

CITY OF MUSCATINE
REGULAR CITY COUNCIL MINUTES
Council Chambers – 7:00 p.m. – May 6, 2010

Mayor Dick O'Brien called the City Council meeting for Thursday, May 6, 2010, to order at 7 p.m. Councilmembers present were LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, Roby, and Lange.

The opening prayer was given by Pastor Jeffrey Pautz of Our Savior Lutheran Church which was followed by the Pledge of Allegiance.

The first item on the agenda was an appeal filed by Howard Hughes concerning a nuisance abatement for property located at 517-519 Walnut Street (New Covenant Full Gospel Baptist Church).

Harley C. Erb, an attorney from Des Moines, stated he was representing Mr. Hughes concerning the properties located at 517 and 519 Walnut Street. Speaking in reference to 519 Walnut Street, which is the church, he asked what has to be done to make it usable. He stated that broken windows have been boarded up, cement has been patched, and the interior and exterior of the building have been painted and graffiti covered up. He stated he would like to find out what else needs to be done to remove the nuisance designation.

Mr. Erb stated that 517 Walnut Street is the structure located next to the church that is also owned by his client. He stated he would also like to know what issues the city has with this property.

Steve Boka, the city's Planning, Zoning and Building Safety Director, pointed out this action involves the church property. He stated the six-plex is owned by Mr. Hughes and has been posted since 1999. He stated it has remained empty since that time. He stated there has been no contact with his office for further inspections so no one from his staff has been in it.

Mr. Boka stated his staff has not seen the interior of the church building and all actions stem from the condition of the church's exterior. He stated that glances in the windows indicate further damages to the interior. He stated Mr. Hughes can come and go as he pleases but the city does not want people in the building until it is brought up to city standards.

Mr. Boka stated that in February an appointment was made with Mr. Hughes to inspect the property and that his entire staff as well as the county assessor waited for 45 minutes; however, he did not show up. He stated Mr. Hughes is present tonight to appeal the nuisance designation; however, his office maintains it is a nuisance. He asked that City Council support his department's decision to declare it as a nuisance.

City Attorney Harvey Allbee Jr. stated that City Council needs to reach a consensus that the nuisance does exist and approve the action of the Building Department.

Councilmember Fitzgerald asked if the issue tonight is for the church only, and Mr. Boka answered yes.

Councilmember Fitzgerald stated he does not see any reason why the Building Department's decision should not be upheld. He stated this matter needs to be addressed in a timely manner. He stated Mr. Erb had indicated the church was currently in use. He asked how that was possible.

Mr. Boka stated that if the property is being used, permission to do so did not come from his office.

Councilmember Fitzgerald stated that use of the structure must cease until the nuisance has been abated.

Mr. Erb stated that under the nuisance provision of the City Code, the City Council has no authority to post the building because it is not a residential property. He stated he does not know why the building is not accessible for use pointing out it is not being occupied but is being used. He asked the city attorney if he felt it was a violation of the city's ordinance if it is being used.

City Attorney Allbee stated use of the church is the issue because the owner has not made arrangements with the city to have it inspected to see if it is safe for use. He stated he does not disagree with Mr. Erb about the use of the church; however, the city is concerned about the safety of the public. He stated he would like to see Mr. Hughes cooperate and allow the city to verify the property is safe for use. He stated the city has exposure here and it would be appropriate for staff to determine if the property is safe.

City Attorney Allbee stated the city has been trying to work with Mr. Hughes to resolve this issue; however, he has not been cooperative. He stated tonight's meeting will determine if the owner of the church is willing to work with the city.

#21031. Councilmember Fitzgerald moved to support the decision of the Building Department and to reject the appeal. Seconded by Councilmember Roby.

Councilmember Roby stated she feels there should be some type of timeframe established so that it doesn't carry on.

Mr. Boka stated that 517 Walnut Street was posted in 1999 and the church in 2008. He stated city staff is ready and willing to work with Mr. Hughes. He stated the city wants to ensure the building is clean and safe for public use. He stated that his department is not recommending the demolition of the property.

Councilmember Shihadeh stated this is a safety issue and does not understand what the argument is.

Mr. Hughes, who stated his mailing address is P.O. Box 606 in Muscatine and his residence is Andover, Virginia, stated the six-plex at 517 Walnut Street was donated to the church after he got out of the rental business. He stated the intention was to use it as an educational wing. It had been gutted and that is where it is at this time. He reiterated that the church owns 517 Walnut Street. Mr. Hughes stated he has nothing to hide concerning the church and explained some of the issues going on inside it. He ended by saying he does not have a problem with the city coming into the church; however, he does have a problem with it being posted because it is an embarrassment to the church. He stated he feels the posting was not done appropriately.

