

MINUTES OF THE CITY COUNCIL
CITY OF CEDAR RAPIDS, IOWA

April 22, 2009, 5:30 PM

Council met in regular session in the AEGON USA Auditorium, 4333 Edgewood Road NE. Present Mayor Halloran, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon and Wieneke. Also present were City Manager Prosser and City Attorney Flitz.

The invocation was given by Police Chaplain, Tim Carter, First Church of the Nazarene. Public comments were heard.

Council member Podzimek moved to approve the agenda; seconded by Council member McGrane. City Manager Prosser announced that Item #23 (Motion denying the beer/liquor/wine renewal application of Bricks' Bar & Grill, 320 2nd Avenue SE) be pulled from this week's agenda. Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran. Motion carried as amended.

A public hearing was held to consider an amendment to the FY08 Community Development Block Grant (CDBG) Annual Action Plan allowing Taylor Area Neighborhood Association (TANA) to utilize their previously approved CDBG grant at a temporary location of 1203 3rd Avenue SW due to flood damage at their previously approved location at Taylor School. (flood). Comments were heard. No objections were heard or filed.

A public hearing was held to consider allowing a 30-day public review and comment period (March 28-April 27) to obtain citizen comments concerning a draft FY09 Annual Action Plan with proposed budget allocations for the Federal Community Development Block Grant (CDBG) and HOME Investment Partnership Programs. No comments or objections were heard or filed.

A public hearing was held to consider granting an easement to Qwest on City-owned land for consideration of \$1.00 and execution of an Easement Agreement with Qwest on City-owned land north of the police station at parking lot #20, 1st Street SW. No comments or objections were heard or filed.

A public hearing was held on the proposed plans, specifications, form of contract and estimated cost for the Broadlawn Drive SE Storm Sewer and Grading Repairs project (Engineer's estimated cost is \$80,000). No comments or objections were heard or filed.

0342-04-09, adopting plans specifications, form of contract and estimated cost for the Broadlawn Drive SE Storm Sewer and Grading Repairs project.

A public hearing was held on the proposed plans, specifications, form of contract and estimated cost for the Cedar Rapids Water Pollution Control Facilities Biogas Handling Systems Improvements project (Engineer's estimate of cost is \$2,285,000). No comments or objections were heard or filed.

0343-04-09, adopting plans, specifications, form of contract and estimated cost for the Cedar Rapids Water Pollution Control Facilities Biogas Handling Systems Improvements project.

Council member Podzimek moved to approve the Consent agenda; seconded by Council member Gulick. Council member Vernon requested that Item # 14r (Contract with ProSource Technologies for property documentation services of 1300 flood damaged structures) be removed from the Consent agenda and moved to the Regular agenda for discussion. All motions were adopted with all Council members and Mayor Halloran voting "Aye" unless noted. Motion carried as amended:

Motion to approve minutes.

Motion setting a public hearing date for May 13, 2009 to consider the vacation of a 10-foot utility easement at 901 31st Avenue SW as requested by Home to Stay, L.P.

Motion filing plans, specifications, form of contract, estimated cost, setting a public hearing date for May 13, 2009 and advertising for bids by publishing notice to bidders for the Highway 30 at C Street SW Ramp B Sanitary Sewer Relocation and Encasement project and authorizing the City Engineer, or designee, to receive and open the bids and publicly announce the results on May 14, 2009 (Engineer's estimate of cost is \$110,000).

Motion approving the beer/liquor/wine applications of:

- a. ARA Gallery, 4850 Armar Drive SE (5-day Special Class C Liquor License for an event on May 1, 2009);
- b. Biaggi's Ristorante Italiano, 320 Collins Road NE;
- c. Cigarette Outlet #7, 904 1st Avenue NW;
- d. Clark of Cedar Rapids, 502 E Avenue NW;
- e. Cork N Fork Deli & Grill, 2835 Mt. Vernon Road SE;
- f. Genghis Grill the Mongolian Stir Fry, 5001 1st Avenue SE, Suite #101 (outdoor service area);
- g. Green Gable Inn, 1227 J Avenue NE;
- h. Happy Joe's Pizza, 5070 Lindale Drive NE;
- i. Happy Joe's Pizza, 3419 16th Avenue SW;
- j. Hawkeye Convenience Store, 250 16th Avenue SW;
- k. Hy-Vee #3 Club Room, 20 Wilson Avenue SW;
- l. Jersey's Pub & Grub, 5761 C Street SW (outdoor service for an event on May 2, 2009);
- m. J.M. O'Malley's, 1502 H Avenue NE;

