

CITY OF MUSCATINE  
REGULAR CITY COUNCIL MINUTES  
Council Chambers – 7:00 p.m. – May 17, 2012

Mayor DeWayne Hopkins called the City Council meeting for Thursday, May 17, 2012, to order at 7 p.m. Councilmembers present were LeRette, Fitzgerald, Natvig, Bynum, Phillips, and Spread.

The meeting began with the Pledge of Allegiance.

Police Chief Brett Talkington stated he was present tonight to present Officer Adam Raisbeck with a Life Saving Award. Chief Talkington stated that on January 3, 2012 Officer Raisbeck was dispatched to a local hotel for an attempted suicide. Upon arriving at the hotel, Officer Raisbeck was unable to get a response when he knocked on the door; however, upon hearing sounds coming from inside the room, he forced himself into the room and was able to save the man attempting to take his own life.

Chief Talkington congratulated Officer Raisbeck and then presented him with the award.

Mayor Hopkins stated that Theresa Chavarria, a seventh grade teacher at West Middle School, had two students with her that had proposals they wanted to submit to City Council.

Ms. Chavarria stated that her students were given the task of coming up with proposals that would improve the quality of life in Muscatine. She stated there were a total of 94 proposals, and each of the teams voted on which proposals would be exhibited and which proposals would be submitted to City Council for their consideration.

Mary Amerine stated her proposal was for the installation of a special needs playground at the Discovery Park because there are many special needs children in Muscatine.

Colton Niles stated his proposal was for the construction of a sports dome to help kids improve their softball and baseball skills.

Councilmember Phillips asked if they had contacted the Carver Foundation for funding.

Ms. Chavarria stated the students have not yet investigated funding sources.

Mary Amerine stated that for the special needs park funding could come from car washes, fundraising, and donations.

#22074. Councilmember Bynum, seconded by Councilmember Spread, moved the Consent Agenda be approved as follows:

- Approval of the minutes for the May 3, 2012 Regular meeting and the May 10, 2012 In-depth meeting
- First reading on a new Liquor License and Sunday Sales Permit for Muscatine Hy-Vee Wine & Spirits, 522 Mulberry Avenue – Hy-Vee Inc. (pending inspections); renewal of a Class C Beer Permit and Sunday Sales for Fast Avenue One Stop, 2111 Park Avenue – JBC LLC (pending inspections); renewal of a Special Class C Liquor License, Outdoor Service and Sunday Sales for Elly's Tea & Coffee House LLC, 208 W. 2<sup>nd</sup> Street – Elly's Tea & Coffee House LLC (pending inspections); renewal of a Class B Liquor License and Sunday Sales for Muscatine Clarion, 2915 North Highway 61 – Jelms Hotel Company LLC (pending inspections); renewal of a Class C Liquor License, Outdoor Service and Sunday Sales for El Allende, 1107 Grandview Avenue – El Allende Inc. (pending inspections); renewal of a Class C Liquor License for La Guadalajara Restaurant, 208 E. 2<sup>nd</sup> Street – La Guadalajara Restaurant LLC (pending inspections); renewal of

a Class C Liquor License for MVP Lounge, 214 Iowa Avenue – Daniel McFate (pending inspections); renewal of a Class E Liquor License and Sunday Sales for Wal-Mart Supercenter #559, 3003 N. Highway 61 – Wal-Mart Inc. (pending inspections)

- Approval of request from Zion Lutheran Church for use of city property for Neighborhood Block Party on May 30, 2012 from 5 to 7 p.m.
- Approval of request from Pete’s Tap located at 1820 Angle Street for use of city property for Relay for Life Cancer Drive including closure of the city-owned parking lot behind the bar from noon to 2 p.m. as well as closure of Angle Street in front of the bar from 3 to 9 p.m.
- Appointments of Christina Kelly to the Civil Service Commission and Dana Kraft and Dr. Bradley Bark to the Recreation Advisory Commission
- Filing of Communications 12A-C
- Approval of Bills for Approval totaling \$1,514,938.22

Vote – All ayes; motion carried.

### **PUBLIC HEARING**

Mayor Hopkins stated a public hearing was being held concerning proposed Amendment #2 to the Fiscal Year 2011/2012 City Budget.

There were no oral or written petitions for or against the proposed Amendment #2.

#22075. Councilmember Fitzgerald moved the public hearing be closed. Seconded by Councilmember Natvig. All ayes; motion carried.

#22076. Councilmember Fitzgerald moved to approve the opening burning request from Chad McDaniel and Eric Wagner for combined properties located at 895 and 897 Newell Avenue. Seconded by Councilmember Spread.

Councilmember Fitzgerald stated he did not realize that burn permits were still being issued for property owners with one acre or more. He encouraged City Council to allow Mr. McDaniel and Mr. Wagner to burn and then recommended City Council review the open burning ordinance to determine if it should be eliminated with the exception of fire pits.

