

CITY OF MUSCATINE
REGULAR CITY COUNCIL MINUTES
Council Chambers – 7:00 p.m. – May 18, 2017

Mayor Bob Bynum, Mayor Pro Tem, called the City Council meeting for Thursday, May 18, 2017, to order at 7:00 p.m. Councilmembers present were Rehwaldt, Fitzgerald, Natvig, Saucedo, Harvey, Bynum, and Spread.

The meeting began with the Pledge of Allegiance.

Councilmember Harvey, speaking in reference to the Consent Agenda, asked that Item 8J pertaining to the request from Mike's Hilltop Tap, be pulled from the Consent Agenda.

#23844. Councilmember Rehwaldt, seconded by Councilmember Spread, moved the Consent Agenda be approved as follows:

- Regular City Council Minutes – May 4, 2017
- In-Depth City Council Minutes – May 11, 2017
- Request for renewal of a Class “B” Wine Permit, Class “C” Beer Permit, Class “E” Liquor License and Sunday Sales for Circle K, 802 Cypress Street – Mac’s Convenience Stores LLC (pending inspections); renewal of Sunday Sales for Contrary Brewing Co., 411 West Mississippi Drive – Contrary Brewing LLC (pending inspections); renewal of a Class “B” Wine Permit, Class “C” Beer Permit, Class “E” Liquor License and Sunday Sales for Hy-Vee Wine & Spirits, 522 Mulberry Avenue, Suite A – Hy-Vee Inc. (pending inspections); renewal of a Class “B” Wine Permit, Class “C” Beer Permit, Class “E” Liquor License and Sunday Sales for Kum & Go #438, 1429 Park Avenue – Kum & Go LC (pending inspections); renewal of a Class “C” Liquor License, Outdoor Sales and Sunday Sales for The Pearl, 101 West Mississippi Drive – The Pearl, LLC (pending inspections and insurance); renewal of a Class “B” Wine Permit, Special Class “C” Liquor License, Outdoor Service and Sunday Sales for Wine Nutz, 208 West 2nd Street, Suite 217 – Wine Nutz LLC (pending inspections and insurance); Temporary Special Class “C” Liquor License for Hy-Vee Clubroom, 2400 – 2nd Avenue – Hy-Vee Inc. (pending inspections and insurance); renewal of a Class “C” Liquor License for Jody’s Corner Tap, 226 Walnut Street – Jody’s Corner Tap Inc. (pending inspections and insurance); and Second Reading of a Class “C” Liquor License and Brew Pub for The Cellar, 2402 Park Avenue – Lloyd-Watson Enterprises (pending inspections)
- Request Approving an Application for Revitalization Property Tax Abatement for Michael and Margaret Wigans
- Proclamation Approved Declaring May 21-27, 2017 as “National Public Works Week”
- Proclamation Approved Declaring May 26-27, 2017 as “Buddy Poppy Days”
- Filing of Communications 12A-B
- Bills for Approval totaling \$2,400,211.15

Vote – All ayes; motion carried.

At this time, discussion took place concerning the request from Mike's Hilltop Tap for the use of city property for Bike Night on Wednesdays from 4:30 p.m. to 8:00 p.m. for May-September 2017.

There were questions and comments from City Council that were addressed by Police Chief Brett Talkington.

#23845. Councilmember Fitzgerald moved the request from Mike's Hilltop Tap be approved. Seconded by Councilmember Spread. All ayes; motion carried.

PUBLIC HEARING

Mayor Pro Tem Bynum stated this public hearing concerns the proposed Landfill Cell #5 Expansion Project.

There were no oral or written petitions for or against the proposed project.

#23846. Councilmember Rehwaldt moved to close the public hearing. Seconded by Councilmember Fitzgerald. All ayes; motion carried.

PUBLIC HEARING

Mayor Pro Tem Bynum stated this public hearing concerns the proposed Amendment #2 to the Fiscal Year 2016/2017 City Budget.

There were no oral or written petitions for or against the proposed amendment.

#23847. Councilmember Fitzgerald moved the public hearing be closed. Seconded by Councilmember Natvig. All ayes; motion carried.

#23848. Councilmember Saucedo moved the resolution be adopted approving the plans, specifications, form of contract, cost estimate, and setting the bid opening date for the proposed Landfill Cell #5 Expansion Project. Seconded by Councilmember Harvey.

There were questions and comments from City Council concerning the bid opening date that were addressed by Dan Jensen of Barker Lemar Engineering.

#23849. Councilmember Natvig moved the resolution be adopted approving Amendment #2 to the Fiscal Year 2016/2017 City Budget. Seconded by Councilmember Harvey. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Bynum, Harvey, and Spread. Motion carried.

#23850. Councilmember Fitzgerald moved the resolution be adopted authorizing the assessment of unpaid abatement costs and unpaid rental inspection fees to private properties. Seconded by Councilmember Harvey.

There were questions and comments from City Council that were addressed by City Administrator Gregg Mandsager.

Vote – All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Bynum, Harvey, and Spread. Motion carried.

