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MINUTES OF THE PROCEEDINGS  
OF THE BURLINGTON, IOWA CITY COUNCIL

Meeting No. 42  
September 19, 2011

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 had a parent/teacher conference and may be arriving to the meeting late. (Note: Council Member Murray arrived at the City Council meeting at 7:15 p.m. during the public hearing on the consideration of an Ordinance Amending Section 17.20.09 Central Business District of Title 17, Development Program (Zoning Code) of the City of Burlington Municipal Code.) Boy Scout Troop No. 1 from Grace Methodist Church led the City Council in the Pledge of Allegiance.

BURLINGTON CITY COUNCIL

PROCLAMATION: Constitution Week - Rita Phenicie

PRESENTATION: Blue Zone by Great River Medical Center

DISCUSSION: Cheryl Robben, Director of Integrated Services at GRMC, Deb Mulch, YWCA Executive Director and Dr. Abouassaly presented to the City Council and the

viewing audience about the Governor's Healthy Iowa Initiatives. Cheryl Robben

stated that GRMC will be organizing walks throughout the community in conjunction with Hy-Vee Food Stores. She stated that at noon on October 7, 2011

will be the Start Somewhere Walk. Places that people can walk will be at GRMC around the lake, at Crapo Park, the Port of Burlington or start walking somewhere. She stated that schools in Burlington are being encouraged to participate at noon on October 7. She stated that the walk would provide for people to start making healthy initiations and healthy steps in their lives to be more active and try to prevent obesity within our community. Iowa is ranked 19th of 50 States in health and well-being. She stated that GRMC has a letter of intent for a Blue Zone that is due October 28, 2011. She stated that the Blue Zone was a study done by Dan Bittner of people who live to be over the age of 100 and still contribute to their community. She stated that Dan Bittner was

looking to promote this along with Wellmark Blue Cross and Blue Shield with the Governor's consent to have ten Blue Zones designated in Iowa. She stated that

they are hoping Burlington will be one of those Blue Zones and GRMC is working in conjunction with Dr. Abouassaly to help promote weight loss programs and healthy restaurant menu items. She urged the community to participate in the walk. Deb Much explained the Pioneering Healthy Communities Grant Program to the Council and the viewing audience. Dr. Abouassaly stated that he was passionate about wellness and health. He stated that Blue Cross Blue Shield has

pledged \$25,000,000.00 for the Blue Zone. He stated that ten communities would each receive \$2,500,000.00. He stated that he truly felt Burlington will be picked as a Blue Zone. Mayor Ell asked what the City could do help with the Blue Zone. Dr. Abouassaly stated that word needs to get out through radio stations, newspaper and organizations about the walk by showing a unified front.

He stated that those participating in the walk need to register at [www.startsomewhere.com](http://www.startsomewhere.com). He stated that the Governor is hoping to have 250,000 Iowans participate in the walk. Council Member Reed stated that he was working with Angie Vaughn to have a walk for City employees. Mayor Ell suggested a Proclamation of Support from the City. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

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: 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: 4 - AYES )

CARRIED

HEARINGS:

1. Statement: Consideration of an Ordinance Amending Section 17.20.09 Central Business District of Title 17, Development Program (Zoning Code) of the City of Burlington Municipal Code

COMMENTS: The City Manager stated that the proposed Ordinance Amending Section 17.20.09 Central Business District of Title 17, Development Program (Zoning Code) of the City of Burlington Municipal Code would restrict residential to the

back 50 ft. of the 1st floor downtown commercial area. He stated that the Plan Commission has recommended approval of the proposed Ordinance. The Planning and

Development Director reviewed with Council and the viewing audience the proposed

restricted area. He stated that the proposed Ordinance was supported by Main Street of Iowa and Downtown Partners, Inc. Those who spoke in favor of the proposed Ordinance were as follows: Steve Frevert, Executive Director of Downtown Partners; Dwight Mulch of 231 South 3rd Street; Bob Breuck of West Burlington; Becky Anderson of 218 South 6th Street; Mike Darnall of 1701 Madison

