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MINUTES OF THE PROCEEDINGS
OF THE BURLINGTON, IOWA CITY COUNCIL

Meeting No. 8
April 21, 2014

The Burlington City Council met in regular session at 6:30 p.m. in the Thomas J. Smith Council Chambers, City Hall with Mayor McCampbell, Council Members Anderson, Fleming, Scott and Shockley present.

BURLINGTON CITY COUNCIL

PROCLAMATIONS:

- * Teach Children to Save Day - C.E. Walsh, Vicki Bredar, Hannah Franklin, Kayla Norton,
- Jessica Kendell, Emma Nelson, Jacob Kamrath, Natalie Wilcox & Lane Burnett
- * Community Action Month - Deb Heater, Sharon Ford & Dennis Ostrander
- * Youth Appreciation Week - Jamie Blow

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 Shockley Seconded By: Fleming

MOTION: To approve all items listed under Item I., Consent Agenda.

DISCUSSION: Mayor McCampbell reviewed the items listed on the consent agenda to the viewing audience. Leon Shahan of 1821 Mt. Pleasant Street removed the following Resolutions from the Consent Agenda for discussion at the close of the meeting: Resolution Amending Storm Water Utility System Fees Pursuant to Chapter 100.02 of the Burlington City Code; Resolution Approving Solid Waste Fee

Effective July 1, 2014 and the Resolution Establishing Sewer User Fees Effective

July 1, 2014. 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 Sale of Property Locally Known as 3520 Division Street, City of Burlington, Des Moines County, Iowa

COMMENTS: The Development and Parks Director stated that the property located at

3520 Division Street was a commercial building that is zoned M-2, Heavy Industrial. He stated that any work to the property shall meet all codes and receive permits as necessary. The parking lot and driveways shall be required to be paved if the property use changes from a repair facility and/or if there is an addition to the building or new construction on the property. A paving plan would be required detailing the time frame for paving as approved by the City. All easements shall be maintained. Property transfer shall be by quit

claim deed. Jesse Caston with Terrus Realty stated that all underground tanks have been removed. Mayor McCampbell led an auction for the Sale of Property Locally Known as 3520 Division Street, City of Burlington, Des Moines County, Iowa. Jason McClure was the high bidder at \$125,000.00. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Shockley Seconded By: Scott
Motion to Close

CARRIED

Introduced By: Shockley Seconded By: Scott
Motion to Amend Exhibit A C of the Resolution Approving the Sale of Property

Locally Known as 3520 Division Street, City of Burlington, Des Moines County, Iowa that the Property be Sold to Jason McClure in the amount of \$125,000.00

DISCUSSION: None.

(VOTE: 5 - AYES)

CARRIED

Introduced By: Shockley Seconded By: Anderson
Resolution Approving Sale of Property Locally Known as 3520 Division Street, City of Burlington, Des Moines County, Iowa

DISCUSSION: None.

(VOTE: 5 - AYES)

ADOPTED

2. Statement: Consideration of Plans and Specifications for the 2014 HMA Resurfacing Project

COMMENTS: The Deputy Public Works Director reviewed with Council and the viewing

audience the proposed plans and specifications for the 2014 HMA Resurfacing Project. He stated that the project provides for the removal of existing asphalt, cleaning and repair of underlying pavement, spot curb replacement, ADA curbs ramps and new asphalt surfacing of the following City streets: Third Street

from Market Street to Court Street; Fourth Street from Market Street to Valley Street; Fifth Street from Maple Street to Division Street; Seventh Street from Maple Street to Division Street; Eighth Street from Maple Street to Division Street; Central Avenue from Angular Street to Maple Street and Dodge Street from

the dead end to Perkins Street. He stated that Public Works will be working with Downtown Partners since construction will be taking place in the downtown district. He stated the bid opening was planned for May 13, 2014 and the contract would be awarded at the May 19, 2014 City Council meeting. He stated that the budget for the project was \$886,000.00, which includes engineering and administration and the Engineer's estimate of construction cost was \$685,000.00.

Council Member Scott stated that Dr. Hoth's office on South Third Street has steps that lead up to the sidewalk. He asked if Public Works could work with Dr. Hoth and the other tenant in the building as Dr. Hoth has many elderly patients that have a hard time with the steps. The Deputy Public Works Director

stated that Public Works will contact Dr. Hoth's office about the issue. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Shockley Seconded By: Scott
Motion to Close

CARRIED

Introduced By: Shockley Seconded By: Scott
Resolution Approving Plans and Specifications for the 2014 HMA Resurfacing Project

DISCUSSION: None.

