

CITY OF MUSCATINE
REGULAR CITY COUNCIL MINUTES
Council Chambers – 7:00 p.m. – August 18, 2011

Mayor Dick O'Brien called the City Council meeting for Thursday, August 18, 2011, to order at 7 p.m. Councilmembers present were LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby.

The meeting began with the Pledge of Allegiance.

Mayor O'Brien swore in Police Officers Jacob McCleary, Todd Koch, and Jacob Elliot and Firefighters Matt Stewart and Jon Wieland.

#21737. Councilmember Fitzgerald moved to approve the minutes of the August 4, 2011 City Council meeting. Seconded by Councilmember Natvig. All ayes; motion carried.

#21738. Councilmember Roby moved the Consent Agenda be approved as follows: Filing of Communications A-B and approval of Bills for Approval totaling \$2,120,887.96. Seconded by Councilmember Bynum. All ayes; motion carried.

PUBLIC HEARING

Mayor O'Brien stated a public hearing was being held concerning the proposed installation of handicapped parking stalls on Sheridan Street for 801 Park Avenue.

There were no oral or written petitions for or against the proposed handicapped parking stalls.

#21739. Councilmember Shihadeh moved the public hearing be closed. Seconded by Councilmember LeRette. All ayes; motion carried.

Mayor O'Brien introduced Denise Bulat of the Bi-State Regional Commission. Ms. Bulat stated she was present to give an update on the Bi-State Regional Commission. She stated the Commission is celebrating its 45th anniversary this year.

Ms. Bulat stated the Commission is a consortium of local governments covering five counties in Iowa and Illinois. She stated the mission statement, which has been in effect since 1966, is to provide direct technical assistance to member governments and help them to work together with other local governments when they so wish. She stated the Commission is recognized by both state governments as a metropolitan planning organization and is recognized by the federal government as an Economic Planning District for the five-county area.

She stated that recent projects include the creation of a fact sheet that can be used as a marketing tool for both the City of Muscatine and Muscatine County as a whole. She stated the Commission assisted in the writing of a block grant to extend services to the Ripley Mobile Home Park and printed brochures for MuscaBus. She stated that the Commission also does a lot of grant writing.

Mayor O'Brien thanked her for coming to the meeting.

Bob Veenstra of Veenstra & Kimm, the engineering firm for the Water Pollution Control Plant Renovation Project, stated the project is nearing completion. He stated that construction will be wrapping up within the next 30 to 60 days and that an open house will be held sometime in October.

Mr. Veenstra gave an overview of the project and its costs. He stated that when modifying existing buildings, problems do occur. He stated the project estimate included \$150,000 to allow for any additional changes that might occur. He stated the plant is transitioning from a 24/7 operation to a 12 hour operation which requires monitoring equipment. He stated the largest portion of Change Order #8, which is being submitted for City Council approval tonight, is an enhancement to the monitoring equipment.

He stated that due to weather conditions, the contractor got off to a slow start. He stated it is anticipated the project will be completed sometime in September. He stated there are three actions items that will be required to wrap up the project. He stated the first item is Change Order #8 which takes care of all but one item that is still being discussed with the contractor. He stated it is anticipated there will be an additional Change Order #9 in the \$30,000 to \$40,000 range. He stated the second item will be a request to extend the completion date of the project. He stated staff feels it makes more sense to have the contractor complete everything in a logical sequence. He stated the third item will be an amendment to the project services agreement due to the extension of the contract.

Mr. Veenstra stated that overall, there were no major glitches and that Roger Kirby and his staff were great to work with.

Councilmember Bynum stated that one of the goals for this project was to mitigate odors stemming from the operation of the plant. He asked if that goal was achieved.

Mr. Veenstra stated the contractor was able to get rid of a lot of the odor sources, and an odor control system was installed. He stated he feels the issue has been addressed.

Councilmember Natvig asked why the digester was not modified.

Mr. Veenstra stated the digester was a buffer to provide storage when moving the sludge to the lagoon. As a result of the new contract with Jim Hahn, that storage is no longer needed because the sludge can now be taken care of at the remote location.