#23851. Councilmember Fitzgerald moved to approve the resolution and related documents approving changes of authorized signatures for city bank accounts. Seconded by Councilmember Saucedo. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Bynum, Harvey, and Spread. Motion carried.

#23852. Councilmember Harvey moved the resolution be adopted writing off debts of former public housing tenants. Seconded by Councilmember Fitzgerald.

There were questions and comments from City Council that were addressed by Finance Director Nancy Lueck.

Vote – All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Bynum, Harvey, and Spread. Motion carried.

#23853. Councilmember Natvig moved the resolution be adopted approving the final plat for the Norma Jean Acres Addition. Seconded by Councilmember Harvey. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Bynum, Harvey, and Spread. Motion carried.

#23854. Councilmember Rehwaldt moved the resolution be adopted setting the public hearing on a proposal to approve an amended Development Agreement with Riverview Hotel Development, including annual appropriation tax increment payments for Thursday, June 1, 2017, at 7:00 p.m. Seconded by Councilmember Harvey. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Bynum, Harvey, and Spread. Motion carried.

#23855. Councilmember Natvig moved the resolution be adopted approving the Riverview Reinvestment District Development Agreement. Seconded by Councilmember Spread. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Bynum, Harvey, and Spread. Motion carried.

#23856. Councilmember Spread moved the resolution be adopted setting the public hearing for the Cleveland Avenue Reconstruction Project for Thursday, June 1, 2017, at 7:00 p.m. Seconded by Councilmember Harvey.

City Administrator Mandsager clarified the schedule for the project.

Vote – All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Bynum, Harvey, and Spread. Motion carried.

#23857. Councilmember Natvig moved to approve the request from Public Works for the issuance of a purchase order to Altorfer Cat of Davenport in the amount of \$113,875.09 for a Cold Planer. Seconded by Councilmember Harvey.

Public Works Director Brian Stineman explained what a cold planer was and addressed questions and comments from City Council.

Vote – All ayes; motion carried.

#23858. Councilmember Rehwaldt moved to authorize the issuance of a purchase order to Thomas Bus Sales in the amount of \$264,367 for three transit buses. Seconded by Councilmember Harvey.

There were questions and comments from City Council that were addressed by Transit Supervisor Kristy Korpi.

Vote – All ayes; motion carried.

#23859. Councilmember Natvig moved to approve the proposed revision to the Development Plan for 610 Maiden Lane (former Washington Elementary School). Seconded by Councilmember Spread.

Vickie Jasiota, 609 W. 8th Street, voiced her concerns concerning the revision to the Development Plan for 610 Maiden Lane. She stated she feels the changes to the plan will cause residents in that area to lose their privacy.

City Planner Andrew Fangman stated that in the original Development Plan, the property was rezoned to S-1 Mixed Use Development and the building was divided into Units A and B with Unit A being the old gymnasium. He stated Unit B was going to be for 19 apartments. He stated changes to the plan

include the addition of a day care, a reduction in the number of apartments, and the inclusion of office space. He stated the parking lot was increased from 26 to 45 spaces and that the city's zoning ordinance does require the installation of a 6' fence.

Ms. Jasiota stated she felt a 6' fence would not be tall enough.

There was discussion concerning the height of the fence and the need for vegetation as well.

Chris Jasiota, 609 W. 8th Street, stated he has no problem with the development of the building; however, he does have concerns about the lighting from the property and the need for fencing.

City Administrator Gregg Mandsager stated the installation of fencing is required by the new zoning ordinance.

Mr. Jasiota stated that trees along with fencing would act as a buffer against the noise and lighting. He stated that he would be willing to work with Mr. Meeker on this issue. He stated he and his wife would do their part to add trees to the back of his house.

There was discussion concerning the property located next to their home which would be 607 W. 8th Street.

City Administrator Mandsager stated fencing would be required per the zoning ordinance but the city could also require the installation of additional vegetation.

Kay Terhune, who resides on the corner of Broadway and Maiden Lane, stated she was confused as to when these changes took place. She asked that she be included on the next review.

City Administrator Mandsager stated city staff wants to work with all the property owners in this area.

There was discussion about the need for barriers between the homes and the property at 610 Maiden Lane.

City Administrator Mandsager stated staff could require that vegetation be included as part of the site plan. He stated the zoning ordinance requires the installation of fencing but the original motion could be amended to include the addition of additional vegetation to the site plan.

#23860. Councilmember Fitzgerald moved to amend the original motion to include the 6' fence along the property lines and also adequate vegetation to minimize lighting issues to adjacent properties. Seconded by Councilmember Natvig. All ayes; motion carried.

Vote on original motion as amended – All ayes; motion carried.

At this time, there was discussion concerning the sale and use of fireworks within the city limits.

City Administrator Mandsager stated that cities across the State of Iowa are dealing with the recent fireworks legislation. He stated there are several questions that City Council needs to answer before staff can move forward. He stated City Council must decide how it wants to handle the use of fireworks within the city limits and how it wants to handle the sale of fireworks within the city limits.

City Administrator Mandsager stated staff is recommending City Council opt out of the use of fireworks within the city limits. He stated that in lieu of opting out, City Council could choose to limit the use of fireworks. He stated the final option would be to simply follow the City Code.