Avenue and Shawn Foehring of 218 Jefferson Street. Many of those who spoke in favor of the Ordinance felt that it was not a restriction but a protection for the commercial storefront properties. Tim Scott of 2017 South 15th Street stated that he would rather see a residence in a commercial property than an empty building with broken out windows. Mary Baker gave a brief history of the

downtown. Council Member Davidson stated that the proposed Ordinance was an unnecessary regulation as who would want to live next door to a commercial business. He further stated that he would be voting against the proposed Ordinance, as he was against personal property rights being taken away. He stated that the downtown would take care of itself. Mayor Ell stated that the proposed Ordinance was a way to plan for the future. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Fleming Seconded By: Reed  
Motion to Close

CARRIED

Introduced By: Fleming Seconded By: Murray

Motion for Preliminary Adoption of the First Reading of an Ordinance Amending  
Section 17.20.09 Central Business District of Title 17, Development Program  
(Zoning Code) of the City of Burlington Municipal Code

DISCUSSION: None.

(VOTE: 4 - AYES Reed, Ell, Fleming and Murray  
1 - NAYS Davidson)

CARRIED

2. Statement: Consideration of a Permanent Encroachment Agreement Between the  
City of Burlington and Bangert Brothers LLC for Encroachment into North 5th  
Street Right-of-Way at 425 Valley Street, Burlington, Iowa

COMMENTS: The City Manager stated that the proposed Resolution provides for a  
permanent encroachment agreement to allow for air-conditioning units at  
Hopefully Yours located at 425 Valley Street. The Planning and Development  
Director presented a map of the proposed encroachment and stated that the air  
conditioning units would be located on the west side of the property above the  
loading docks. After considerable discussion with Bob Bartles, Executive  
Director of Hope Haven it was determined that the request for encroachment was  
no longer necessary as the present indoor air conditioning unit was working.  
All present had opportunity to speak and nothing additional was filed in the  
office of the City Clerk.

Introduced By: Reed Seconded By: Murray  
Motion to Close

CARRIED

Introduced By: Reed

Seconded By: Davidson

Resolution Approving Permanent Encroachment Agreement Between the City of  
Burlington and Bangert Brothers LLC for Encroachment into North 5th Street  
Right-of-Way at 425 Valley Street, Burlington, Iowa

DISCUSSION: None.

(VOTE: 5 - NAYS Reed, Davidson, Ell, Fleming and Murray)

FAILED

RESOLUTIONS:

Introduced By: Reed

Seconded By: Fleming

1. Resolution Approving the Final Plat of North Hill Elementary Subdivision

DISCUSSION: The City Manager stated that North Hill Elementary School is  
complete and McBeth Drive has been constructed. The Planning and Development  
Director stated that Burlington Community School District has platted lot 1 for  
use as a public school and McBeth Drive as a dedicated street right-of-way. 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: Murray

2. Resolution Authorizing the Filing of an Application for Statewide  
Transportation Enhancement Funds for Development Costs of the Flint River Trail  
Located in the City of Burlington, Iowa

DISCUSSION: The City Manager stated that the proposed Resolution Authorizing the

Filing of an Application for Statewide Transportation Enhancement Funds for Development Costs of the Flint River Trail Located in the City of Burlington, Iowa and the next Resolution were added to the regular agenda as both items were

added late. He stated that both Resolutions provide for applications for grant funds for development and construction of the Flint River Trail. The Planning and Development Director stated that this would complete the off-road section of

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

(VOTE: 5 - â AYESâ )

ADOPTED

Introduced By: Davidson Seconded By: Fleming

3. Resolution Authorizing the Filing of an Application for Iowa Federal Recreational Trails Program Funding for Construction Costs of the Flint River Trail Located in the City of Burlington, Iowa

DISCUSSION: None.

(VOTE: 5 - â AYESâ )

ADOPTED

Introduced By: Davidson Seconded By: Reed

4. Resolution Approving Fiscal Year 2010-2011 Street Finance Report, Road Use Tax

DISCUSSION: The City Manager stated that the proposed Resolution Approving Fiscal Year 2010-2011 Street Finance Report, Road Use Tax was a routine item that is due October 1 of each year. He stated that the Resolution was added to the regular agenda as the item was added late. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 5 - â AYESâ )