- n. Loyal Order of Moose, 1820 West Post Road SW;
- o. Next Door, 1736 16th Avenue SW;
- p. Paddy O'Rourke's, 608 16th Street NE (outdoor service for an event on May 10, 2009);
- q. Tic Toc, 600 17th Street NE; and
- r. Vernon Inn, 2663 Mt. Vernon Road SE.

Motions (3) assessing civil penalties in the amount of \$300.00 for first violations of State Code regarding the sale of cigarettes to minors against:

- a. Walgreens #5042, 3325 16th Avenue SW;
- b. Wal-mart #1528, 2645 Blairs Ferry Road NE; and
- c. Hy-Vee #3, 20 Wilson Avenue SW.

Resolutions were adopted with all Council members and Mayor Halloran voting "Aye" unless:

0344-04-09, approving bills.

0345-04-09. approving payroll.

0346-04-09, extending a vote of thanks to Steve Carpenter and Tom Anderson for serving as members of the Hotel-Motel Tax Review Committee.

0347-04-09, extending a vote of thanks to Lisa-Marie Garlich and Carole Schmidt for serving as members of the City Planning Commission.

0348-04-09, extending a vote of thanks to Scott Drzycimski and Robert Meisterling for serving as members of the Smart Growth Infill Committee.

0349-04-09, appointing Donald Leonhart and Aaron Saylor (effective through September 30, 2009) to the Smart Growth Infill Committee.

0350-04-09, intent to assess for Solid Waste & Recycling clean up costs at 4 properties.

0351-04-09, levy assessments for Solid Waste & Recycling clean up costs at 3 properties.

0352-04-09, intent to assess for Utilities Department delinquent municipal utility bills at 24 properties.

0353-04-09, levy assessments for Utilities Department delinquent municipal utility bills at 14 properties.

0354-04-09, amending Resolution No. 0876-10-08 for land application and hauling of biosolids by Wulfekuhle Injection and Pumping from the original amount of \$800,000.00 to \$1,600,000.00.

0355-04-09, awarding and approving contract in the amount of \$475,100.00, bond and insurance of Tri-Con Construction, Inc. for the Water Pollution Control Facilities Indian Creek Lift Station Corrosion Repairs project (Engineer's estimated cost is \$342,000.00).

0356-04-09, approving a Professional Services Agreement with Foth Infrastructure and Environment, LLC in an amount not to exceed \$148,700 for engineering services for riverbank stabilization along the Cedar River. (flood)

0357-04-09, approving a Cooperative Project Agreement and the Operation and Maintenance Agreement and plan for submission to the U.S. Department of Agriculture/Natural Resources Conservation Service (USDA/NRCS) to secure grant funding to restore flood damaged river banks and protect water supply and wastewater infrastructure from river bank erosion for a maximum grant amount of \$815,065.00. (flood)

0358-04-09, approving a Purchase Agreement in the amount of \$65.00 and accepting an Easement for Utilities from M. Charline Nicklas from land at 2501 42nd Street NE in connection with the FY09 Traffic Signal Upgrade project.

0359-04-09, approving a Purchase Agreement in the amount of \$75.00 and accepting an Easement for Utilities from Leo A. and Marianne Riester from land at 4024 Wenig Road NE in connection with the FY09 Traffic Signal Upgrade project.

