

MINUTES OF THE CITY COUNCIL  
CITY OF CEDAR RAPIDS, IOWA

April 8, 2009; 5:30 PM

Council met in regular session in the AEGON USA Auditorium, 4333 Edgewood Road NE. Present, Mayor Halloran, Council members Fagan (6:20), Gulick, McGrane, Podzimek, Shey, Shields, Vernon and Wieneke. Also present were City Manager Prosser and City Attorney Flitz.

The invocation was given by Council member Vernon.

Presentation of Fair Housing Month proclamation.

Public comments were heard.

Council member Podzimek moved to approve the agenda; seconded by Council member McGrane. Council member Shields requested that Items #16a (intent to assess for clean up costs), #16c (intent to assess for delinquent municipal utility bills), #17m (agreement for financial assistance through USDA/NRCS Emergency Watershed Protection to restore flood damaged river banks) and #32 (eminent domain acquisition of right of way, etc at 4400 6<sup>th</sup> Street SW (Hawkeye Downs), be removed from the consent agenda and moved to the regular agenda for discussion. Ayes, Council members Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran. Motion carried as amended.

A public hearing was held to consider submittal of the FY10 Consolidated Transit Funding Application to the Iowa Department of Transportation and Federal Transit Administration. Comments and an objection was heard. No objections were filed.

A public hearing was held to consider the proposed plans, specifications, form of contract and estimated cost for the Water Division Access Control and Video Surveillance project (Engineer's estimate of cost is \$772,000.00). No comments or objections were heard or filed.

0292-04-09, adopting plans, specifications, form of contract and estimated cost for the Water Division Access Control and Video Surveillance project.

A public hearing was held to consider the FY 2010 annual budget. Comments and an objection was heard. No objections were filed.

0293-04-09, adopting the FY 2010 annual budget. Nay, McGrane, Shields, Vernon

A public hearing was held to consider the ten year FY 2010-2019 capital improvement program budget. No comments were heard or filed.

0294-04-09, adopting the ten year FY 2010-2019 capital improvement program budget.

A public hearing was held to consider amending Chapter 12 of the Municipal Code, Water Service, by repealing existing rates and establishing new rates. No comments or objections were heard or filed.

Ordinance No. \_\_\_\_\_, 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 first time.

Council member Fagan moved the approval of the Ordinance on its first reading and that it be filed in the office of the City Clerk for public inspection as required by law, to be considered for action at a later date; seconded by Council member Gulick. Approved, Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran.

A public hearing was held to consider amending Chapter 13 of the Municipal Code, Wastewater Facilities, by repealing existing rates and establishing new rates. Comments and an objection was heard. A letter of objection was filed.

Ordinance No. \_\_\_\_\_, 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 first time.

Council member Podzimek moved the approval of the Ordinance on its first reading and that it be filed in the office of the City Clerk for public inspection as required by law, to be considered for action at a later date; seconded by Council member Wieneke. Approved, Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran.

A public hearing was held to consider amending Chapter 24 of the Municipal Code, Solid Waste, by repealing existing rates and establishing new rates. No comments or objections were heard or filed.

Ordinance No. \_\_\_\_\_, 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 first time.

Council member Podzimek moved the approval of the Ordinance on its first reading and that it be filed in the office of the City Clerk for public inspection as required by law, to be

considered for action at a later date; seconded by Council member Vernon. Approved, Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran.

A public hearing was held to consider an Ordinance granting an Electric Utility Franchise to Interstate Power and Light Company. No comments or objections were heard or filed.

Ordinance No. \_\_\_\_\_, being an Ordinance granting an Electric Utility Franchise to Interstate Power and Light Company, was presented and read the first time.

Council member Podzimek moved the approval of the Ordinance on its first reading and that it be filed in the office of the City Clerk for public inspection as required by law, to be considered for action at a later date; seconded by Council member Vernon. Approved, Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran.

A hearing was held to consider the denial of the beer/liquor/wine renewal application of Brick's Bar & Grill, 320 2<sup>nd</sup> Street SE. Comments and objections were heard. No objections were filed.

Council member Podzimek moved to approve the consent agenda; seconded by Council member Gulick. All motions were adopted with all Council members and Mayor Halloran voting "Aye" unless noted. Motion carried.

Motion to approve minutes.

Motion setting a public hearing date for April 22, 2009 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, 1<sup>st</sup> Street SW.

Motion filing plans, specifications, form of contract, estimated cost, setting a public hearing date for April 22, 2009 and advertising for bids by publishing notice to bidders for the Broadlawn Drive SE Storm Sewer and Grading Repairs project and authorizing the City Engineer, or designee, to receive and open the bids and publicly announce the results on April 30, 2009 (Engineer's estimated cost is \$80,000).

Motion filing plans, specifications, form of contract, estimated cost, setting a public hearing date for April 22, 2009 and advertising for bids by publishing notice to bidders for the Cedar Rapids Water Pollution Control Facilities Biogas Handling Systems Improvements project and authorizing the Utility Director, or designee, to receive and open the bids and publicly announce the results on May 7, 2009 (Engineer's estimate of cost is \$2,285,000).