City Administrator Mandsager stated there are a lot of decisions to be made by City Council in a short period of time. He stated that tonight he is seeking direction from City Council on how to proceed with this matter.

City Administrator Mandsager stated it will be necessary for City Council to adopt an ordinance on these changes and it will need to be done quickly. He stated City Council will be asked to waive the rules and adopt it on first reading (six vote required). He stated everything must be done prior to the 4th of July.

There were questions and comments from City Council concerning the use of fireworks that were addressed by City Administrator Mandsager.

City Administrator Mandsager once again stated that cities cannot prohibit the sale of fireworks

Jim Simmons, Manager of Hy-Vee, stated he would like to see fireworks sold in what is his garden center. He stated that safety is an issue and that he would abide by all the rules established by City Council. He stated he has someone who wants to rent the garden center beginning on June 20, 2017. He stated that once the 4th of July is over, the sale of fireworks would end.

City Administrator Mandsager stated it is not Hy-Vee the city is concerned with. He stated an ordinance must be drafted for the worse case scenarios. He stated the proposal is to allow for the sale of fireworks in the M-2 industrial sites.

Matt Schweitzer from Hy-Vee Main Street, asked City Council to consider allowing the sale of fireworks outside of the industrial site areas. He stated the sale of fireworks would probably not work in his lot.

City Administrator Mandsager stated the time element for making decisions on this issue is a problem for a lot of communities which is why City Council will be asked to waive its rules and adopt the ordinance on first reading.

Tina Skipton, owner of S&S Distributing, stated she would like to pursue the sale of fireworks and asked City Council to consider changing the zoning ordinance to allow other businesses to take advantage of this opportunity.

#23861. Councilmember Fitzgerald moved that nothing be done and the city follow the state law for the sale and use of fireworks. Seconded by Councilmember Harvey. Motion was not voted on.

City Administrator Mandsager stated he is really just looking for consensus from City Council on how to proceed with this matter.

Fire Chief Jerry Ewers stated he wanted to point out that NFPA regulations concerning temporary structures are different than permanent structures.

City Administrator Mandsager stated it is staff's feeling the city should opt out on the discharge of fireworks within the city limits. He stated staff needs an idea on what should be brought back for City Council's consideration. He asked if there was a consensus to allow the use of fireworks and, if so, the timeframe that usage would be allowed. He stated that if the City Council has a desire to allow the sale of fireworks in a broader area, that will also require a consensus from City Council.

It was the consensus of City Council to move this issue forward.

There was questions and comments concerning the need for a zoning change that were addressed by City Administrator Mandsager.

City Planner Fangman stated that if City Council makes the decision to expand beyond the M-2 Industrial Sites, restrictions would need to be set in place concerning the closeness to homes and gas stations.

Under comments, City Administrator Mandsager reminded City Council of the Closed Sessions scheduled for tonight.

#23862. Councilmember Spread moved to go into Closed Session at 9:03 p.m. per Iowa Code Section 21.5.1.c to discuss current litigation. Seconded by Councilmember Rehwaldt. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Bynum, Harvey, and Spread. Motion carried.

City Administrator Mandsager called the Closed Session to order at 9:09 p.m. Also in attendance were City Administrator Gregg Mandsager, DPW Director Brian Stineman, City Engineer Jim Edgmond, Project Manager Bill Haag, Finance Director Nancy Lueck, Chief Brett Talkington and Asst. Chief Phil Sargent.

Please note the digital recorder noted a write error but appeared to still be recording. It was restarted at the conclusion of the meeting in preparation for the next session.

#23863. Councilmember Fitzgerald moved to leave Closed Session at 9:30 p.m. Seconded by Councilmember Harvey. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Bynum, Harvey, and Spread. Motion carried.

#23864. Councilmember Rehwaldt moved to go into Closed Session at 9:31 p.m. per Iowa Code Section 21.5.1.c to discuss pending litigation. Seconded by Councilmember Spread. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Bynum, Harvey, and Spread. Motion carried.

City Administrator Mandsager called the meeting to order. Also in attendance were City Administrator Gregg Mandsager, Chief Brett Talkington and Asst. Chief Phil Sargent.

Please note that the digital recorder noted a data write error. It was restarted and appeared to be recording. Error showed up periodically.

#23865. Councilmember Rehwaldt moved to leave Closed Session at 9:43 p.m. Seconded by Councilmember Natvig. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Bynum, Harvey, and Spread. Motion carried.

#23866. Councilmember Rehwaldt moved to go into Closed Session at 9:44 p.m. per Iowa Code Section 21.5.1.c to discuss pending litigation. Seconded by Councilmember Bynum. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Bynum, Harvey, and Spread. Motion carried.

#23867 Councilmember Fitzgerald moved to leave Closed Session at 9:56 p.m. Seconded by Councilmember Spread. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Saucedo, Bynum, Harvey, and Spread. Motion carried.

Councilmember Rehwaldt moved the meeting be adjourned at 9:57 p.m.

Robert Bynum, Mayor Pro Tem

ATTEST:

Gregg Mandsager, City Administrator