Councilmember Shihadeh mentioned the plant would go from operation at 24 hours to 12 hours. He asked about the reduction in manpower.

City Administrator Gregg Mandsager stated that as Council will recall, staffing at the plant was reduced by one full-time employee. He then stated that overtime will be reduced as well.

Water Pollution Control Director Roger Kirby stated the 12-hour schedule started about a month ago and it has worked out so far. He stated there could be further personnel reductions by next year. He stated that overtime has basically been eliminated.

City Administrator Mandsager stated that in the event of an emergency, there is a two-hour call back.

Mr. Kirby stated the plant will eventually be monitored by computer. He stated this schedule change will save the city a lot of money. Speaking in reference to the digester, he stated there is now an umbilical system on Jim Hahn's property which is where the lagoons are located.

There was discussion on the additional fees that will be incurred due to the extension of the completion date.

Mr. Veenstra speaking in reference to 24/7 versus 12 hours of operation stated this change will enable the city to save money. He stated the plant is moving toward would what would be considered the norm for a plant this size.

Councilmember Shihadeh asked if the overall expense for the project is under budget.

Mr. Veenstra stated he had talked with Finance Director Nancy Lueck earlier in the day and the project is approximately \$9,000 under budget.

#21740. Councilmember Roby moved the resolution be adopted approving the final plat for the University Development Subdivision. Seconded by Councilmember Natvig. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. Motion carried.

#21741. Councilmember Bynum moved the resolution be adopted setting a public hearing for Thursday, September 1, 2011, at 7 p.m. on the vacation of an access easement in the Chin Subdivision. Seconded by Councilmember Natvig. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. Motion carried.

#21742. Councilmember Roby moved the ordinance be adopted on final reading changing the zoning designation for the National Guard Armory property at 1421 Park Avenue from R-3 (single family residential) to C-1 (neighborhood and general commercial) and directed for its publication as required by law. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. Motion carried.

#21743. Councilmember Natvig moved the ordinance be adopted vacating an alley right-of-way remnant and directed for its publication as required by law. Seconded by Councilmember Shihadeh. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. Motion carried.

#21744. Councilmember LeRette moved the ordinance be adopted on final reading amending Title 1, Chapter 4 pertaining to wards and precincts boundary descriptions and directed for its publication as required by law. Seconded by Councilmember Fitzgerald.

Councilmember Bynum stated it was his understanding the county did not agree with the precinct splits.

Community Development Director Steve Boka stated the county had no objections and that this is a state issue and has no affect on the county.

Vote – All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. Motion carried.

#21745. Councilmember Roby moved the resolution be adopted approving an agreement with Muscatine County to create a combined city/county Sweetland Precinct. Seconded by Councilmember Natvig. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. Motion carried.

#21746. Councilmember LeRette moved to approve the installation of two parking stalls on Sheridan Street for 801 Park Avenue. Seconded by Councilmember Natvig. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. Motion carried.

#21747. Councilmember Natvig moved the resolution be adopted authorizing the sale and transfer of city property to T.L.W. Corporation. Seconded by Councilmember Roby. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. Motion carried.

#21748. Councilmember Fitzgerald moved the resolution be adopted approving an executed deed to T.L.W. Corporation. Seconded by Councilmember LeRette. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. Motion carried.

#21749. Councilmember Roby moved the resolution be adopted approving the contract and bond from Heuer Construction in the amount of \$40,506.20 for the 2nd Street Parking Lot Improvements Project. Seconded by Councilmember Natvig. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. Motion carried.

#21750. Councilmember Fitzgerald moved the resolution be adopted authorizing the demolition of property at 1012 E. 3rd Street. Seconded by Councilmember LeRette.

Vicky Haury stated she and her husband, Lyle, own the property in question. She stated she knows the property needs to come down but would like to ask City Council for at least two to three months to finish things up at that location.

Councilmember Shihadeh asked why she needed two to three months.

Mrs. Haury stated the house has been used for storage and is full and that she and her husband are in the process of taking everything out and they need time to get everything out.

Councilmember Bynum asked how long the city had been asking her to fix this property up.