Motion approving the beer/liquor/wine applications of:

- a. Hacienda Las Glorias, 715 1<sup>st</sup> Avenue SW;
- b. Hacienda Las Glorias II, 4317 Center Pont Road NE;
- c. Hy-Vee #7 Club Room, 5050 Edgewood Road NE; and
- d. R.G. Books, 3615 1<sup>st</sup> Avenue SE.

Resolutions were adopted with all Council members voting “Aye” unless noted:

0295-04-09, approving bills.

0296-04-09, approving payrolls.

0297-04-09, levy Assessments for Public Works snow removal from sidewalks at 6 properties.

0298-04-09, awarding and approving contract in the amount of \$82,410.15, bond and insurance of Tschiggfrie Excavating Co. for the Cleveland Elementary Sidewalks project (Engineer’s estimated cost is \$106,000).

0299-04-09, awarding and approving contract in the amount of \$2,976,963.75 plus incentive up to \$48,000, bond and insurance of Minger Construction, Inc. for the B & C Avenues NW from 5<sup>th</sup> Street to 13<sup>th</sup> Street, 13<sup>th</sup> Street from C Avenue to E Avenue, and E Avenue from 13<sup>th</sup> Street to west of 15<sup>th</sup> Street – Sanitary Sewer and Water Main Replacement project.

0300-04-09, authorizing execution of a purchase Agreement in the amount of \$75,000.00 and accepting a Temporary Grading Easement for Construction, Warranty Deed and an Easement for Public Aerial Utility from Michael and Jeanne Quagliano from land at 4701 1<sup>st</sup> Avenue SE in connection with the 1<sup>st</sup> Avenue (IA 922/US BUS 151) Marion Blvd & Collins Road NE Improvements project.

0301-04-09, authorizing execution of a Purchase Agreement in the amount of \$31,800.00 and accepting a Warranty Deed and Temporary Grading Easement for Construction from John and Josephine Sullivan from land at 1590 Stoney Point Road SW in connection with the 16<sup>th</sup> Avenue SW Pavement Rehabilitation project.

0302-04-09, approving a Professional Services Agreement with Snyder & Associates, Inc. in an amount not to exceed \$87,025 for design services in connection with the 2009 East Side Traffic Signal System Upgrading project.

0303-04-09, accepting Traffic Safety Improvement Funding Agreement No. 2009-TS-004 with the Iowa Department of Transportation (IDOT) in the amount of \$320,843.00 in connection with the Wiley Boulevard/33<sup>rd</sup> Avenue SW Traffic Safety Improvements project.

0304-04-09, authorizing Fleet Services purchase of two 1 ton dump trucks, one 1 ton flatbed truck, two ¾ ton flatbeds, three ½ ton pickups and one cargo van from Charles Gabus Ford for a total amount of \$266,146.02.

0305-04-09, renewing the contract for road oil with Bituminous Material & Supply LP for an estimated annual expenditure of \$200,000.00.

0306-04-09, renewing the contracts for concrete products with Croell Redi-Mix, Hawkeye Ready Mix, Inc., King's Material, Inc. and Metro Ready Mix, L.C. for an estimated annual expenditure of \$300,000.00.

0307-04-09, authorizing rental of a back-up generator with Altorfer, Inc., for the Police Department for an estimated amount of \$467,060.00. (flood)

0308-04-09, authorizing Fleet Services purchase of nine 2009 cab and chassis with Truck Country for a total amount of \$786,960.00.

0309-04-09, authorizing execution of Change Order No. 1 in the amount of \$53,860.43 with WRH, Inc. for the Emergency Flood Related Recovery Project at the Water Pollution Control Facility (Total contract price with this change order is \$2,217,860.53). (flood)

0310-04-09, approving Amendment No. 2 with Langham Consulting Services, Inc. in an amount not to exceed \$185,600.00 for the Customer Care and Billing Software Solution Project (Total contract price with this amendment is \$506,000.00).

0311-04-09, approving the Final Plat of Hidden Springs First Addition located east of C Street SW and north of Prairie Rose Drive SW.

0312-04-09, approving the Final Plat of Stoney Point Twenty-Third Addition located east of 80<sup>th</sup> Street at First Avenue west extended.

0313-04-09, approving the Final Plat of Hawks Point Third Addition located west of West Post Road SW and north of Mayfair Street SW.

0314-04-09, accepting the FY08 Repair of Water Service Lines project, approving Maintenance Bond in the amount of \$531,860.38, and authorizing final payment of retainage to B.G. Brecke, Inc. in the amount of \$23,863.50. (Final contract amount is \$334,273.35).

0315-04-09, accepting the WPCF Biosolids Improvements project, approving the Performance Bond in the amount of \$190,184.00 and authorizing issuance of final payment in the amount of \$10,571.45 to Miron Construction for (Final contract amount is \$211,429.00).

0316-04-09, establishing the Utilities Department – Water Division fee schedule beginning July 1, 2009 for FY10 for miscellaneous services billed and Utilities Laboratory services.

0317-04-09, establishing the Utilities Department – Solid Waste Division fee schedule beginning July 1, 2009 for FY10 for nuisance abatement and service charges.

