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MINUTES OF THE PROCEEDINGS
OF THE BURLINGTON, IOWA CITY COUNCIL

Meeting No. 39
August 1, 2005

The Burlington City Council met in regular session at 7:00 p.m. in the City Hall, Council Chambers with Mayor Edwards, Council Members Baker, Campbell and King present. Council Member Ell was absent.

BURLINGTON CITY COUNCIL

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 not separate discussion of these items. If discussion was desired, that item was removed from the Consent Agenda and was considered separately.

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

DISCUSSION: Mayor Edwards 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.

(VOTES: 4 - AYES) CARRIED

HEARINGS:

1. Statement: Consideration of a Cable Franchise Regulatory Ordinance

COMMENTS: The City Manager stated that the proposed Cable Franchise Regulatory Ordinance specifies the terms, conditions, requirements and restrictions that will apply to any person or entity that constructs, operates and maintains a cable television system in Burlington. The renewal process started 1 1/2 years ago with the City's Cable Commission reviewing the current Ordinance and making recommended changes. Mediacom has updated the Burlington cable system up to 860-megahertz system. The cable system was interconnected into the Fairfield head-in. High-speed internet service has been made available and Mediacom plans to add video-on-demand service and phone service to Burlington subscribers by partnering with Sprint. The City Manager further reviewed language revisions to the following sections: Section 3.17 Notification to Grantor of Service interruptions; Section 4.9 Technical Standards; Section 5.1 Franchise Fee; Section 6.4 Compliant Record; Section 6.5 City Role in Complaints; Section 6.1 All Grantee Attendance at Cable Meetings; Exhibit A FCC Customer Service Standards; Exhibit B FCC Rules and Regulations for Technical Standards and Exhibit C Franchise Fee Payment Worksheet. Chuck Griffin of 2604 Clearview Drive questioned how long the Regulatory Ordinance would be in effect. The City Manager stated that the Regulatory Ordinance will be in effect until it changes (for anyone who wishes to operate a cable television system within Burlington) whereas the next hearing on the Cable Television Franchise agreement with Mediacom Communication Corporation is for a 10-year agreement. Chuck Griffin also questioned if the agreement could provide for upcoming technology that would allow people the option to opt out of channels that are offensive to them.

The City Manager stated the City can not regulate the type of programs offered

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

Motion to Close CARRIED

Motion for Preliminary Adoption of the First Reading of a Cable Franchise Regulatory Ordinance

DISCUSSION: None.

(VOTE: 4 - AYES) CARRIED

2. Statement: Consideration of an Ordinance Providing for a Cable Television Franchise Agreement with the Mediacom Communication Corporation

COMMENTS: The City Manager stated that the proposed Ordinance provides for a Cable Television Agreement with Mediacom Communication Corporation which defines

the terms and conditions of the renewal with Mediacom and authorizes Mediacom to

continue to operate a cable television system in Burlington. He stated that the major package deal points of the Cable Franchise Renewal Agreement were as follows: Mediacom will provide a public educational/government origination point

from the Des Moines County Courthouse; a reduction in the density requirement to

six homes per quarter mile from the current eight homes per quarter mile requirement; a \$25,000.00 capital public education governmental grant no later than

January 31, 2006; a second \$25,000.00 capital public education governmental grant no later than January 31, 2011; the term of the agreement will be for a ten-year period; Mediacom has agreed to five in-kind grants of 20-hours of video

production; basically, one in-kind grant every other year over the 10-year term and Mediacom has agreed to provide one free public service announcement to the City for every paid City advertisement on Mediacom leased channel access (Mediacom is not legally required to provide public service announcements). He stated that the effective date of the new agreement should be October 1, 2005 and will run for a period of ten years. John R. Sandell of 2803 West Avenue questioned how the grant monies of \$25,000.00 would be spent. The City Manager stated the plans were to use the funds for new cameras and a camera production booth facility. Council Member Baker stated that Mediacom has given her good service when she has had problems in the past. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

Motion to Close CARRIED

Motion for Preliminary Adoption of the First Reading of an Ordinance Providing for a Cable Television Franchise Agreement with the Mediacom Communication Corporation

DISCUSSION: None.