Mrs. Haury stated they have been working on the property since March 10, 2011.

Councilmember Bynum asked if any improvements had been made to the property.

Mr. Haury answered no. He stated they are only trying to empty it out.

Councilmember Bynum asked if they had put any money into the property.

Ms. Haury said they do keep the lawn up.

Councilmember LeRette asked for a more concrete date.

Mrs. Haury stated she is aware something has to be done to the property; however, she does not plan on repairing it.

Councilmember Fitzgerald stated his only concern is that the city will end up demolishing the property and assessing the costs to the property.

Mayor O'Brien asked Ken Rogers to speak concerning this property.

Mr. Rogers stated he has been dealing with this property for approximately 12 years. He stated it was his understanding the property had been abandoned for a number of years and was just being used for storage. He stated that a number of complaints have been received concerning this property. He stated that Mr. and Mrs. Haury used to live next door to the property and usually responded to any complaints that were sent to them. He stated that he learned they now live in Illinois and the notice in question concerning this property, which was sent certified, was returned as unaccepted. He stated that once the notice was returned, the property was posted. He stated he had talked with her a few times after it was posted, and the notice was then sent to her by regular mail. He stated there were never any conversations with her about shoring up the building but rather about what they planned on doing with the property. He stated they had indicated they would make arrangements to remove the stored items and take care of some of the nuisances. He stated that at one point Mrs. Haury asked if the structure could be burned down by the Fire Department; however, he found that was not a viable option. He stated there is a small unbuildable lot next to this property and that he had given her the option to turn the property over to the

city; however, it was just an option. He stated that he finally made the decision to submit the demolition request to City Council.

Councilmember Fitzgerald stated it his understanding that should City Council make the decision to demolish the property, it could be a couple of weeks before it is actually torn down.

Mr. Rogers stated that is reasonable; however, it could go quicker because there are no utilities.

Councilmember Shihadeh asked how big the structure was, and Mr. Rogers stated it is approximately 1,400 square feet.

Councilmember LeRette asked if demolition costs are assessed to the property.

Mr. Rogers stated that once the demolition takes place, a bill is sent to the property owner for payment. If it is not paid, the costs are then assessed back to the property.

Councilmember Fitzgerald stated that personally he would be willing to give the property owners a 30-day extension; however, if they are not done with the property within that time period, the city would then notify the contractor to demolish the property. He stated the property owner would then be billed for the costs associated with the demolition.

Councilmember Roby stated she was in agreement with Councilmember Fitzgerald.

Mrs. Haury stated if City Council approves the 30-day extension, she will make repairs to the property so it is not a nuisance. Discussion then took place concerning the possibility of making repairs to the structure.

#21751. Councilmember LeRette moved to amend the original motion to allow for a 30-day extension to take care of the property. Seconded by Councilmember Fitzgerald.

Mayor O'Brien asked about tabling the matter.

City Administrator Mandsager suggested City Council take action tonight so that it does not have to be brought back for further action.

Councilmember LeRette stated the purpose of his amendment is to give the property owner the opportunity to make the property livable if they so choose but if nothing is done in the 30-day extension period, then the property would be demolished.

Community Development Director Steve Boka stated the original notice sent out is the standard notice giving the property owner 10 days to respond. The property owner can make the decision to repair or demolish the property. He stated the property owner did not contact the city. He stated the problem with the building is that it is not repairable. He stated that in order to make repairs to the structure, Mr. and Mrs. Haury would need to follow the process for acquiring a building permit.

Councilmember Fitzgerald stated it is inevitable that the property needs to be taken down. He stated that basically the 30-day extension would give them time to get it cleaned out.

Mr. Boka stated a permit will be required to demolish the property and an inspection will be required to check for asbestos. He stated he wanted to make sure his office is clear on the dates so that his department can feel free to move forward on the demolition once the extension date has passed.

Councilmember LeRette stated the purpose of his amendment is to either repair the property or tear it down.

Vote on amendment: Four ayes: Councilmembers LeRette, Fitzgerald, Natvig, and Bynum. Two nays: Councilmembers Shihadeh and Roby. Motion carried.