(VOTE: 5 - AYES)

ADOPTED

3. Statement: Consideration of an Ordinance Amending Section 16.04 (1) Council Meetings of Chapter 16 Council of the City of Burlington, Iowa Municipal Code to

Set the Time for Regular Council Meetings

COMMENTS: Mayor McCampbell stated that he had brought up the issue of changing the City Council meeting time from 6:30 p.m. to 5:30 p.m. He stated that he has

received no negative feedback from citizens. Leon Shahan of 1821 Mt. Pleasant Street stated that he was not in favor of the meeting time change as he felt most people eat dinner at 5:00 p.m. Mayor McCampbell stated that 5:30 p.m. meetings would actually work out better for most people's schedule. Council Member Fleming stated that he was in favor of the 5:30 p.m. meeting time. He stated that if people have a concern they will come to a 5:30 p.m. meeting. He stated that the City Council work sessions start at 4:30 p.m., and they are normally a full house. Council Member Scott stated that there would be two more

opportunities to let Mayor McCampbell know if you are in favor or against the proposed time change. He stated that the change would be great if it works for people. All present had opportunity to speak and nothing additional was filed in

the office of the City Clerk.

Introduced By: Shockley Seconded By: Anderson
Motion to Close

CARRIED

Introduced By: Shockley Seconded By: Scott
Motion for Preliminary Adoption of the First Reading of an Ordinance Amending Section 16.04 (1) Council Meetings of Chapter 16 Council of the City of Burlington, Iowa Municipal Code to Set the Time for Regular Council Meetings

DISCUSSION: None.

(VOTE: 4 - AYES Fleming, McCampbell, Shockley and Anderson

1 - NAY Scott)

CARRIED

4. Statement: Consideration of an Ordinance Rezoning the Property Locally Known as 2400 Sunnyside Avenue from R-1 Single Family Residential to C-1, Limited Commercial Zoning District

COMMENTS: The Development and Parks Director reviewed with Council and the viewing audience the proposed Ordinance Rezoning the Property Locally Known as 2400 Sunnyside Avenue from R-1 Single Family Residential to C-1, Limited Commercial Zoning District. He stated that Zaiser's Nursery, a long-standing business, was wanting to build a new office and florist area at the southern 550-feet of their property at 2400 Sunnyside Avenue. He stated that Zaiser's Nursery was a legal non-conforming use as the business predated the City's Zoning Code. He stated that the conditions to the rezoning were as follows: rezoning shall apply to the southern 550-feet of the lot at 2400 Sunnyside Avenue; landscaping, garden supplies, florist, and greenhouse uses shall be allowed to exceed the 20,000 square foot maximum building space for a limited commercial use and a 25-foot building setback shall be provided off of the east and west property lines. He stated that the Planning Commission voted five to

zero in favor of the rezoning request. Council Member Fleming stated that he was in favor of the rezoning as it will improve the area. Mayor McCampbell and Council Member Shockley agreed with Council Member Fleming. Council Member Shockley also stated that she liked the setbacks that are required for the property. All present had opportunity to speak and nothing additional was filed

in the office of the City Clerk.

Introduced By: Anderson Seconded By: Shockley
Motion to Close

CARRIED

Introduced By: Anderson Seconded By: Fleming
Motion for Preliminary Adoption of the First Reading of an Ordinance Rezoning the Property Locally Known as 2400 Sunnyside Avenue from R-1 Single Family Residential to C-1, Limited Commercial Zoning District

DISCUSSION: None.

(VOTE: 5 - â AYESâ)

CARRIED

5. Statement: Consideration of an Ordinance Vacating and Selling a Portion of Augusta Road Right-of-Way, Located North of Mason Road and South of Sterling Drive, Burlington, Iowa

COMMENTS: The Development and Parks Director reviewed with the Council and the viewing audience the proposed Ordinance Vacating and Selling a Portion of Augusta Road Right-of-Way, Located North of Mason Road and South of Sterling Drive, Burlington, Iowa. He stated that the vacated right-of-way shall be purchased by L and L Storage, Inc. at 3460 Augusta Road who plans on developing a storage facility and Peter and Lisa Klees of 3440 Augusta Road. He stated that the vacated portion of Augusta Road right-of-way shall be combined with the

adjacent parcels upon purchase and shall not remain as an individual lot. Existing easements, including utility easements, and required drainage shall be maintained over the vacated right-of-way. Property shall be transferred by quit

claim deed. He further stated that the Planning Commission voted five to zero in favor of the vacation and sale of the right-of-way. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Introduced By: Anderson Seconded By: Shockley
Motion to Close

CARRIED

Introduced By: Anderson Seconded By: Fleming
Motion for Preliminary Adoption of the First Reading of an Ordinance Vacating and Selling a Portion of Augusta Road Right-of-Way, Located North of Mason Road and South of Sterling Drive, Burlington, Iowa

DISCUSSION: None.

