

CITY OF MUSCATINE
REGULAR CITY COUNCIL MINUTES
Council Chambers – 7:00 p.m. – November 3, 2011

Mayor Dick O'Brien called the City Council meeting for Thursday, November 3, 2011, to order at 7 p.m. Councilmembers present were LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, Roby, and Lange.

The meeting began with the Pledge of Allegiance.

#21847. Councilmember Roby moved to approve the minutes of the October 20, 2011 City Council meeting. Seconded by Councilmember Natvig. All ayes; motion carried.

#21848. Councilmember Bynum moved the Consent Agenda be approved as follows: First reading for a new Class C Liquor License for Port City Pizzas Uptown, 1903 Park Avenue – Lacey Henderson-Mueller (pending receipt of final paperwork and inspections); renewal of a Class C Beer and Sunday Sales Permit for A&E Convenience LLC, 4701 South Highway 61 (pending inspections); renewal of a Class C Beer and Sunday Sales Permit for Aldi Inc. #05, 3200 Northport Drive (pending inspections); renewal of a Class C Beer and Sunday Sales Permit for Muscatine Citgo Fast Break, 2603 2nd Avenue – Reif Oil Co. (pending inspections); renewal of a Class BW Beer/Wine and Sunday Sales Permit for Salvatores, 313 E. 2nd Street – Salvatore Vilate's Italian Restaurant LLC (pending inspections); renewal of a Class WBN Native Wine and Sunday Sales Permit for Past Time Antiques & Uniques, 1003 Park Avenue – Jeff and Sharon Schnedler (pending inspections); renewal of a Class C Liquor License for The Elms Supper Club & Lounge, 2108 Grandview Avenue – Elm Tree Dining & Lounge LLC (pending inspections); renewal of a Class C Liquor License, Sunday Sales and Outdoor Service for Mississippi Brewing Company, 107 Iowa Avenue – R&D Operations Ltd. (pending inspections); renewal of a Class C Liquor License and Sunday Sales Permit for Twin Sports Bar LLC, 810 Park Avenue (pending inspections); filing of Communications A-D; and Bills for Approval totaling \$1,739,007.22 as well as the receipt summary and journal entries for July 2011. Seconded by Councilmember LeRette. All ayes; motion carried.

PUBLIC HEARING

Mayor O'Brien stated a public hearing was being held concerning the proposed vacation of utility easements in Riverbend Second Addition.

Lisa Kaste, 3319 Clermont Drive, stated that she and Lori Jensen, 3403 Clermont Drive, were present to voice their concerns about action taken at the October 20, 2011 City Council meeting allowing the placement of a home currently located 3739 Mulberry Avenue on a lot in the Riverbend Addition. She stated there are things about the home that do not fit the subdivision's covenants.

City Administrator Gregg Mandsager stated the city does not enforce covenants. He stated the property owner met the city's requirements to obtain the permit.

Ms. Kaste stated she understands what the City Administrator is saying; however, she wanted to let the city know a lawyer has been contacted and an injunction will be filed to stop this from happening. She then referred to another item on the agenda pertaining to the splitting of lots that are also located in the Riverbend Addition. She stated a petition has been signed by residents in the neighborhood opposing the relocation of the house and the splitting of the lots.

Ms. Kaste stated she did go to the city's Building & Zoning Department and got a copy of the permit to move the house. She stated the permit indicates the house is new, which she feels is not correct.

Community Development Director Steve Boka stated there are three issues being discussed. He stated that first, as mentioned by the City Administrator, the covenants are the responsibility of the residents in the subdivision. He stated the city had to legal reason to deny the permit when the City Code requirements had been met. He stated that Mr. Shelangoski took the appropriate action to acquire the permit. He stated the residents are taking the appropriate action to enforce their covenants.

He stated the second item of discussion concerns the splitting of the lots. He stated that once again, the purchasers of the lots have met the city's requirements. He pointed out that lots in that area have been split in the past and nothing was said.

He stated the final item pertains to the permit that is filled out for a house moving request. He stated that when a house is moved, it is considered a new home and it must be brought up to new home standards. He stated that Mr. Shelangoski's application was appropriate. He stated that once the home is on site, it will be considered a new home.

Councilmember Fitzgerald stated that what is key here is that once the house has been relocated, it will have to be brought up to City Code requirements.

Mr. Boka stated that Councilmember Fitzgerald was correct.

Councilmember Bynum asked what the moving date was for the house.

Ms. Kaste stated it was November 17, 2011. She also stated that when she contacted the city, she was told that neighbors do not have to be notified. She then read a portion of the City Code pertaining to verbiage that indicates the covenant is to be filed with the plat.

Mr. Boka stated the covenants are required to be recorded at the court house with the plat and are maintained by the Recorder's Office.

Councilmember LeRette stated that Mr. Boka had stated earlier that the house must be brought up to Code standards. He asked if a final inspection is done to see if everything is done correctly.

Mr. Boka stated the home will be inspected as if it were a new home. He then stated that the house being moved is very nice.

Councilmember LeRette asked how long the contractor will have to bring it up to standard.

Mr. Boka stated the permit is good for one year.

Ms. Kaste stated that when people are buying lots, how is the issue of the covenants handled.

Councilmember Fitzgerald stated it is the lawyer's responsibility.