Councilmember Natvig stated it is clear the abatement proceedings have been well documented and that he reaffirmed the nuisance abatement at 519 Walnut Street.

Vote – All ayes; motion carried.

Mayor O'Brien urged Mr. Hughes to make an appointment with city staff to inspect the building.

#21032. Councilmember Shihadeh moved to approve the minutes of the April 15, 2010 City Council meeting and the April 22, 2010 Joint City/County meeting. Seconded by Councilmember Bynum. All ayes; motion carried.

#21033. Councilmember Lange moved to approve the Consent Agenda as follows: Second reading of a new Class C Beer and Sunday Sales Permit for Highway 61 Fuels, 3103 Highway 61 North – Highway 61 Fuels LLC (pending inspections); first reading on a new Class C Liquor License with Sunday Sales for Tropicana NC, 1919 Grandview Avenue – Roberto Avala (pending inspections); request for a new Class BW Beer/Wine with Sunday Sales for Happy Joe's Pizza, 203 Lake Park Blvd. – Max Brewer Corp.; renewal of a Class E Liquor

License with Sunday Sales Permit for Wal-Mart Supercenter #559, 3003 N. Highway 61 – Wal-Mart Stores Inc.; renewal of a Class C Liquor License with Sunday Sales and Outdoor Service for Mike's Hilltop Tap, 929 Lucas Street – Mike's Hilltop Inc.; filing of Communications A-G; and Bills for Approval totaling \$1,734,139.10 as well as receipt summaries and journal entries for November and December 2009 and January 2010. Seconded by Councilmember Natvig. All ayes; motion carried.

#21034. Councilmember Lange moved to approve the request from the St. Mary's/St. Mathias Parish to hold a religious procession on June 6, 2010 from 11:30 a.m. to 12:30 p.m. Seconded by Councilmember Natvig. All ayes; motion carried.

#21035. Councilmember Roby moved to approve the request from the Greater Muscatine Chamber of Commerce and Industry for the use of city property for 4th of July activities. Seconded by Councilmember LeRette. All ayes; motion carried.

City Administrator Gregg Mandsager stated Police Chief Coderoni will be updating City Council on the Police Department's recent gang-related activities. He stated the city is eligible to submit an application for COPS funding for the next fiscal year for two police officers. The application deadline is June.

Police Chief Coderoni updated City Council on what has been happening over the last few weeks. He stated he has talked with the City Administrator and Finance Director to identify funding that can be used to get people moving in the direction of the Street Crime Unit. Speaking in reference to the COPS grant, he stated that if received, the grant would fund two officers. He stated the federal grant will fund wages and training for three years. He stated the grant requires the city keep the two officers an additional year past the end of the grant. He pointed out that if the funding is received, the officers would not enter the Police Academy until January. He stated he has talked with federal representatives who support the COPS grant application.

City Administrator Mandsager stated the Police Department is making great use of its current resources and staff. He stated the city wants to position itself so that when funding becomes available, staff can jump on it. He stated staff is looking at all funding options. He stated Muscatine is a great community and that the Police Department is making good use of its resources and staff.

Chief Coderoni stated these same issues occurred approximately 10 years ago. He stated it was fixed once and can be fixed again but it takes time. He pointed out that is not a police problem but is a community problem. He stated the more neighborhood groups the better. He stated he will present periodic updates on what is going on. He pointed out that the issue could worsen over the summer.

Councilmember Roby stated the Police Department is working hard and is making progress. She also thanked those in the community who are stepping forward to assist in this matter. She stated it does take everyone working together.

Councilmember Shihadeh stated he wanted to assure everyone that the city is spending whatever it takes to control this problem. He stated he is sure City Council will agree we are going to do whatever it takes.

Chief Coderoni stated the Police Department will do the best it can with what they have available.

Councilmember Natvig stated the Police Department is doing a great job and that community groups mobilized very quickly.

Councilmember LeRette stated he attended the recent Safe Streets meeting. He stated the officers at the meeting did a great job of letting people know what residents can do to keep their homes and neighborhoods safe. He stated there will be another meeting on May 13, 2010 at 7 p.m. at the 4th Street Park.

Chief Coderoni stated it's important to keep the meetings going even when things are not so bad. He pointed out this issue is never going to go away.