Councilmember Fitzgerald asked Councilmembers Shihadeh and Roby why they voted against the amendment.

Councilmember Shihadeh stated that after listening to the property owners, he does not think they can get everything done in the 30-day timeframe.

Councilmember Roby stated she feels the property owners have failed to demonstrate they will take care of this property, which she feels is beyond repair, and that it needs to be demolished.

Councilmember Bynum stated he feels 30 days would not allow enough time for the property owners to get everything done and suggested giving them a 60-day extension.

Vote on original motion as amended – Five ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, and Roby. One nay: Councilmember Bynum. Motion carried.

#21752. Councilmember Shihadeh moved the resolution be adopted authorizing the demolition of property at 510 Liberty Street. Seconded by Councilmember Natvig. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. Motion carried.

#21753. Councilmember Bynum moved the resolution be adopted authorizing the demolition of property at 6208 41st Street South. Seconded by Councilmember Roby.

Steve Houdek, 1405 Hershey Avenue, stated that Wells Fargo had repossessed this property in 1997 and that he just recently found out it is back in his name.

Councilmember Fitzgerald asked when his name went back on the title.

Mr. Houdek stated he found out about 1 ½ months ago that the bank had quit claimed the property back to him. He stated he would like the opportunity to fix the property up.

There was further discussion concerning the quit claim issue.

Mr. Houdek detailed the work he thought needed to be done to the structure. He stated he is willing to do the work and could get started right away.

Councilmember Fitzgerald asked how long the roof had been in disrepair.

Mr. Houdek stated it probably happened within the last four years.

Councilmember Roby asked when he became aware the property was his.

Mr. Houdek stated it came to his attention when he got a letter from Ken Rogers. He stated it was his understanding the property went back into his name in June 2010.

Mayor O'Brien asked if he had the deed to the property, and Mr. Houdek stated he had the abstract.

Councilmember Natvig asked Mr. Boka to address this issue.

Mr. Boka stated this property has been the source of numerous complaints for several years. He stated there are currently liens totaling approximately \$11,000 which are due to nuisance costs, tax, and maintenance of the property. He then explained why staff was seeking authorization to demolish the property.

Mr. Houdek stated he would be willing to pay the taxes and fix the property up if he is given more time.

Councilmember Roby asked why he had not done anything with the property since 1997.

Mr. Houdek stated that he had gotten a divorce and filed bankruptcy.

Councilmember Fitzgerald asked for clarification about when the bank had actually taken possession of the house, and Mr. Houdek stated it was in 2007 and not 1997 as he had stated earlier.

He stated that in 2009 the bank had put the property back in his name. He stated he has the abstract and assumes the bank has the deed.

Councilmember LeRette stated that after looking at pictures of the property, there are probably structural issues as well.

Councilmember Natvig pointed out that staff believes that the outward appearance does not represent what is wrong with the inside of the house.

Mr. Houdek stated he does not understand why the city is getting complaints about the house. He stated he does not feel it is fair for the city to punch him for something he had no knowledge about.

Mr. Rogers stated it is a common practice for mortgage companies to quit claim the deed back to the property owner in order to avoid nuisance costs. He stated that Wells Fargo is still listed as the property owner.

Mr. Rogers stated there had been a potential purchaser for this property and the attorney had requested additional time for researching the property. He stated the attorney told him there was no way his client would be purchasing the property because of the liens and the fact that a private contractor had stated the property was not salvageable.

Vote – All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. Motion carried.

#21754. Councilmember Shihadeh moved the resolution be adopted accepting the grant agreement for the Airport Lighting Project. Seconded by Councilmember Fitzgerald. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. Motion carried.

#21755. Councilmember Natvig moved the resolution be adopted rejecting all bids and setting a bid opening date for the renovation of the municipal hangar and t-hangar roofs at the municipal airport. Seconded by Councilmember Roby. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. Motion carried.

#21756. Councilmember Natvig moved the resolution be adopted approving the contract and bond from Sulzberger Excavating in the amount of \$544,652.40 for the Cedar Street Culvert Extensions Project. Seconded by Councilmember Fitzgerald. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. Motion carried.