Ms. Jensen stated she feels that bringing this home into the neighborhood is going to make the home values go down which could mean a considerable tax loss to the city. She stated the house is not of the same caliber as the homes already in the Riverbend Addition.

Councilmember LeRette asked Ms. Kaste and Ms. Jensen what they wanted City Council to do.

Ms. Kaste stated she would like to see City Council overturn the request that was approved allowing the house to be moved and to vote against the request to vacate the utility easements to allow for the division of lots

in the subdivision. She pointed out the Homeowners Association has the right to enforce the covenants and will be seeking injunctions.

Councilmember Fitzgerald asked Ms. Kaste if she had a copy of the covenants stamped with the recorded date, and she answered yes.

Ms. Jensen asked City Council if they realized that moving the house into the Riverbend Addition would cause the value of the current homes to depreciate.

Councilmember Fitzgerald stated that many of the homes in Muscatine have decreased in value.

Ms. Kaste stated she just got her appraisal back today, and her property is \$50,000 less than the assessed value.

Councilmember Fitzgerald stated there are a couple lots in the addition that have been for sale in the \$40,000 to \$73,000 range and they have not sold.

Ms. Kaste stated that covenants stipulate that no lots are to be subdivided. She stated it is now up to the homeowners to take a stand.

Mayor O'Brien asked what should be done next.

Mr. Boka stated that the Homeowners Association is taking the appropriate steps as provided in the subdivision's covenants. He stated he is confident the city has met its responsibilities under the City Code. He stated there is no justification for the city to change its position because all of the City Code requirements have been met.

Ms. Kaste once again asked who would be responsible for telling people buying lots that there are covenants.

Councilmember Fitzgerald stated any lawyer doing a title search will have that information.

Ms. Kaste stated she wanted to reiterate there will be legal action taken to stop the relocation of the house and the division of the lots.

#21849. Councilmember Shihadeh moved the public hearing be closed. Seconded by Councilmember Lange. All ayes; motion carried.

#21850. Councilmember Bynum moved the resolution be adopted vacating utility easements in the Riverbend Second Addition. Seconded by Councilmember LeRette. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, Roby, and Lange. Motion carried.

#21851. Councilmember Roby moved the resolution be adopted authorizing an internal advance of \$105,254 to the Tax Increment Fund for TIF and economic development administrative costs. Seconded by Councilmember Fitzgerald.

Councilmember Fitzgerald asked for an explanation of the resolution that will follow this resolution.

City Administrator Mandsager stated that both resolutions authorize the city to use TIF funds for economic development administrative costs and an allocation to the GMCCI. He stated the timing is not great but it has to be submitted to the state by December 1st. He stated that what the city did last year was use the current

budget allocation for the GMCCI and that is what will be done again this year. He stated this action does not prevent City Council from approving an additional amount.

Councilmember Fitzgerald asked if City Council would have the authority to approve an amount up to \$35,000.

City Administrator Mandsager stated the debt needs to be certified by December 1st but it does not mean the city would have to expend the funds.

Councilmember Fitzgerald stated this action would give the city the authority to expend the funds but does not commit the city to do so.

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

#21852. Councilmember Lange moved the resolution be adopted authorizing an internal advance to the Tax Increment Fund for the economic development grant to the Greater Muscatine Chamber of Commerce & Industry in the amount of \$35,000. Seconded by Councilmember Natvig. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, Roby, and Lange. Motion carried.

#21853. Councilmember Shihadeh moved the resolution be adopted accepting completed work performed under the 2011 Street Improvements Project and authorizing final payment. Seconded by Councilmember Lange. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, Roby, and Lange. Motion carried.

#21854. Councilmember Fitzgerald moved to authorize the issuance of a purchase order to Pipeco Company in the amount of \$13,141.50 for an oil dispensing system. Seconded by Councilmember LeRette. All ayes; motion carried.

#21855. Councilmember Natvig moved to authorize the issuance of a purchase order to Bush Turf Inc. in the amount of \$19,398.75 for the Golf Course Tee Renovation Project. Seconded by Councilmember Bynum.

Councilmember Natvig stated that three of the tees will have bluegrass sod with Tee 3 sodded with bentgrass. He asked for an explanation.

City Administrator Mandsager stated that a public meeting had been held at the golf course and a lot of good comments were received. He stated that one suggestion was to use bentgrass on the tees. He stated the budget allows one tee to be done for next year to see if the bentgrass works.

Golf Course Supervisor Randy Moeller stated that Tee #3 has been a problem for many years. He stated it is hoped that using the bentgrass sod will alleviate problems experienced at that tee. He stated the other three tees will be sodded with bluegrass.

Vote – All ayes; motion carried.

Under comments, Councilmember LeRette stated he would like to thank everyone involved in bringing the Latino Conference to Muscatine. He then reminded everyone to get out and vote on November 8, 2011.

Councilmember Natvig also encouraged everyone to get out and vote.

Councilmember Lange asked everyone to join him in singing happy birthday to the Mayor.

Mayor O'Brien thanked everyone.

#21856. Councilmember Shihadeh moved the meeting be adjourned at 7:40 p.m. Seconded by Councilmember Fitzgerald. All ayes; motion carried.

Richard W. O'Brien, Mayor

ATTEST:

Gregg Mandsager, City Administrator