

MINUTES OF THE CITY COUNCIL  
CITY OF CEDAR RAPIDS, IOWA

August 26, 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 Ann Ollinger, City Clerk.

Public comments were heard.

Council member Podzimek moved to approve the agenda; seconded by Council member McGrane. Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran. Motion carried.

A public hearing was held to consider enacting a new Chapter 42A of the Municipal Code, Aggressive Solicitation, pertaining to begging or solicitation of money, by placing certain limitations on the means by which such activity occurs in order to protect public safety. No comments or objections were heard or filed.

Ordinance No. \_\_\_\_\_, being an Ordinance enacting a new Chapter 42A of the Municipal Code, Aggressive Solicitation, pertaining to begging or solicitation of money, by placing certain limitations on the means by which such activity occurs in order to protect public safety, 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 McGrane. Approved, Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran.

A public hearing was held to consider amending Chapter 61 of the Municipal Code, Traffic Regulations, by adding Section 61.137A relating to civil seizure and impoundment of motor vehicles and providing a fine for the violation thereof. Comments were heard. No objections were heard or filed.

Ordinance No. \_\_\_\_\_, being an Ordinance amending Chapter 61 of the Municipal Code, Traffic Regulations, by adding Section 61.137A relating to civil seizure and impoundment of motor vehicles and providing a fine for the violation thereof, 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 McGrane. Approved, Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran.

(2) Public hearings were held to consider the vacation and disposition of Lot A, Westgate Unit Six (adjacent to 303 Stoney Point Road SW) as requested by Richard E. and Susan M. Enyart. No comments or objections were heard or filed.

(2) Public hearings were held to consider the vacation and disposition of an 85-square foot right-of-way parcel located in front of 4202 1<sup>st</sup> Avenue NE as requested by Cedar Memorial Park Cemetery Association, Inc. No comments or objections were heard or filed.

A public hearing was held to consider the disposal of excess City-owned property at 929 10<sup>th</sup> Street SE. No comments or objections were heard or filed.

0823-08-09, approving the disposal of excess City-owned property located at 929 10<sup>th</sup> Street SE.

A public hearing was held to consider the proposed plans, specifications, form of contract and estimated cost for the Vinton Ditch at Westwood Drive NW Channel Improvements project (Engineer's estimate of cost is \$82,000). No comments or objections were heard or filed.

0824-08-09, adopting plans, specifications, form of contract and estimated cost for the Vinton Ditch at Westwood Drive NW Channel Improvements project.

A public hearing was held to consider a change of zone for property at 213, 217, 219, 221 and 225 5<sup>th</sup> Avenue SW and 511 3<sup>rd</sup> Street SW from RMF-2 Multiple Family Residence Zone District to C-2 Community Commercial Zone District as requested by Cedar Rapids Jaycees, Inc., Cedar Rapids Jaycee Charities, Inc. and Doris M. Hunter. No comments or objections were heard or filed.

Ordinance No. \_\_\_\_\_, being an Ordinance granting a change of zone for property at 213, 217, 219, 221 and 225 5<sup>th</sup> Avenue SW and 511 3<sup>rd</sup> Street SW from RMF-2 Multiple Family Residence Zone District to C-2 Community Commercial Zone District as requested by Cedar Rapids Jaycees, Inc., Cedar Rapids Jaycee Charities, Inc. and Doris M. Hunter, was presented and read for 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 the proposed plans, specifications, form of contract and estimated cost for the Raising Seminole Valley Vertical Wells project (Engineer's estimate of cost is \$241,500). No comments or objections were heard or filed.

0825-08-09, adopting plans, specifications, form of contract and estimated cost for the Raising Seminole Valley Vertical Wells project. (flood)

A public hearing was held to consider the proposed plans, specifications, form of contract and estimated cost for the Cedar River Bank Stabilization project (Engineer's estimate of cost is \$864,000). No comments or objections were heard or filed.

0826-08-09, adopting plans, specifications, form of contract and estimated cost for the Cedar River Bank Stabilization project. (flood)

A hearing was held to consider the denial of the beer/liquor/wine renewal application of GSG Food Mart LLC, D/B/A Discount Liquor, 3132 1<sup>st</sup> Avenue NE. Comments and objections were heard. No objections were filed.

Council member McGrane moved to adopt the Consent Agenda; seconded by Council member Wieneke. Council member Vernon requested that Item # 21o.be removed from the Consent agenda and placed on the Regular agenda for discussion. Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran. Motion carried as amended.

Motion to approve minutes.