Councilmember Bynum stated he has an issue with open burning personally. He pointed out that he feels combining the two properties would create too large an area for the open burning. He stated he also feels the residents could be burning at odd hours of the day and is concerned about the fire getting out of hand. He then added he is also opposed to the open burning for health reasons. He ended by saying he feels the City Code should be looked at to determine if burn permits and fire pits should be eliminated.

Fire Chief Jerry Ewers stated that Title 6 of the City Code was amended effective July 1, 2011 providing a breakdown of the burn permits; however, the hitch is the one acre of land. He stated the City Code states that no open burning will be allowed in the City of Muscatine with the exception of property with “one or more” acres of land. He stated the fee for the issuance of a burn permit is \$25. He also stated he does not have the authority to allow properties to be combined to create one acre.

Councilmember Spread asked where the one acre restriction came from.

Chief Ewers stated that restriction has been in the City Code for at least the last 24 years. He stated the timeframe for burning is 7 a.m. to 9 p.m. He wanted to point out that if City Council allows the parties to burn, then the Fire Department does not have to issue a burn permit.

Councilmember Spread stated it was his understanding these two property owners have burned in the past.

Chief Ewers stated they had been issued burn permits in the past until the Fire Department determined the properties combined did not equal a full acre.

Councilmember Phillips stated she feels if they had burned responsibly in the past they would probably continue to do so. She then talked about Mayor Hopkins' suggestion about allowing a Boy Scout group to cut up the dead trees and maybe sell the firewood.

Councilmember Spread stated this is private property and that he had concerns about allowing volunteers to cut up the wood. He stated he feels the removal of the dead trees must be addressed somehow. He then asked Chief Ewers if he had ever denied a burn permit for someone with more than an acre.

Chief Ewers answered no. He stated if there is a large area, the property owners are advised to burn in small piles.

Councilmember Natvig stated it his understanding that if someone else comes in with the same type of request, the current ordinance allows for the exception.

Chief Ewers stated if they meet the one acre requirement then yes the current ordinance allows for the issuance of a burn permit. If they have less than one acre, they would not qualify for a burn permit; however, the ordinance does allow for the combining of properties to create one acre as long as it is approved by City Council.

Councilmember Natvig asked Chief Ewers if he thought this proposed burn could be done safely.

Chief Ewers stated if they do small areas, tend the fire at all times, and have some type of extinguisher available, the burn can be done safely.

Councilmember Natvig stated someone had mentioned creating buffer strips.

Chief Ewers stated they really are not necessary if the property owners are attentive at all times and burn only small piles.

Councilmember LeRette asked if there were any structures nearby.

One of the property owners present at the meeting stated the area in question is not near any homes or structures and is a completely timbered area. He stated it butts up against the St. Mary's Cemetery property. He stated they would take all precautions necessary to ensure a safe burn.

Mayor Hopkins stated there are two opposing issues City Council must take into consideration. First is the fact the deadfall was caused by an act of God and an exception to the City Code is possible. Second is the fact the City of Muscatine is under scrutiny by the IDNR for its air quality.

Dave Anson, 1905 Oneida, stated he was speaking for himself and many of the property owners on Newell Avenue close to the area in question that are opposed to the open burning for many reasons. He stated he does not see the logic in approving this request. He then stated he had a petition signed by citizens who are opposed to the proposed open burning.

Mr. Anson stated he agreed the City Code does need to be changed. He stated he feels the approval of this request could open the door for people to burn at will. He ended by saying once again that he along with many others object to this request for open burning.

Chad McDaniel one of the property owners attending the meeting stated he has already talked with many of the property owners and they are not opposed to the proposed burning.

Mr. Anson passed copies of the petition out to City Council.

Vote – Four ayes: Councilmembers Fitzgerald, Natvig, Phillips, and Spread. Two nays: Councilmembers LeRette and Bynum. Motion carried.

#22077. Councilmember Fitzgerald moved to accept the petition submitted by Mr. Anson. Seconded by Councilmember Spread. All ayes; motion carried.

#22078. Councilmember Spread moved to approve the final reading of an ordinance providing for the division of taxes levied on taxable property in the May 2012 Addition to the Consolidated Muscatine Urban Renewal Area and directed for its publication as required by law. Seconded by Councilmember Natvig. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Bynum, Phillips, and Spread. Motion carried.

#22079. Councilmember Bynum moved the resolution be adopted approving Amendment #2 to the Fiscal Year 2011/2012 City Budget. Seconded by Councilmember LeRette. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Bynum, Phillips, and Spread. Motion carried.

#22080. Councilmember Natvig moved the resolution be adopted providing for the issuance of General Obligation Corporate Purpose and Refunding Bonds Series 2012 and providing for the levy of taxes to pay the same. Seconded by Councilmember Phillips. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Bynum, Phillips, and Spread. Motion carried.

