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MINUTES OF THE PROCEEDINGS  
OF THE BURLINGTON, IOWA CITY COUNCIL

Meeting No. 43  
October 3, 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, Murray and Reed present.

BURLINGTON CITY COUNCIL

PROCLAMATIONS:

Fire Prevention Week - Fire Chief Clements  
Red Ribbon Week - Michelle Randall  
Start Somewhere Walk - Cheryl Robben

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: 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. 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 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

COMMENTS: The City Manager stated that the proposed Ordinance Rezoning the Properties Locally Known as 2270 and 2280 Florence Avenue to Include a Planned Unit Development (The Masters PUD) Overlay Zone would provide for the construction of five condos (10 units). He stated that the developer will construct a public street and cul-de-sac in the development to allow adequate turn around. He stated that the Planning Commission voted zero to four to not recommend approval, which will require a super majority vote (four ayes) to approve. The Planning and Development Director reviewed with the City Council and the viewing audience the proposed location of the rezoning of property locally known as 2270 and 2280 Florence Avenue. He further reviewed details of the rezoning and the project, which includes the construction of a storm water detention area on the southwest corner of the site, which will control the flow of water off the site. He stated that the flow of water should flow off the site at the current rate. He stated that with the additional paved surface there will be more water flowing, but not at a higher rate than currently running. He further stated that the Planning Commission concerns consisted of

the following: concern about the storm water system and draining of the area as the Commission feels currently there is a storm water issue in the area and this would compound it; that the proposed condo at the northwest corner was to close to the property line on the west at 7 feet (7-foot is the minimum side yard set back for a R-1 district); also concerns with placing a PUD overlay district in an established neighborhood (Zoning Code allows PUD districts). Council Member Davidson asked the Development Director if a PUD has ever been created in an established neighborhood. The Planning and Development Director stated that PUDs have been placed in Newbury Village, Carrington Point, Mason Meadows and Sunrise West. Council Member Murray asked if there was a storm water issue where would the projected water go if the detention pond overflowed. The Planning and Development Director stated that if it would overflow the water would go to the south toward Florence Avenue, which would collect in the catch basin and then empty onto the property toward the south across from Florence Avenue. The City Manager stated that the City Engineer has tried to meet with the property owner south of Florence Avenue to discuss the drainage issue with him. Steven Zager of 5764 Flint Crest Drive reviewed the drainage for the area since 1978 when the street was platted. He stated that he has increased parking from his previous request last year. He stated his goals were to improve the City and the neighborhood in a positive way with good design and use of the best materials. He read a few comments of support from various community leaders in favor of the condos. He further stated that he has hired a professional firm of Klinger and Associates to look at any storm water run off issues. Those who were opposed to the PUD were as follows: Tim Larson of 3104 Crystal Drive; Steve Haase of 3101 Crystal Drive; Tim Bolander of 3100 Crystal Drive; Stephen Murphy of 2510 Quail Ridge Drive; Barbara Hahn of 3216 Crystal Drive; Tony Gnahn of 3112 Crystal Drive and Gary Szymula of 2320 Diamond Drive. Many of those who spoke stated their concern for increased traffic, lower real estate values and storm water drainage. Mike Darnall of 1701 Madison Avenue and Scott Peck of 2636 Cliffwood Drive spoke in favor of the condominiums as it would help the local economy by providing construction jobs. They further stated the need for in-fill development. Council Member Reed stated that he has received both positive and negative e-mails about the rezoning. He stated that Steven Zager could build single-family homes on the property and they could be occupied with large families with teen drivers so there could still be a lot of traffic. He stated that he was unsure how he would vote. Council Member Fleming stated that he considered the rezoning an economic development issue and that he would vote in favor of the rezoning. Mayor Ell and Council Members Davidson and Murray stated they would vote in favor of the rezoning so that there would be more readings of the Ordinance. 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: Murray

CARRIED

Introduced By: Fleming  
Motion for Preliminary Adoption of the First Reading 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

DISCUSSION: None.

(VOTE: 5 - â AYESâ )

CARRIED

2. Statement: Consideration of an Ordinance Amendment to the Sunrise West Planned Unit Development (PUD) Overlay District, by Making Changes to Section 4.