#21757. Councilmember Fitzgerald moved to approve the request from the Fire Department for the submission of a Department of Homeland Security AFG grant request. Seconded by Councilmember Roby. All ayes; motion carried.

#21758. Councilmember LeRette moved to approve a Hazmat 28E agreement with Keokuk County effective October 1, 2011. Seconded by Councilmember Shihadeh. All ayes; motion carried.

#21759. Councilmember Roby moved to amend the current city policy concerning critical (supervisory) employees. Seconded by Councilmember Natvig.

Councilmember LeRette asked for clarification on this request.

City Administrator Mandsager stated the current city policy allows officers to reside in a four county area but it limits the pool of officers eligible for promotion. He stated that the downside of a 30-mile radius would be the fact it would take approximately 40 to 45 minutes for an officer to travel to Muscatine. In addition, there is no guarantee officers will live within the 30-mile radius.

Chief Talkington stated the longer response time is a concern. He stated a 20-mile radius would get into Blue Grass. He stated that currently 8 officers reside in Scott County, 22 in Fruitland and Muscatine, and 11 in Muscatine County. He stated that currently anyone living in Scott County cannot be promoted.

City Administrator Mandsager stated that Chief Talkington would like to see the radius increased to 30 air miles.

Councilmember LeRette stated he feels there should only be one policy. He also stated that he cannot support a 30-mile radius because of the response time. He stated that a lot of communities have their emergency personnel living within the city limits.

City Administrator Mandsager stated he agreed that one standard policy should be established. He stated the request before City Council tonight is for all supervisory employees not just the Police and Fire departments.

Chief Talkington stated the reason the policy was expanded to include four counties is because the city was losing a lot of officers because they did not want to live in Muscatine.

Councilmember Natvig asked how many officers live in Scott County, and Chief Talkington said there are eight. He also pointed out that it takes approximately 30 minutes to get to Muscatine from Davenport.

Human Resources Manager Stephanie Romagnoli told Councilmembers that generally if there is an emergency, the existing staff is held over until the next shift arrives.

There was discussion on the fact that companies in Muscatine no longer require their management personnel to reside in the City of Muscatine or Muscatine County.

Chief Talkington stated he is requesting that City Council approve the 30 air miles radius.

Councilmember Natvig asked why.

Chief Talkington stated that the 20 mile radius barely gets into Blue Grass.

Councilmember Shihadeh stated if we lose officers because of the residency issue, it will cost a lot to replace them.

City Administrator Mandsager stated he would rather see the best employees from within the Police and Fire departments get promoted rather than have them excluded from the process due to their address.

Vote – Five ayes: Councilmembers Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. One nay: Councilmember LeRette. Motion carried.

#21760. Councilmember Roby moved to approve Change Order #8 for the Water Pollution Control Plant Renovation Project. Seconded by Councilmember Bynum. All ayes; motion carried.

Under comments, Councilmember Roby stated the YMCA will be holding a Community Block Party on October 9, 2011.

City Administrator Mandsager stated there will be a joint open house for the Police and Fire departments on October 2, 2011.

Fire Chief Ewers stated there was information concerning the open house on the city's website.

#21761. Councilmember Shihadeh moved to go into Closed Session at 9:12 p.m. to discuss the sale of city property. Seconded by Councilmember Fitzgerald. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. Motion carried.

Mayor O'Brien called the Closed Session to order at 9:24 p.m. Councilmembers present were LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, and Roby. Also present were City Administrator Mandsager, City Engineer Jon Lutz, Community Development Director Steve Boka, and Public Works Director Randy Hill.

#21762. Councilmember Fitzgerald moved to leave the Closed Session at 9:52 p.m. Seconded by Councilmember Natvig. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, Roby, and Lange. Motion carried.

#21763. Councilmember Shihadeh moved the meeting be adjourned at 9:53 p.m. Seconded by Councilmember Fitzgerald. All ayes; motion carried.

Richard W. O'Brien, Mayor

ATTEST:

Gregg Mandsager, City Administrator