0360-04-09, approving a Purchase Agreement in the amount of \$323,930.00 and accepting a Warranty Deed, Easement for Utilities and Temporary Grading Easement for Construction from Helen and Donald Snell from land located at the southeast corner of Kirkwood Boulevard SW and Miller Avenue SW in connection with the Kirkwood Boulevard SW from Kirkwood Court SW to Highway 30 and Miller Avenue SW Re-Alignment project.

0361-04-09, approving a Purchase Agreement in the amount of \$9,900.00 and accepting an Easement for Utilities and a Temporary Grading Easement for Construction from John R. Ortmann and Cheryl S. Ortmann from vacant land located on the north side of 18th Avenue SW directly across the street from 5101 18th Avenue SW in connection with the 18th Avenue SW Pavement project.

0362-04-09, approving a Purchase Agreement in the amount of \$7,600.00 and accepting an Easement for Sanitary Sewer from Diane K. Spicer from land at 5005 F Avenue NW in connection with the E Avenue NW at West Post Road North to F Avenue NW Sanitary Sewer Improvement project.

0363-04-09, authorizing execution of Amendment No. 2 to the Professional Services Agreement with Stanley Consultants, Inc., specifying an increase not to exceed \$120,200.00 for

right-of-way acquisition support services in connection with miscellaneous projects (total contract price with this amendment is \$270,420.00).

0364-04-09, authorizing issuance of final payment in the amount of \$534.04 to the Cedar Rapids and Iowa City Railway Company for surface repair of the railroad crossing on 6th Street SW – 1000 Block.

0365-04-09, authorizing issuance of final payment in the amount of \$288.96 to the Cedar Rapids and Iowa City Railway Company for surface repair of the railroad crossing on 60th Avenue SW.

0366-04-09, authorizing issuance of final payment in the amount of \$57.21 to the Cedar Rapids and Iowa City Railway Company for surface repair of the railroad crossing on 8th Avenue SW.

0367-04-09, authorizing issuance of final payment in the amount of \$245.05 to the Cedar Rapids and Iowa City Railway Company for surface repair of the railroad crossing on 50th Avenue SW.

0368-04-09, authorizing issuance of final payment in the amount of \$168.23 to the Cedar Rapids and Iowa City Railway Company for surface repair of the railroad crossing on 2nd Street SE.

0369-04-09, authorizing issuance of final payment in the amount of \$97.10 to the Cedar Rapids and Iowa City Railway Company for surface repair of the railroad crossing on “C” Street SW.

0370-04-09, authorizing issuance of final payment in the amount of \$124.41 to the Cedar Rapids and Iowa City Railway Company for surface repair of the railroad crossing on 66th Avenue SW.

0371-04-09, approving a Traffic Safety Improvement Funding Agreement No. 2009-TS-003 with the Iowa Department of Transportation (IDOT) in the amount of \$124,529.00 in connection with the Mt. Vernon Road & 19th Street SE Traffic Safety Improvement project.

0372-04-09, approving a Professional Services Agreement with Foth Infrastructure and Environment, LLC in an amount not to exceed \$46,618.00 for design services in connection with the Waconia and US Highway 30 Intersection Improvements project.

0373-04-09, amending Resolution No. 0757-09-08 with Belfor Property Restoration for climate control for six buildings to update the estimated amount to \$5,961,962.00. (flood)

0374-04-09, renewing the contract with L.L. Pelling for asphalt products for an estimated annual amount of \$350,000.00.

0375-04-09, renewing the Letters of Agreement with Bruening Rock Products, Crawford Quarry Company, Martin Marietta and Wendling Quarries, Inc. for an estimated annual amount of \$310,000.00. Abstain, Fagan

0376-04-09, accepting a Letter of Agreement with Biosolids Management Group Inc. (BMG) for the removal, hauling and proper disposal of lime residual materials from the J Avenue Water Treatment Plant in FY09 and FY10 for an estimated annual amount of \$225,000.00.

0377-04-09, accepting the Oak Hill Neighborhood Sidewalk, Ramp and Curb & Gutter Repair project, commencing the four year correction period of the Performance Bond and authorizing issuance of final payment in the amount of \$11,490.72 to Ti-Zack Concrete, Inc. (Final contract amount is \$229,814.42).