Land Use Requirements of the Burlington Municipal Code

COMMENTS: The Planning and Development Director stated that the proposed Ordinance Amendment to the Sunrise West Planned Unit Development (PUD) Overlay District, by Making Changes to Section 4. Land Use Requirements of the Burlington Municipal Code would allow duplex uses on lots 2 and 3. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Davidson

Seconded By: Reed

Motion to Close

CARRIED

Introduced By: Davidson

Seconded By: Murray

Motion for Preliminary Adoption of the First Reading of an Ordinance Amendment to the Sunrise West Planned Unit Development (PUD) Overlay District, by Making Changes to Section 4. Land Use Requirements of the Burlington Municipal Code

DISCUSSION: None.

(VOTE: 5 - â AYESâ )

CARRIED

ORDINANCE:

Introduced By: Reed

Seconded By: Murray

1. Motion for Preliminary Adoption of the Second 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: The

City Manager stated that there were no changes to the Ordinance Amending Section

17.20.09 Central Business District of Title 17, Development Program (Zoning Code) of the City of Burlington Municipal Code from the first reading. Cathy Henderson of 613 Washington Street stated that she owns a bed and breakfast where she lives on the first floor of the property. She stated that her property was built in the 1890s and has always been residential. She stated that she read in the newspaper that should she discontinue the bed and breakfast

that after a year the property would lose its non-conforming status and that she could no longer have residential on the main floor front half. She stated that she would like to see the Ordinance restricted to Jefferson Street. Mike Darnall of 1701 Madison Avenue stated that he was in favor of the proposed Ordinance as he was against a mixture of first floor residential and commercial properties. Steve Frevert, Executive Director for Downtown Partners, stated that Cathy Henderson's property was designed as a residential home, along with

several other homes on Washington Street. He stated that the intent of the Ordinance was to keep buildings on Jefferson Street and side streets that were designed commercial to remain commercial property. The Development Director stated that Council could approve an amendment to the Ordinance that would exclude properties adjacent to Washington Street from the alley between North 6th Street and North 7th Street to North 8th Street. 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 it was not necessary. Mayor Ell stated that he disagreed with Council Member Davidson as he viewed the Ordinance as a land use effort. Council Member Fleming stated that Main Street of Iowa who works with downtowns are recommending the approval of the Ordinance.

He stated that he would be voting in favor of the Ordinance. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

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

COMMENTS FROM AUDIENCE: Melissa Nichols of 516 Summer Street stated that her home has been egged, a neighbor's home broken into and also her neighbor was assaulted. She stated that she has 8 children living in her home ages 9 to 21 plus a 3 year old granddaughter. She stated her concern with people moving to Burlington from Chicago. She stated a group of 16 black teens followed her child home. She further stated that she was not racist or prejudice as she has bi-racial children living with her. She wondered if any arrests had been made.

Deb Connelly of 508 Summer Street stated that it was her husband that was assaulted and it was not dark outside when it happened. Both women wanted to know what needed to be done to take back the streets of Burlington. The City Manager urged the women to speak with the Police Chief after the meeting. The Police Chief stated that an individual was arrested for serious assault. Mayor Ell urged the women to join the South Hill Neighborhood Association. Council Member Murray stated that it will take the political will by elected officials and the issue needs to be addressed with State Representatives. He further stated that if citizens want safer streets they will need to pay more property taxes for Public Safety and they need to encourage the District Attorney to prosecute criminals and lock them up. Dean Phenicie stated that he would like to see Dankwardt Park pool closed, a new Cascade Bridge and a new Police Station. He further thanked Mayor Ell for his service to the City. All present

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

Adjournment: 8:30 p.m.

Approved: October 17, 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 Refund of Liquor License for Lina Yong Kolkman dba/Yong's Pacific Rim
2. Resolution Approving Appointments to the Comprehensive Plan Advisory Committee
3. Resolution Approving Economic Development Loan Agreement with General Electric
4. Resolution Authorizing the Filing of an Application for State of Iowa Safe Routes to School Funds for Pedestrian Improvements Along Mason Road