to correct its solid waste handling issues. The City Manager stated that the anaerobic digester was cheaper to operate. Tom Kuntz of 1115 Angular Street stated his concern with the WWTF using the anaerobic digester without using some kind of scrubber to clean the system. He stated his concern for the smell that it will cause. The WWTF Superintendent stated that when the WWTF first went online back in 1959 the digester was anaerobic and in 1982 it was changed to an aerobic digester. He stated that the digester will have an air tight lid and he did not see it being the primary source of an odor. Council Member Davidson asked how the changeover would work. The WWTF Superintendent stated that Howard R. Green Engineers have developed a schedule that will stage in the improvements. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Fleming
Motion to Close
VOTE: 5 - â AYESâ)
CARRIED

Seconded By: Davidson

Introduced By: Murray
Motion to Table the Resolution Approving Plans and Specifications for the Burlington, Iowa Wastewater Treatment Facility Improvements Project - 2010 to the November 15, 2010 City Council Meeting

Seconded By: Reed

DISCUSSION: None.
(VOTE: 5 - â AYESâ)
CARRIED

4. Statement: Consideration of Sale of the East 39 feet of Lot No. 884 in the Original City of Burlington, Des Moines County, Iowa

COMMENTS: The City Manager stated that the City was selling the east 39 feet of lot no. 884 in the Original City of Burlington (part of the Daisianna Furniture property), which is located behind the Paddlewheel Lounge to Mary C. Stevens, Troy Lietsch and Milburn E. Lietsch for the amount of \$2,500.00. He stated that

the price was consistent with the land prices in that area. He further stated that there is a potential buyer for the larger lot, originally occupied by Daisianna Furniture. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Fleming
Motion to Close
(VOTE: 5 - â AYESâ)
CARRIED

Seconded By: Murray

Introduced By: Fleming Seconded By: Murray
Resolution Approving Sale of the East 39 feet of Lot No. 884 in the Original
City of Burlington, Des Moines County, Iowa

DISCUSSION: None.
(VOTE: 5 - â AYESâ)
ADOPTED

ORDINANCES:

Introduced By: Reed Seconded By: Davidson
1. Motion for Preliminary Adoption of the Second Reading of an Ordinance
Amending Chapter 105 Solid Waste Control of the Burlington Municipal Code

DISCUSSION: The City Manager stated that there were no changes to the Ordinance
Amending Chapter 105 Solid Waste Control of the Burlington Municipal Code from
the public hearing. He stated that the City Attorney drafted a memo to the City

Council regarding flow control. He stated that the City Attorney had stated
that to the extent legally possible, the proposed flow control Ordinance affords

a measure of protection to all waste handlers, including the haulers. The
Ordinance affords a level of protection not available under existing statutory
and case law. 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: Reed Seconded By: Davidson
2. Motion for Final Adoption 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 City Manager stated that there were no changes to the Loitering
Ordinance since the public hearing. Those who spoke against the proposed
Ordinance were as follows: Dave Selmon; Leon Shahan of 1821 Mt. Pleasant Street,

Dovie Purnell of 411 Maple Street, Jessie Starling of 215 Division Street, Ann
Distelhorst of 238 South 6th Street; Tom Kuntz of 1115 Angular Street; Joel
Mcguire of 1528 Winchester Drive; Burl Johnson of 810 Spring Street; Kristin
Rucinski of 232 South 6th Street and Freddie Starling of 517 South 7th 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. Those who spoke in favor of the proposed Ordinance were as follows:
Mary Baker of 320 South 6th Street and Jamie Weiss of 810 Elm Street. They 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 Murray stated that Americans were losing their rights

because we donâ t act responsibly. He urged parents to teach their children
right from wrong. He stated that although he supports the Police Department
100%, he would stand on the side of freedom and personal responsibility. He
stated that if people love the Nation they would do what is right. Council
Member Davidson stated that he could not disagree with Council Member Murray,
but if youâ re doing right then you donâ t have to worry about freedom or the
loitering Ordinance. Council Member Reed stated that he agreed with both
Council Member Murray and Council Member Davidson with the issue of personal

responsibility. He stated that personal responsibility needs to be regained and he fully supported the Police Department and its officers. He stated that he would continue to vote in favor of the proposed Ordinance. 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 DAVIDSON, FLEMING AND REED
2 - NAYS ELL AND MURRAY) CARRIED