#22081. Councilmember Fitzgerald moved the resolution be adopted setting a public hearing for the Mad Creek Sewer Extension Project for Thursday, June 7, 2012, at 7 p.m. Seconded by Councilmember Spread. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Bynum, Phillips, and Spread. Motion carried.

#22082. Councilmember Phillips moved the resolution be adopted awarding the contract for the Harrison Street Extension Project to Heuer Construction in the amount of \$510,999.30. Seconded by Councilmember Natvig. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Bynum, Phillips, and Spread. Motion carried.

#22083. Councilmember Natvig moved the resolution be adopted accepting the low bid from Hy-Brand Industrial Contractors in the amount of \$52,889.83 for the airport project identified as “Rehabilitate Airfield Pavements”. Seconded by Councilmember Fitzgerald. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Bynum, Phillips, and Spread. Motion carried.

#22084. Councilmember LeRette moved the resolution be adopted setting a public hearing on the plans, specifications, and form of contract for the rehabilitation of the Bond and Schley pumping stations for Thursday, June 7, 2012, at 7 p.m. Seconded by Councilmember Spread. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Bynum, Phillips, and Spread. Motion carried.

#22085. Councilmember Bynum moved to approve Change Order #1 for the Water Pollution Control Plant Storage Building in the amount of \$20,531.73. Seconded by Councilmember Natvig. All ayes; motion carried.

#22086. Councilmember Fitzgerald moved to approve the issuance of a purchase order to Hometown Plumbing of Davenport in the amount of \$9,580 for the conversion of the natural gas boiler at the Water Pollution Control Plant to methane. Seconded by Councilmember Phillips.

Councilmember Fitzgerald asked where the funding for this conversion will come from.

City Administrator Gregg Mandsager stated the budget will be able to absorb the cost. He stated the city is expected to realize a savings of approximately \$1,000 a month.

Councilmember Natvig asked if the boiler will still be able to burn natural gas.

Jon Koch, the city's Assistant Water Pollution Control Director, stated it will be able to burn both.

City Administrator Mandsager stated that both Jon and Roger Kirby have been looking at other ways to use the methane.

Vote – All ayes; motion carried.

#22087. Councilmember LeRette moved to approve the contract with Braun's Excavating LLC d/b/a JJJ Hauling for the solid waste and leachate hauling for the Transfer Station effective July 1, 2012 through June 30, 2017. Seconded by Councilmember Natvig.

Councilmember Natvig pointed out this bid was quite a bit lower than the others submitted. He asked Solid Waste Manager Laura Liegois if she was comfortable with the proposed contract.

Ms. Liegois stated staff has met with the contractor and he is confident he can fulfill his duties.

Councilmember Fitzgerald asked when the \$.50 surcharge would kick in.

Ms. Liegois stated the contractor's base bid was \$2.50 which means the surcharge would start at \$3.00 per gallon.

Vote – All ayes; motion carried.

#22088. Councilmember Phillips moved to award the contract for the 2012 Street Striping Project to Weikert Contracting of Ackley, Iowa, in the amount of \$45,565.87. Seconded by Councilmember Fitzgerald. All ayes; motion carried.

#22089. Councilmember Spread moved to adjourn action on the Resolution Approving the Development Agreement with R.L. Fridley Theatres Inc. to the June 7, 2012 Regular City Council meeting. Seconded by Councilmember Natvig. All ayes; motion carried.

Under comments, Councilmember LeRette stated he was encouraged to see the seventh graders here today. He stated he looks forward to discussing the dome that was proposed.

Councilmember Natvig recognized the Art Center for the recent award it received for its Civil War exhibition.

#22090. Councilmember Bynum moved to go into Closed Session at 7:50 p.m. to discuss the proposed purchase of property. Seconded by Councilmember Natvig. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Bynum, Phillips, and Spread. Motion carried.

Mayor Hopkins called the Closed Session to order. Councilmembers present were LeRette, Fitzgerald, Natvig, Bynum, Phillips, and Spread. Also present were City Administrator Gregg Mandsager, Public Works Director Randy Hill, Community Development Director Steve Boka, and Finance Director Nancy Lueck.

#22091. Councilmember Fitzgerald moved to leave the Closed Session at 8:20 p.m. Seconded by Councilmember Spread. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Bynum, Phillips, and Spread. Motion carried.

#22092. Councilmember Spread moved to approve the appraisals and appraisal reviews for 124 Colorado Street and 141 Colorado Street. Seconded by Councilmember Bynum. All ayes; motion carried.

#22093. Councilmember Bynum moved the meeting be adjourned at 8:22 p.m. Seconded by Councilmember Fitzgerald. All ayes; motion carried.

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DeWayne Hopkins, Mayor

ATTEST:

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Gregg Mandsager, City Clerk