(VOTE: 4 - AYES) CARRIED

ORDINANCES:

1. Motion for Preliminary Adoption of the Second Reading of an Ordinance Amending the Official Zoning Map for the City of Burlington, Iowa by Rezoning the Property at 705 Maple Street from R-4, (Multi-family Residential Zoning District) to C-2 (General Commercial Zoning District)

DISCUSSION: The City Manager stated that there were no changes to the Ordinance amending the official zoning map for the City of Burlington, Iowa by rezoning the property at 705 Maple Street from R-4 (Multi-family Residential Zoning District) to C-2 (General Commercial Zoning District) from the first reading. John R. Sandell of 2803 West Avenue questioned if the City received any input from the neighbors concerned with the rezoning. The Development Director stated that he only received one letter in favor of the rezoning. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 4 - AYES) CARRIED

2. Motion to Amend the Motion for Preliminary Adoption of the Second Reading of an Ordinance Vacating and Selling 267 Feet of the East West 60 Foot Hagemann Avenue Right-of-Way, Located West of Plane Street and Running from Division Street to Smith Street

DISCUSSION: The City Manager stated that Exhibit C was adjusted from the first reading to provide that the property would be split in half diagonally with the southern 7,410 square feet of Hagemann Avenue being sold to George Fielty in the amount of \$1,100.00 (\$.15 per square foot) and the northern 7,560 square feet of Hagemann Avenue would be sold to the Hellberg s in the amount of \$750.00 (\$.10), at a lower cost due to the property being landlocked. The Development Director stated that he had a two-hour conversation with George Fielty regarding the purchase of the property. He stated that George Fielty plans on speaking with John Mercer the former Development Director prior to deciding whether or not he plans to pay for the property. Council Member King made a motion to waive the second reading and to final adopt the Ordinance Vacating and Selling 267 Feet of the East West 60 Foot Hagemann Avenue Right-of-Way, Located West of Plane Street and Running from Division Street to Smith Street. Mayor Edwards seconded the motion. After roll call vote the motion was unanimously approved. All present had opportunity to speak and nothing additional was filed in the office of the City Clerk.

(VOTE: 4 - AYES) CARRIED

3. Motion for Waiver of Preliminary Consideration and Adoption of the Second Reading and for Final Adoption of an Ordinance Vacating and Selling 267 Feet of the East West 60 Foot Hagemann Avenue Right-of-Way, Located West of Plane Street and Running from Division Street to Smith Street

DISCUSSION: None.

(VOTE: 4 - AYES) CARRIED

RESOLUTION:

1. Resolution Approving Final Plat for Fun City Subdivision

DISCUSSION: The Development Director stated that the final plat of Fun City Subdivision was needed to separate Randy Winegard s manufacturing business from Fun City property. The one-lot subdivision will consist of approximately 9.78 acres. The City Manager stated that he would be setting up a tour for the City Council of Fun City. All present had opportunity to speak and nothing additional

was filed in the office of the City Clerk.
(VOTE: 4 - AYES) ADOPTED

COMMENTS FROM AUDIENCE: None.

Adjournment: 7:34 p.m. Approved: August 15, 2005

Kathleen P. Salisbury Mike Edwards
City Clerk, C.M.C. 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 Assignment of Increment Property Taxes due to Ambrose Development to West Bank

2. Resolution Approving Contract for the 2005 Court Street Reconstruction, 3rd Street to 4th Street

3. Resolution Approving Issuance of Taxi Cab/Vehicle for Hire License for Terrie Brown dba/Class Act Limousine

SET DATE FOR PUBLIC HEARING: August 15, 2005
1. Consideration of Sale of Property Locally Known as Cottonwood Park, Located on the East Side of Columbus Drive