0378-04-09, accepting the FY 2009 Sidewalk Repair Program, Contract No. 1, commencing the four year correction period of the Performance Bond and authorizing issuance of final payment in the amount of \$7,917.91 to Ti-Zack Concrete, Inc. (Final contract amount is \$158,358.22).

0379-04-09, approving the Final Plat of Applewood Hills Estates Third Addition located at Andrew Charles Drive NW and Windfall Drive NW.

0380-04-09, approving the Final Plat of Wilderness Estates Seventh Addition located at Moose Drive NW and M Avenue NW, west of Koulsi Boulevard NW.

0381-04-09, approving request to name 28 acres located at the corner of 44th Street and Otis Road SE. The Indian Creek Nature Center Board requests that this parcel of land be officially known as “Věčný Woods”.

0382-04-09, authorizing the Transit Department to submit the FY2010 Consolidated Transit Funding Application to the Iowa Department of Transportation and Federal Transit Administration for a total amount of \$4,644,480.00.

0383-04-09, rescinding Resolution No. 0216-03-09 due to a change in conference dates and authorizing John Randall, Utility Safety Manager, to attend Process Hazard Analysis in Houston, TX for an estimated amount of \$4,404.50.

0384-04-09, authorizing the Utilities Department to reimburse CRANDIC Railroad for an amount not to exceed \$138,000.00 for the cost of casing extensions over an existing 36-inch water transmission main located in an easement on CRANDIC Railroad property.

0385-04-09, accepting a Warranty Deed for property at 5150 20th Street SW as submitted by Robson Brothers, Inc.

0386-04-09, submitting a request to the Federal Emergency Management Agency (FEMA) regional director for permanent relocation of the main Library. (flood)

Discussion: (Council):

0387-04-09, approving a Contract with ProSource Technologies, Inc. for property documentation services of 1300 flood damaged structures for an estimated amount of \$516,400.00. (flood) Nay, McGrane, Podzimek, Shey, Vernon

Discussion: (Richard Luther):

0388-04-09, supporting the National Czech & Slovak Museum & Library (Museum) application for State Vision Iowa RECAT Grant. (flood)

Discussion: (Richard Luther):

0389-04-09, approving a revised City participation totaling \$1,606,129.00 with SA Investment, LLC for the \$10.3 million downtown Roosevelt Building renovation and restoration including 96 apartments and first-floor commercial. (flood)

Discussion: (Patrick DePalma – Five Seasons Commission)

0390-04-09, supporting the Five Seasons Commission in their efforts to secure grant funding from the Economic Development Administration (EDA) for renovations for the U.S. Cellular Center (flood)

Discussion: (Rita Rasmussen)

0391-04-09, accepting the proposed Administrative Plan which sets the policy and procedure for voluntary property acquisitions in the Greenway Area. (flood) Abstain, McGrane

Discussion: (Rita Rasmussen)

0392-04-09, accepting the proposed plan for prioritizing voluntary property acquisitions in the Greenway Voluntary Acquisition, Construction/Study and Neighborhood Reinvestment Areas. (flood)

Discussion: (Rita Rasmussen)

0393-04-09, establishing a Voluntary Property Acquisition Advisory Board to serve as ambassadors of the voluntary property acquisition process for properties in the Greenway Voluntary Acquisition, Construction/Study and Neighborhood Reinvestment Areas. (flood) Nay, Podzimek

Discussion: (Mike Dufoe)

0394-04-09, accepting a Concrete Sidewalk Petition and Assessment Agreement and deferring the requirement to install concrete sidewalks along Kirkwood Boulevard SW adjoining

property located north of Wright Brothers Boulevard SW and west of Kirkwood Boulevard SW as requested by CJ's Cedar Ridge Development, Inc.

Discussion: (Mike Dufoe)

0395-04-09, accepting a Concrete Sidewalk Petition and Assessment Agreement and deferring the requirement to install concrete sidewalks along 6th Street SW adjoining property at 6605 6th Street SW as requested by Altorfer, Inc.