RESOLUTIONS:

Introduced By: Davidson Seconded By: Murray

1. Resolution Establishing a New Fee Schedule for Park Shelter Reservations

DISCUSSION: The City Manager stated that the proposed Resolution establishes a new fee schedule for park shelter reservations upon recommendation of the Parks Advisory Board. He stated that the increase was a minimal increase, which would provide an increase of \$658.00 yearly. Council Member Davidson announced that the Steamboat Senior Center is also available for rent if the park shelter houses are full. 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

2. Resolution of Support and Financial Commitment for the Main Street Program in

Burlington, Iowa

DISCUSSION: The City Manager stated that the proposed Resolution provides for support and financial commitment for the Main Street Program and was between the

City of Burlington, Downtown Partners and the Iowa Department of Economic Development. Steve Frevert, Executive Director of Downtown Partners, stated that Burlington has been a Main Street community since 1986 and it has been a very fruitful partnership. Council Member Murray stated that Steve Frevert had given the City Council a walking tour of the downtown and that the downtown was the heart of the community. Council Member Davidson questioned how much financial assistance the City gives for the Main Street Program. The City Manager stated that the City gives \$12,000.00 yearly from the Downtown Tax Increment Financing fund. 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: Tim Scott of 2717 South 15th Street spoke on a range of subjects as follows: that the sewer line insurance offered by American Water Resources is much better than he previously thought; that streets that do not have curbs and gutter wear out much faster; Gordon Palmer who had his street sealcoated has been having rocks from the sealcoat washing up in his yard as his

street does not have curb and gutters; asked Doug to contact Stoney Jackson regarding lighting the area by the horseshoes; still need the developer to construct sidewalks on Mason Road and Cambridge Drive; various signs are being placed in the City right-of-way; Summer Street from the Fire Department to the outskirts of Burlington keeps getting narrower every day for vehicular traffic and he was recently advised by the Recycling Center that the only way to get rid

of empty propane tanks was to take the cap off and put it in the waste stream. The City Manager stated that he plans on speaking with the Parks Superintendent prior to contacting Stoney Jackson about the lighting at the horseshoes. He stated that he would also be getting back with the Developer about sidewalks. Mary Baker of 320 South 6th Street thanked the City Council for the new curbs on

her street. She stated that she would like to hear more from Council Member Fleming on City issues. She further stated that many of today's youth have lost interest in the youth center and dress inappropriately. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Adjournment: 9:17 p.m.

Approved: October 18, 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 Approving Nuisance and Demolition Abatements for Various Properties

2. Resolution Approving Final Acceptance, Final Payment and Release of Retention Monies for the 2007 Hawkeye Sewer Separation Project Phase IV, Equalization Tanks

3. Resolution Authorizing the Filing of an Application for State of Iowa Safe Routes to School Funds for Pedestrian Improvements to 14th Street

4. Resolution Approving Purchase of Power 911 Phone System

5. Resolution Establishing Parking Time Limit in the 300 and 600 Blocks of Jefferson Street

SET DATE FOR PUBLIC HEARINGS:

1. Consideration of Sale of Property Locally Known as 547 South Central Avenue, City of Burlington, Des Moines County, Iowa (October 18, 2010)

2. Consideration of an Ordinance Rezoning the Properties Locally Known as 2270 and 2280 Florence Avenue to Include a Planned Unit Development (The Masters PUD)

Overlay Zone as Allowed by Section 17.20.40 of Title 17 of the Burlington Municipal Code (November 1, 2010)