#21036. Councilmember Roby moved to approve proclamations declaring May 17-21, 2010 as "Bike to Work Week", May 28-29, 2010 as "Poppy Days"; May 9-15, 2010 as "Peace Officers' Memorial Week" and May 12, 2010 as "Peace Officers' Memorial Day"; and May 9-15, 2010 as "National Nursing Home Week". Seconded by Councilmember Lange. All ayes; motion carried.

#21037. Councilmember Fitzgerald moved the resolution be adopted approving the final plat for the Muscatine Mall Second Addition in the City of Muscatine. Seconded by Councilmember Shihadeh.

Councilmember Lange stated this action is the City Council's first foray into tax increment financing for housing; however, this situation is more commercial. He stated he feels approval of the final plat is the right thing for City Council to do.

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

City Administrator Mandsager introduced Finance Director Nancy Lueck and Rex Ramsay of Piper Jaffray. Mr. Ramsay was present to update Council on the results of the General Obligation Corporate Purpose Bond sale.

Ms. Lueck stated bids were received earlier in the day through the parity system. She stated that city's Moody rating is now AA2.

Mr. Ramsay stated that four bids were received with the lowest from Robert W. Baird & Co. of Milwaukee, Wisconsin. Speaking in reference to Moody's, he stated they were impressed by the city's ability to maintain the appropriate fund balances. He stated the city had maintained its minimum resource requirement of 10%. He stated a good plus was instituting the franchise fee which broadens the city's revenue stream. He then explained Moody's new rating scale.

Mr. Ramsay recommended the resolution be adopted awarding the sale of the bonds to Robert W. Baird of Milwaukee, Wisconsin.

#21038. Councilmember Bynum moved the resolution be adopted awarding the sale of General Obligation Corporate Purpose Bonds to Robert W. Baird & Co. of Milwaukee, Wisconsin, in the amount of \$7,425,000. Seconded by Councilmember Natvig. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, Roby, and Lange. Motion carried and resolution duly adopted.

#21039. Councilmember Fitzgerald moved to approve the first reading of an ordinance amending Title 3 Public Way and Property Chapter 9 Street Obstruction. Seconded by Councilmember Roby. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, Roby, and Lange. Motion carried and the first reading of the ordinance approved.

#21040. Councilmember Lange moved to approve the first reading of an ordinance amending Title 7 Police Regulations Chapter 18 Snow Emergency Regulations. Seconded by Councilmember Bynum. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, Roby, and Lange. Motion carried and the first reading of the ordinance approved.

#21041. Councilmember Fitzgerald moved the resolution be adopted accepting the low bid for a snow removal tractor for the municipal airport from Elder Implement Company in the amount of \$122,727.68. Seconded by Councilmember Shihadeh. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, Roby, and Lange. Motion carried and resolution duly adopted.

#21042. Councilmember Roby moved the resolution be adopted setting a public hearing on the plans, specifications, form of contract, cost estimate and setting the bid opening date for the hangar access road at the airport for Thursday, May 20, 2010, at 7 p.m. Seconded by Councilmember Fitzgerald. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, Roby, and Lange. Motion carried and resolution duly adopted.

#21043. Councilmember LeRette moved the resolution be adopted releasing a real estate mortgage under the 2003 CDBG Owner-Occupied Residential Rehabilitation Program for 615 E. 8th Street. Seconded by Councilmember Natvig. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, Roby, and Lange. Motion carried and resolution duly adopted.

#21044. Councilmember Shihadeh moved the resolution be adopted setting a public hearing on the Clay Street Bridge Rehabilitation Project for Thursday, May 20, 2010, at 7 p.m. Seconded by Councilmember Natvig. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, Roby, and Lange. Motion carried and resolution duly adopted.

#21045. Councilmember Lange moved the resolution be adopted setting a public hearing on the 2010 Curb and Gutter and Street Maintenance Program for Thursday, May 20, 2010, at 7 p.m. Seconded by Councilmember Bynum. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, Roby, and Lange. Motion carried and resolution duly adopted.

#21046. Councilmember Roby moved the resolution be adopted amending and approving the official pay plan for non-union employees effective May 10, 2010. Seconded by Councilmember LeRette.

City Administrator Mandsager stated this position was scheduled to go into effect on July 1, 2010; however, there is a candidate that staff would like to offer the position to. He stated the WPCP budget does allow for this position. He asked for City Council's concurrence.

Roger Kirby, WPCP Director, stated he would like the new person to come on board and become familiar with the new equipment.

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

#21047. Councilmember Shihadeh moved the resolution be adopted supporting a Local Housing Trust Fund for Muscatine County. Seconded by Councilmember Bynum.