Discussion: (Mike Dufoe)

0396-04-09, accepting a Concrete Sidewalk Petition and Assessment Agreement and requiring the installation of concrete sidewalks along North Towne Place NE adjoining property at 5429 North Towne Place NE as requested by Acro Manufacturing Corp.

Discussion: (Conni Huber)

0397-04-09, approving a three year contract with Principal Financial Group for third party administrator services for the employee health plan.

Ordinances were adopted with all Council members and Mayor Halloran voting "Aye" unless noted:

Ordinance No 013-09, being an Ordinance amending Chapter 12 of the Municipal Code, Water Service, by repealing existing rates and establishing new rates was presented and read the second time.

Council member Fagan moved the approval of the Ordinance on its second reading; seconded by Council member McGrane. Approved, Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran.

Council member Podzimek moved that the rule requiring three readings on three different days be suspended and the Ordinance be adopted on its third and final reading; seconded by Council member McGrane. Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran.

Ordinance No 014-09, being an Ordinance amending Chapter 13 of the Municipal Code, Wastewater Facilities, by repealing existing rates and establishing new rates was presented and read the second time.

Council member Podzimek moved the adoption of the Ordinance as read; seconded by Council member Wieneke. Ayes, Council members Fagan, Gulick, Podzimek, Shey, Vernon, Wieneke and Mayor Halloran. Nay, McGrane, Shields

Council member Podzimek moved that the rule requiring three readings on three different days be suspended and the Ordinance be adopted on its third and final reading; seconded by

Council member McGrane. Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran.

Ordinance No 015-09, being an Ordinance amending Chapter 24 of the Municipal Code, Solid Waste, by repealing existing rates and establishing new rates was presented and read the second time.

Council member Podzimek moved the approval of the Ordinance on its second reading; seconded by Council member McGrane. Approved, Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran.

Council member Podzimek moved that the rule requiring three readings on three different days be suspended and the Ordinance be adopted on its third and final reading; seconded by Council member McGrane. Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran.

Ordinance No 016-09, being an Ordinance granting an Electric Utility Franchise to Interstate Power and Light Company, was presented and read the second time.

Council member McGrane moved the approval of the Ordinance on its second reading; seconded by Council member Podzimek. Approved, Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran.

Council member Podzimek moved that the rule requiring three readings on three different days be suspended and the Ordinance be adopted on its third and final reading; seconded by Council member McGrane. Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran.

Ordinance No 017-09, being an Ordinance granting a change in zone for property at 3031 Williams Parkway SW from C-3 Regional Commercial Zone District to RMF-1 Multiple Family Residence Zone District as requested by Cedar Pond Townhomes, L.P. and Williams Boulevard Development Group, L.C., was presented and read the third time.

Council member Podzimek moved the adoption of the Ordinance as read; seconded by Council member Wieneke. Ayes, Council members Fagan, Gulick, Podzimek, Shey, Vernon, Wieneke and Mayor Halloran. Nay, McGrane, Shields

Various comments and concerns were expressed by the City Council and City Manager on a variety of topics. Discussions were held.

City Council adjourned at 9:35 PM to meet Wednesday, May 6, 2009 at 5:30 PM.

Ann Ollinger, City Clerk

Question and Director response from April 22, 2009 Council meeting:

1). Carol Martin, 1115 Staub Ct. NE asking why certain items cannot be removed from the former Green Square Meals building:

Update on Greene Square Building:

The Greene Square Building will be demolished as soon as possible after Green Square Meals Inc. has delineated items to be removed from the building. D. W. Zinser Co., Inc has offered to demolish the building at no cost to the City of Cedar Rapids. GSM and Parks and Receptions staff have secured a certified asbestos removal person who has agreed to remove a limited number of contaminated items also at no cost. John Locher and Randy Lowenberg, of the GSM board, are involved in determining the list of items to be removed prior to demolition. Coordination and removal should be completed by mid to late May with demolition scheduled soon after.

Julie Sina,
Director of Parks and Recreation