(VOTE: 5 - â AYESâ)

CARRIED

6. Statement: Consideration of Annual Consolidated Transit Funding Application

COMMENTS: The Public Works Director stated that annually the Burlington Urban Service (BUS) has a public hearing to announce the intended receipts from State and Federal funding for public transit. He stated that this years anticipated amounts are as follows: State Transit Operating Assistance \$195,333.00 and Federal Transit Operating Assistance \$384,770.00. He stated that the Transportation Improvement Plan (TIP) reflects the purchase of two medium duty buses in the event federal funding becomes available and a local match is found

(VOTE: 5 - â AYESâ)

CARRIED

Introduced By: Scott

Seconded By: Anderson

5. Motion to Amend the Motion for Preliminary Adoption of the Second Reading of an Ordinance Amending Section 128.02 License Required of Chapter 128 Tree Service Business of the City of Burlington Municipal Code

DISCUSSION: None.

(VOTE: 5 - â AYESâ)

CARRIED

Introduced By: Scott

Seconded By: Shockley

6. Motion for Waiver of Preliminary Consideration and Adoption of the Second Reading and for Final Adoption of an Ordinance Amending Section 128.02 License Required of Chapter 128 Tree Service Business of the City of Burlington Municipal Code

DISCUSSION: None.

(VOTE: 5 - â AYESâ)

CARRIED

Introduced By: Scott

Seconded By: Shockley

7. Motion to Amend the Motion for Preliminary Adoption of the Second Reading of an Ordinance Amending Various Sections of Chapter 161 Housing Code of the City of Burlington Municipal Code

DISCUSSION: None.

(VOTE: 5 - â AYESâ)

CARRIED

Introduced By: Scott

Seconded By: Fleming

8. Motion for Waiver of Preliminary Consideration and Adoption of the Second Reading and for Final Adoption of an Ordinance Amending Various Sections of Chapter 161 Housing Code of the City of Burlington Municipal Code

DISCUSSION: None.

(VOTE: 5 - â AYESâ)

CARRIED

Introduced By: Fleming

Seconded By: Scott

9. Motion for Final Adoption of an Ordinance Rezoning the Property at the NE Corner of Roosevelt Avenue and Market Street from R-4 Multi-Family Residential and R-3 Two-Family Residential to C-2, General Commercial with a Planned Unit Development Overlay Zone (Burlington Crossing PUD) as Allowed by the Zoning Code

of the City of Burlington, Iowa

DISCUSSION: The Development and Parks Director stated that there were no changes

to the Ordinance Rezoning the Property at the NE Corner of Roosevelt Avenue and Market Street from R-4 Multi-Family Residential and R-3 Two-Family Residential to C-2, General Commercial with a Planned Unit Development Overlay Zone (Burlington Crossing PUD) as Allowed by the Zoning Code of the City of Burlington, Iowa from the first reading. Bob Welstead of Dial Realty, Omaha, Nebraska, stated that he appreciated the Council's approval of the proposed Ordinance. He stated that he would be attending a National Convention in Las Vegas from May 18-20, 2014 and he has appointments scheduled with retailers. 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: Fleming

Seconded By: Scott

10. Motion for Final Adoption of an Ordinance Rezoning the Property at 1911 Des

Moines Avenue from R-2 Single Family Residential to C-2, General Commercial Zoning District

DISCUSSION: The Development and Parks Director stated that there were no changes to the Ordinance Rezoning the Property at 1911 Des Moines Avenue from R-2 Single Family Residential to C-2, General Commercial Zoning District from the second reading. He stated that the proposed Ordinance limits commercial access to Des Moines Avenue unless otherwise amended. He stated that there would be a 10-foot

set-back on the north and south of the property. Alan Gerst, representing his mother who owns property at 1911 Des Moines Avenue, stated that the neighbor to the west was originally concerned that they would not have access to their property as they only had a verbal agreement with his father. He stated that the neighbor will have access to their property from the north. He stated that Mrs. Gerdes who owns property to the south was concerned with the type of business that would be moving in next door. He stated that it would be a reputable business that would be her neighbor. He stated that he now has an agreement with the potential purchaser of the property and they have agreed to place a privacy fence along the south border of the property, if that is what Mrs. Gerdes would like for her privacy. Council Member Shockley stated that she

appreciates the efforts made by Alan Gerst, but she still felt that the area should remain residential. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 3 - AYES FLEMING, McCAMPBELL AND SCOTT

