

CITY OF MUSCATINE
REGULAR CITY COUNCIL MINUTES
Council Chambers – 7:00 p.m. – October 16, 2014

Mayor Hopkins called the City Council meeting for Thursday, October 16, 2014, to order at 7:00 p.m. Councilmembers present were Rehwaldt, Fitzgerald, Shihadeh, Bynum, Phillips, and Spread.

The meeting began with the Pledge of Allegiance.

Mayor Hopkins presented a Life-Saving Award to Police Officer Donyell Raisbeck. Officer Raisbeck, while on a child endangerment call, was responsible for saving the life of an 18-month-old child who was choking. Her quick response and action saved the child's life.

Chuck VanHecke, Chairman of the Convention Visitors Bureau, introduced CVB Coordinator Nick Cusick. Mr. Cusick then introduced himself and gave a brief update on plans he has for the CVB.

David Tait of 503 McArthur Street stated he wanted to appeal a recent Notice to Abate Nuisance he recently received from the city. He stated the reason he is appealing the notice is because he believes a spiteful neighbor was responsible for turning him into the city.

#22975. Councilmember Bynum, seconded by Councilmember Spread, moved the Consent Agenda be approved as follows:

- Regular City Council minutes of October 2, 2014 and In-Depth City Council minutes of October 9, 2014
- Approval on first and second reading a new Class "C" Liquor License and Outdoor Sales for Veterans of Foreign Wars, 1415 Grandview Avenue – Veterans of Foreign Wars Club (pending inspections); renewal of a Class "B" Wine Permit, Class "C" Beer Permit, and Sunday Sales for Dollar General #7027, 2000 Cedar Plaza Drive – Dolgencorp LLC (pending inspections); approval on first and second reading a new Class "C" Liquor License and Sunday Sales for American Legion Club, 110 South Houser Street – Edward H. Bitzer Post No. 27 of the America (pending inspections and insurance); and renewal of a Class "B" Wine Permit, Special Class "C" Liquor License, Outdoor Sales and Sunday Sales for Salvatore's, 313 East 2nd Street – Salvatore's By Papa Reno LLC (pending inspections and insurance)
- Use of City Property approved for Holiday Stroll on December 5, 2014
- Proclamation approved declaring October 15, 2014 as "White Cane Safety Day"
- Appointments approved of Mark LeRette to the Historic Preservation Commission and Melissa Snyder to the Muscatine Art Center Board of Trustees
- Filing of Communications 12A-F
- Bills for Approval totaling \$1,967,990.01

Vote – All ayes; motion carried.

PUBLIC HEARING

Mayor Hopkins stated a public hearing was being held concerning the proposed intent to acquire or condemn if necessary all or a portion of property or an interest in property for the public improvement for the City of Muscatine's Sanitary Landfill Project.

Lindall and Nancy Winters, owners of the property in question were present at the meeting. Mr. Winters stated he had been contacted by the Iowa Department of Natural Resources inquiring about why he would not negotiate an easement for the property in question. He stated he had no idea what was happening but stated he told them he would not have a problem with negotiating an easement. He stated the city had never talked to him about the easement and now was trying to take the property in question. He stated the property was not for sale.

Mr. Winters stated he took the city to court before and they lost. He stated the next lawsuit will be for nuisance because his land is being contaminated by leachate from the landfill. He stated he has contacted his lawyer and will fight this issue to the end.

Mrs. Winters then passed out a copy of a draft Administrative Consent Order and documents related to well monitoring prepared by the IDNR.

Councilmember Fitzgerald asked if the entire document was from the IDNR, and Mr. Winters answered yes. He then asked Mr. Winters if he had any copies of paperwork received from the city.

Mr. Winters stated the only thing he had received from the city was its offer to purchase the property in question.

City Administrator Gregg Mandsager stated he wanted to remind City Council that the city was directed to communicate directly with Mr. Winters' attorney. He stated that after the initial letter, everything went through his attorney.

City Administrator Mandsager stated this is not just about potential remediation. He stated it is also about creating a buffer zone, the waste boundary, and determining if mediation will be required down the road. He stated the city has no plan to change its fence line and will allow a permanent easement for the Winters' bison.

City Administrator Mandsager stated Pat Burke from Brick Gentry was present to answer legal questions if needed.

There were no oral or written petitions for or against this matter.

#22976. Councilmember Spread moved the public hearing be closed. Seconded by Councilmember Bynum. All ayes; motion carried.

#22977. Councilmember Shihadeh moved the resolution be adopted authorizing the process for negotiation and condemnation for the City of Muscatine Sanitary Landfill Project. Seconded by Councilmember Spread.

Councilmember Shihadeh questioned whether City Council should go into Closed Session to discuss this issue.

Councilmember Fitzgerald stated he would like to review the Consent Order and also stated he feels Closed Session would be appropriate.

City Administrator Mandsager stated City Council could go into Closed Session tonight or table the matter.

Councilmember Fitzgerald stated he does not take the condemnation of property lightly. He stated he would like to discuss the matter further to make sure everyone is still on board. He stated he also needs

to read the Consent Order provided by Mr. Winters.

#22978. Councilmember Fitzgerald moved this matter be tabled until the November 6, 2014 City Council meeting. Seconded by Councilmember Rehwaldt. Four nays: Councilmembers Spread, Phillips, Bynum, and Shihadeh. Two ayes: Councilmembers Fitzgerald and Rehwaldt. Motion failed.

Vote on original motion – Four ayes: Councilmembers Rehwaldt, Shihadeh, Phillips, and Spread. Two nays: Councilmembers Fitzgerald and Bynum. Motion carried.

#22979. Councilmember Shihadeh moved the resolution be adopted accepting the completed work for the Cedar Street Water Adjustment Project and authorizing final payment to Sulzberger Excavating. Seconded by Councilmember Phillips. All ayes: Councilmembers Rehwaldt, Fitzgerald, Shihadeh, Bynum, Phillips, and Spread. Motion carried.

#22980. Councilmember Spread moved the resolution be adopted awarding and approving the contract for the Geneva Creek Channel Shaping Project from Sulzberger Excavating in the amount of \$48,963. Seconded by Councilmember Fitzgerald. All ayes: Councilmembers Rehwaldt, Fitzgerald, Shihadeh, Bynum, Phillips, and Spread. Motion carried.

#22981. Councilmember Spread moved to accept the lease agreement from the Canadian Pacific Railway for a parcel of abandoned rail spur west of Houser Street near the entrance to Kent Stein Park for the Musser Park to Wiggins Road Trail. Seconded by Councilmember Fitzgerald. All ayes; motion carried.

#22982. Councilmember Phillips moved to authorize the issuance of a purchase order to Gregory Container in the amount of \$9,978 for refuse collection dumpsters. Seconded by Councilmember Bynum. All ayes; motion carried.

#22983. Councilmember Phillips moved to approve the purchase of a SCP DigiPrep 300 distillation unit for the WPCP's Lab Annex Project from SCP Science in the amount of \$8,017. Seconded by Councilmember Rehwaldt. All ayes; motion carried.

Under comments, Administrative Secretary Fran Donelson reminded everyone that Trick-or-Treat Night in Muscatine is October 31, 2014 from 5:30 to 7:30 p.m.

#22984. Councilmember Shihadeh moved the meeting be adjourned at 7:34 p.m. Seconded by Councilmember Fitzgerald. All ayes; motion carried.

DeWayne Hopkins, Mayor

ATTEST:

Gregg Mandsager, City Administrator