0318-04-09, establishing the Utilities Department – Water Pollution Control rates for FY10 for wastewater from un-metered water supplies that are discharged into the City sanitary sewer system.

0319-04-09, establishing Utilities Department – Water Pollution Control rates for FY10 for wastewater that is hauled directly to the Water Pollution Control Department for treatment.

0320-04-09, approving the Annual Public Housing Agency Plan (PHA) and revisions to the Administrative Plan of the Section 8 Housing Choice Voucher Program.

0321-04-09, setting a public hearing date for May 13, 2009 to consider the Resolution of Necessity (Proposed) for the construction of the 6<sup>th</sup> Street SW from Waconia Avenue to North of Prairie Creek Bridge Improvements project.

0322-04-09, adopting and levying final schedule of assessments and providing for the payment thereof for the FY 2009 Sidewalk Repair Program, Contract No. 1.

0323-04-09, adopting and levying final schedule of assessments and providing for the payment thereof for the Williams Boulevard SW (Hwy 151) at Dean Road Pavement Widening project.

0324-04-09, amending Resolution No. 0029-01-09 and accepting a corrected Warranty Deed from Virginia and Leon Evans and George Pisney amending the legal description for vacant land located at the northwest corner of 44<sup>th</sup> Street and Otis Road SE.

0325-04-09, amending Resolution No. 0068-01-09 and accepting a corrected Lease Amendment No. 1 from Indian Creek Nature Center amending the legal description for vacant land located at the northwest corner of 44<sup>th</sup> Street and Otis Road SE.

0326-04-09, rescinding Resolution No. 1946-9-78 which established a No Parking Bus Loading Zone 8:00 a.m. to 5:00 p.m. Monday – Friday on the west side of E Avenue NE from 30’ south of the east leg of 37<sup>th</sup> Street north 234 feet; rescinding Resolution No. 1637-9-86 which established a No Parking Bus Stop 8:00 a.m. to 5:00 p.m. on the west side of E Avenue NE from the Kenwood School parking lot driveway northerly for a distance of 150’ within the recessed parking area; and establishing a new Bus Loading Zone 8:00 a.m. – 5:00 p.m. except Saturday – Sunday and holidays.

0327-04-09, intent to assess for Solid Waste & Recycling clean up costs at 7 properties.

0328-04-09, intent to assess for Utilities Department delinquent municipal utility bills at 16 properties.

0329-04-09, authorizing execution of an Agreement to obtain financial assistance through the U.S. Department of Agriculture/Natural Resources Conservation Service (USDA/NRCS) Emergency Watershed Protection (EWP) Program to restore flood damaged river banks and protect water supply from river bank erosion for a total amount of \$815,065.00. (flood)

0330-04-09, referring to the Linn County Compensation Commission (in accordance with eminent domain proceedings) the partial acquisition of right-of-way, permanent easement for drainage and temporary grading easement for construction from land at 4400 6<sup>th</sup> Street SW owned by All Iowa Agricultural Association (a.k.a. Hawkeye Downs Fairground Property) in connection with the 6<sup>th</sup> Street SW Corridor Improvement project.

Discussion: (Brad Larson)

0331-04-09, approving the Minor Preliminary Plat of Rolling Meadows First Addition for property located east of and adjacent to Ely Road SW, north of 76<sup>th</sup> Avenue Drive SW as requested by Kelly and John Buchanan.

Discussion: (Brad Larson)

0332-04-09, approving the Minor Preliminary Plat of River Ridge Office Park 1<sup>st</sup> Addition for property located at the northeast corner of Edgewood Road NE and Glass Road NE as requested by Glass Road Investments, LLC.

Discussion: (Paula Hinzman Mitchell)

0333-04-09, proclaiming April 12–18, 2009 as National Community Development Block Grant Week.

Discussion: (Vern Zakostecky)

0334-04-09, denying an appeal filed by Eugene Vislisel regarding the City Planning Commission approval of a Preliminary Site Development Plan for property located east of and adjacent to “J” Street SW and south of 36<sup>th</sup> Avenue SW and owned by Iowa Concrete Products Company.

Ordinance were approved with all Council members and Mayor Halloran voting ”Aye” unless noted:

Ordinance No. \_\_\_\_\_, 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 second time.

Council member Podzimek moved the approval of the Ordinance on its second reading and that it be filed in the office of the City Clerk for public inspection, as required by law, to be

considered for passage at a later date; seconded by Council member Wieneke. Approved, Ayes, Council members Fagan, Gulick, Podzimek, Shey, Wieneke and Mayor Halloran. Nay, McGrane, Vernon, Shields.

Ordinance No. 012-09, being an Ordinance vacating public ways and grounds in and to the property described as a part of M Avenue NW, west of Koulsi Boulevard NW and easements as requested by Steenhoek/Kaiser, L.L.C., 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.

0335-04-09, vacating public ways and grounds in and to the property described as a part of M Avenue NW, west of Koulsi Boulevard NW and easements as requested by Steenhoek/Kaiser, L.L.C.

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 8:40 PM to meet Wednesday, April 15, 2009 at 5:30 PM.

Ann Ollinger, City Clerk