2 - NAYS SHOCKLEY AND ANDERSON)

CARRIED

RESOLUTIONS:

Introduced By: Shockley

Seconded By: Fleming

1. Resolution Approving the Waiver of Sidewalk Requirements as Required by Chapter 17.80 Subdivisions for the Sixth Addition to Westbrook Estates Subdivision - Continued from the April 7, 2014 City Council Meeting

DISCUSSION: The Development and Parks Director stated that the proposed Resolution approves the Waiver of Sidewalk Requirements as Required by Chapter 17.80 Subdivisions for the Sixth Addition to Westbrook Estates Subdivision that was continued from the April 7, 2014 City Council Meeting. He stated that Section 17.80.105 Modifications of the Burlington Municipal Zoning Code allows the City Council to waive certain requirements as follows: Whereas, in the case

of a particular subdivision, it can be shown that strict compliance with the requirements of the Regulations would result in extraordinary hardship to the Applicant or would provide inconsistent with the purpose of the Regulations because of unusual topography or other conditions, the City Council may modify by variance or waive the requirements of the Regulations so that substantial justice may be done and the public interest secured provided, however, that such

modification or waiver shall not have the effect of nullifying the intent and purpose of the Regulations. In so granting a modification or waiver, the City Council may impose such additional conditions as are necessary to secure substantially, the objectives of the requirements so modified or waives. He stated that the subdivider has requested the Council waive the requirements of installation of sidewalks on both sides of a new public street as required by Section 17.80.8912 of the Zoning and Subdivision Regulations for the Sixth Addition to Westbrook Estates Subdivision and allow installation on one side only. He stated that the Comprehensive Plan that was adopted in 2012 encourages

sidewalks as a housing goal. He stated that the bicycle and pedestrian plan that the Council adopted in 2013 also encourages sidewalks. He stated that the trend the last several years has been to require sidewalks. He further stated that in October 1994 the property was granted a waiver of variances and conditions for Westbrook Estates Subdivision for sidewalks on just one side of the street. He stated that the preliminary plats are only good for two-years, which is why the issue is being brought back up for the resubmittal of the preliminary plat. Mayor McCampbell stated that he felt every new development should have sidewalks. Council Member Fleming stated that a great area of Burlington has only one sidewalk or no sidewalks. He stated that there was no guarantee that if you have a sidewalk that people will still not walk in the street. He did not see it being a big issue, but felt the Council needed to be consistent with the issue, although there are cases when just one sidewalk would

be more than enough. Council Member Shockley and Council Member Anderson felt that sidewalks should be constructed. The City Manager stated that waiver of sidewalk should be justified and should not happen very often. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 1 - AYE FLEMING

4 - NAYS McCAMPBELL, SCOTT, SHOCKLEY AND ANDERSON) FAILED

Introduced By: Fleming

Seconded By: Shockley

2. Resolution Establishing Charges for Trash Tags Effective July 1, 2014

DISCUSSION: The City Manager stated that the trash tags were going up \$.50 per trash tag for a total cost of \$1.95 to retailers per the budget hearing. Leon Shahan of 1821 Mt. Pleasant Street stated that he did not have a problem with the fee increase as the first bag is free and he only uses one bag of trash per week. He stated that it does add a burden to people that cannot afford it while

the City has a tax abatement program. Mayor McCampbell stated that the tax abatement and trash tag increase is not the same. He stated that the increase for the trash tag was a way to help the shortfall by taxing the user. He stated

that the way to avoid the fee is to recycle. Council Member Shockley stated that it was not so much of a fee increase, but a way for the City to recoup its cost. Council Member Scott stated that he had asked that the Resolution be on the regular agenda as he still has heartburn over the increase. He felt that the \$.50 increase should be placed on the base fee and not on the trash tag as the burden for reimbursing the general fund for past purchases of garbage trucks

should be spread among all customers instead of those that have to use trash tags such as young families with several children. Council Member Shockley stated that there were seniors and those that recycle that are not affected and the City does not want to shift the burden to those folks that only use one trash bag and recycle. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 5 - AYES)