ADOPTED

COMMENT FROM CITY MANAGER: Mayor Ell stated that he would like to give the City Manager an opportunity to make comments. The City Manager stated that he knew there would be people that have made up their minds and nothing he could say will change that. He stated that Council Member Murray had told him that part of his problem was that he was too honest and that perhaps his honesty can come across as a lack of tact. He then read a prepared statement defending his decision to cancel the meeting of September 6, 2011 and start his vacation early. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

COMMENTS FROM AUDIENCE: Tim Scott of 2017 South 15th Street asked if sidewalks were going to be built on Mason Road in the Mason Meadows development. The City

Manager stated that a short stretch of sidewalk to the west was waived because of the dead end. He stated that sidewalks are required and that early summer he

had written a letter to Mr. Peck. He stated that he has not heard from Mr. Peck, so it needs to be decided what further action the City wants to take. Tim

Scott stated that he felt the portion of the sidewalk being constructed at Stone

Middle School is being left out. He stated that the sidewalk should be constructed further north of the school as it should connect to the rest of the sidewalk per the Comprehensive Plan. Stan Stratton of 2809 Shamrock Drive asked

when sidewalks were going to be constructed on Sunnyside Avenue. The City Manager stated that the IDOT did not receive any bids for the project, so rebidding of the project will be November 2011 with Spring construction. Stan

stated that the City knew the sidewalks needed to be constructed and waited too late. The City Manager stated that it is a State bid project and the City is at

the State's mercy for scheduling the bid opening. He stated that the City could

not apply for the grant until Aldo Leopold Middle School was built. He stated that the State sets the time line. The Planning and Development Director stated

that part of the problem was the late bid date and the contractors already had full schedules. Stan Stratton also asked about the water problem behind his backyard. He stated that at Council Meeting No. 40 it was hinted with Council Member Murray asking what the City could do to resolve the problem. Then there was discussion about more rock and a new piece of pipe and to find out the cost.

He stated that at Council Meeting No. 41 he felt like a road kill with three vultures on him telling him that nothing would be done. The City Manager stated

that he had two topographic maps of lot 15, Stan Stratton's property. He stated

that the first map was the preliminary plat for LeRue Subdivision presented to the City in 1977 which shows the property was not level and had been filled in prior to the building of Stan's home. He stated that the second map was a more

recent aerial map of the property. He stated that he was not a trained Engineer, but he can tell by looking at the two plats that Stan's lot was filled

in without a proper retaining wall to hold the fill in place. He stated that Mother Nature has taken its course over the years in trying to return to its normal topography prior to the lot being filled in. Stan Stratton stated that it was very true that his property was filled, but the road was built in 1984 and he did not have a problem until 2008 when the pipe broke. The City Manager stated that he didn't feel the construction of the road created the problem, but

that Stan's lot was filled in and no proper retaining wall was built to hold the

fill in place. He stated that the maps show the natural flow of water across Stan's property going that direction and now Mother Nature is taking its course.

Council Member Reed asked how much it would cost to have a new section of pipe installed as well as some rock. The City Manager stated that Engineering has told the City to do it properly a new concrete storm sewer pipe down the gully would need to be constructed at a cost of \$66,000.00. Stan Stratton stated he wanted the City to be fair with him. Mayor Ell stated that Stan was asking the taxpayers to help supplement his problem and that troubled him. He stated that he was not in favor of doing anything further. He urged Stan to look at the maps that the City Manager has that shows that Mother Nature is running its course. He stated that the City has already spent money on the issue and he was

not in favor of doing anything further. After further comments from Stan Stratton, Mayor Ell asked Stan to sit down as he was being derogatory. Mary Baker read a letter she had written requesting her name be removed as a candidate for the City Council primary election. David Hay of Des Moines County

stated that the Renewable Energy Commission was having a Car Show in conjunction

with Farmer's Market on September 22, 2011 from 5:00 p.m. to 7:30 p.m. at the west end of the riverfront parking lot. He urged anyone that has a vehicle that

they are using E85 fuel or a hybrid electric car to have their vehicles there by

4:30 p.m. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Adjournment: 8:05 p.m.

Approved: October 3, 2011

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 Abatements for Various Properties
2. Resolution Modifying Development Agreement with Burlington Hospitality Group,  
LLC Related to Minimum Assessed Value

3. Resolution Authorizing the Mayor to Sign the Agreement with MSA Professional Services, Inc. for Completion of the City of Burlington Comprehensive Plan Update