Housing Administrator Dick Yerington stated the state has had this program for approximately 10 years and there are 20 LHTFs located throughout the state. He stated the Iowa Finance Authority has encouraged the city to go into partnership with the Scott County Housing Council LHTF. He stated that approximately \$100,000 will come to Muscatine County through the Scott County Housing Council.

City Administrator Mandsager stated that local organizations will be eligible for this funding.

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

#21048. Councilmember Roby moved the resolution be adopted setting a public hearing on Amendment #2 to the 2009/2010 city budget for Thursday, May 20, 2010, at 7 p.m. Seconded by Councilmember Lange. All ayes; motion carried.

#21049. Councilmember Bynum moved to approve the amendment to the City of Muscatine's Snow and Ice Control Policy. Seconded by Councilmember Natvig. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, Roby, and Lange. Motion carried.

#21050. Councilmember Natvig moved to approve the 28E Agreement with the City of Fruitland for Refuse Collection Services. Seconded by Councilmember Shihadeh.

Councilmember Bynum asked if Fruitland will be paying the same rates as Muscatine residents.

Solid Waste Manager Laura Liegois stated Fruitland will be paying the same residential rate; however, there is no senior citizen discount.

Vote – All ayes; motion carried.

#21051. Councilmember Lange moved to approve the height exception from U.S. Cellular for a cell tower on the Muscatine Community Y Property at 1823 Logan Street. Seconded by Councilmember Roby.

There were questions from Council concerning co-location in towers already in use.

Mike Kempin, representing U.S. Cellular, stated there are three existing towers, one at Muscatine Power & Water, one near the high school, and one north of the Muscatine Power & Water location. He stated none of these towers would serve the area U.S. Cellular is focusing on. He stated there was nothing in the area suitable for co-location.

Councilmember Fitzgerald asked about the tower located ½ mile west of the Bypass. Mr. Kempin stated this tower would not work because of the rough terrain.

Councilmember Fitzgerald asked if this tower would improve service inside buildings and Mr. Kempin answered absolutely.

There was discussion concerning compatibility with the Public Safety Building.

Councilmember Natvig asked if the tower would need lights.

Mr. Kempin stated that the tower is under 200' and lights will probably not be required; however, the FAA will make that determination.

Councilmember Lange asked if this tower could have joint users.

Mr. Kempin stated it will be built to accommodate other users.

Vote – All ayes; motion carried.

Under comments, Councilmember LeRette reminded everyone of the Safe Streets meeting on Mary 13, 2010 at 7 p.m. at the 4th Street Park.

Councilmember Natvig commended the Police Department on its response to recent events. He stated he believes City Council will continue to make public safety a top priority.

Councilmember Shihadeh recognized the Boy Scouts attending the meeting.

Mayor O'Brien then welcomed the troop to the meeting.

Councilmember Bynum stated that over 547 tons of debris was collected during spring cleanup week. He stated that final numbers would be coming out soon.

Councilmember Bynum then invited folks to join the 4th Ward in cleanup activities on Saturday, May 22, 2010. Everyone will be meeting at Mulford Church at 8 a.m. He stated this event is being sponsored by the 4th Ward Safe Streets and Riverbend United Neighbors.

Councilmember Roby stated that on April 28, 2010 she had the honor of attending Mayor O'Brien's induction into the High School Wall of Honor.

Councilmember Lange talked about issues taking place up in the Quad Cities between the City of Davenport and the Davenport School System.

City Administrator Mandsager stated that at next week's In-Depth meeting, Randy Hill, Laura Liegois and Nancy Lueck would be sharing ideas with City Council concerning proposed recycling options. He then updated Council on the National Citizens Survey that was discussed during budget sessions.

City Administrator Mandsager stated that Steve Boka is submitting a guaranty for the \$108,000 State Revolving Fund loan that was recently approved by City Council.

Mr. Boka stated this item ensures the repayment of the loan by Clearview MHC LLC. He asked that Council authorize the signing of the document.

#21052. Councilmember Fitzgerald moved the Mayor be authorized to sign the guaranty for repayment of the state revolving loan fund by Clearview MHC LLC. Seconded by Councilmember Shihadeh. All ayes: Councilmembers LeRette, Fitzgerald, Natvig, Shihadeh, Bynum, Roby, and Lange. Motion carried.

#21053. Councilmember Shihadeh moved the meeting be adjourned at 8:37 p.m. Seconded by Councilmember Fitzgerald. All ayes; motion carried.




Richard W. O'Brien, Mayor


Gregg Mandsager, City Administrator