ADOPTED

Introduced By: Fleming

Seconded By: Shockley

3. Resolution Amending the Personnel Manual for Non-Union Employees

DISCUSSION: The Director of Administrative Services stated that the changes to the Non-Union Employee manual from the previous year were as follows: all non-union employees would be paying 2% toward their health insurance premium per budget recommendation; a 2% increase in the minimum, midpoint and maximum salaries; a 1% wage increase for employees over midpoint and the transition

table for those non-union employees under mid-point. Council Member Anderson stated that she had asked that the Resolution be on the regular agenda to allow for public awareness. The Director of Administrative Services stated that the union was under contract through 2016 so they would not be paying toward their health insurance and they would be receiving a 2% wage increase effective July 1, 2014. 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: McCampbell

Seconded By: Shockley

4. Resolution Amending Storm Water Utility System Fees Pursuant to Chapter 100.02 of the Burlington City Code

DISCUSSION: The Director of Administrative Services stated that the Storm Water Utility System fees were being increased by 5% based on budget discussions. The

City Manager stated that the fee increases in the past have been 9% and were originally projected to be 9%, but are lower with the help of Travis Squires of Piper Jaffray with the City's financials. He stated that the increase is still

higher than the citizens would prefer. He stated that the City is having conversations with the Department of Natural Resources (DNR) for an extension for the CSO order, so that future increases would be a CPI increase going forward. Leon Shahan of 1821 Mt. Pleasant Street stated that with TIF, tax abatement and economic development there were fewer and fewer people paying property taxes. Mayor McCampbell stated that the City still receives tax dollars with tax abatements. He stated that the part that gets abated is in the

increase in the property improvement. He stated that Burlington does not have a

huge TIF area. He further stated that the problem was not economic development either. Council Member Fleming agreed with Mayor McCampbell. 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: McCampbell

Seconded By: Scott

5. Resolution Approving Solid Waste Fee Effective July 1, 2014

DISCUSSION: Mayor McCampbell stated that the Solid Waste fees were going up \$.25

per month effective July 1, 2014. 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: McCampbell

Seconded By: Scott

6. Resolution Establishing Sewer User Fees Effective July 1, 2014

DISCUSSION: Mayor McCampbell stated that the sewer user fees were a 5% increase effective July 1, 2014. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 5 - â AYESâ)

ADOPTED

COMMENTS FROM AUDIENCE: Dave Myers urged the Council to use the money from the sale of various City properties for an additional part-time fireman and a part-time police officer. He also urged the Council to give themselves a raise as he felt their salary for serving on the City Council was too low. The Police

Chief stated that his department has to work within the budget process and make do with the budget they have. The City Manager stated that the cost for a full-time police officer with benefits was approximately \$83,000.00. Mayor McCampbell stated that an extra officer would not stop crime. He also reminded Dave Myers that the City received a Safer Grant to replace three firefighter positions that were reduced in 2012 that will be funded at no cost to the City for a two-year period. Council Member Scott stated that the Council by law cannot give themselves a raise. He stated that if they did raise the wage for City Council, it would be for a future City Council. Leon Shahan of 1803 Mt. Pleasant Street urged the Council to extend the Spring leave pickup this Spring due to the cold and wet weather conditions. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Adjournment: 8:31 p.m.

Approved: May 5, 2014

Kathleen P. Salisbury, MMC
City Clerk

Shane A. McCampbell
Mayor

(See recording 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 Approving Refund of Liquor License for Carlos Oâ Kellyâ s Inc. dba/Carlos Oâ Kellyâ s Mexican Caf^'
3. Resolution Establishing a New Fee and Charge Schedule for Septic Haulers

SET DATE FOR PUBLIC HEARINGS: MAY 5, 2014

1. Consideration of an Ordinance Amendment to Code of Ordinances Chapter 99 Sewer User Charge Section .06 of the City of Burlington Municipal Code
2. Consideration of an Ordinance Amending Ordinance No. 2947, as Previously Amended, by Amending the Provisions of the Urban Revitalization Plan for the City of Burlington, Iowa
3. Consideration of Sale of Property Locally Known as 531 South Central Avenue, City of Burlington, Des Moines County, Iowa
4. Consideration of Sale of Property Locally Known as 1102 South 4th Street, City of Burlington, Des Moines County, Iowa
5. Consideration of Sale of Property Locally Known as 515 South Marshall Street, City of Burlington, Des Moines County, Iowa
6. Consideration of Sale of Property Locally Known as 644 Higbee Avenue, City of Burlington, Des Moines County, Iowa