Motions setting public hearing/hearing dates for:

- a. September 9, 2009 – to consider an amendment to the Future Land Use Map in the City's Comprehensive Plan for property at 1100 O Avenue NW, between 11<sup>th</sup> Street and 13<sup>th</sup> Street NW and north of and adjacent to O Avenue NW, from low density residential to medium density residential as requested by Daniel A. and Rosemary Hoeger;
- b. September 9, 2009 – to consider a change of zone for property east of and adjacent to Council Street NE between 74<sup>th</sup> Street NE and East Main Street from A Agriculture Zone District to R-3 Single Family Residence Zone District as requested by Knollwood Park, LLC and Elmwood Park, LLC; and
- c. September 9, 2009 – to consider amending Chapter 18 of the Municipal Code, Historic Preservation, to correct a clerical error which omitted an exemption provision from the "Demolition Review Process" for buildings considered an imminent threat to public health and safety or if the property owner can provide proof of an economic hardship, to clarify the definition of a "Historically Significant Building", and to change the Demolition Review Process time limit from 60-business days to 60-days.

Motion filing plans, specifications, form of contract, estimated cost and setting a public hearing

date for September 9, 2009 and advertising for bids by publishing notice to bidders for the Willowbend Road NE Storm Sewer Outlet Repair and Sanitary Sewer Improvements project and authorizing the City Engineer, or designee, to receive and open the bids and publicly announce the results on September 17, 2009 (Engineer's estimate of cost is \$90,000).

Motion approving the beer/liquor/wine applications of:

- a. Applebee's Neighborhood Grill, 2645 Edgewood Road SW;
- b. Casey's General Store #2762, 20 Miller Avenue SW;
- c. Casey's General Store #2763, 641 Edgewood Road NW;
- d. Casey's General Store #2765, 5050 Northland Avenue NE;
- e. Casey's General Store #2766, 380 33<sup>rd</sup> Avenue SW;
- f. Casey's General Store #2771, 501 6<sup>th</sup> Street SW;
- g. Chappy's Safari Lounge, 229 16<sup>th</sup> Avenue SW;
- h. Chrome Horse Slop House & Saloon, 1202 3<sup>rd</sup> Street SE (outdoor service for an event on August 29, 2009);
- i. Gatherings, 905 3<sup>rd</sup> Street SE, Suite #1 (new-in the Bottleworks Building);
- j. Godfather's Pizza, 3647 ½ 1<sup>st</sup> Avenue SE;
- k. Godfather's Pizza, 2825 6<sup>th</sup> Street SW;
- l. JM O'Malley's, 1502 H Avenue NE (outdoor service for a Labor Day event on September 6 - 8, 2009);
- m. Planet X, 255 Collins Road NE;
- n. TJ's Steakhouse, 1810 6<sup>th</sup> Street SW;
- o. Zio Johnno's, 2925 Williams Pkwy SW.

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

0827-08-09, approving bills.

0828-08-09, approving payroll.

0829-08-09, approving the special event application for the New Bohemia Arts Festival on 3<sup>rd</sup> Street and 10<sup>th</sup> Avenue SE with street closure September 4 - 6, 2009.

0830-08-09, reappointing Victor Brown (effective through June 30, 2012), Dave Justice (effective through June 30, 2012) and Erik Munson (effective through June 30, 2012) to the Electrical Board of Appeals.

0831-08-09, appointing Meghan Kennedy (effective through June 30, 2011) and Rebecca Palmer (effective through June 30, 2011) and reappointing Carl Cortez (effective through June 30, 2012) and Tom Furnish to the Riverfront Improvement Commission.

0832-08-09, appointing Matthew O’Neal (effective through June 30, 2012) and Tom Takes (effective through June 30, 2012) and reappointing Carol Hustad (effective through June 30, 2012) to the Building/Fire Board of Appeals.

0833-08-09, extending a vote of thanks to James Ernst, Robert “Ben” Henderson, Karen Hufnagel, Emily Meyer and Lynette Richards for serving as members of the Replacement Housing Task Force.

0834-08-09, extending a vote of thanks to Walter Cheney for serving as a member of the Riverfront Improvement Commission.

0835-08-09, extending a vote of thanks to Dennis Hasenbank for serving as a member of the Building/Fire Board of Appeals.

0836-08-09, intent to assess for Solid Waste & Recycling clean up costs at 6 properties.

0837-08-09, levy assessments for Solid Waste & Recycling clean up costs at 1 property.

0838-08-09, intent to assess for Utilities Department delinquent municipal utility bills at 20 properties.

0839-08-09, levy assessments for Utilities Department delinquent municipal utility bills at 10 properties.

0840-08-09, levy assessments for Public Works weed and mowing at 40 properties.

0841-08-09, levy assessments for Public Works weed and mowing at 48 properties.

0842-08-09, authorizing execution of Amendment No. 2 to the Professional Services Agreement with Ament, Inc. specifying an increased amount not to exceed \$14,300 for construction administrative services in connection with the Trail Flood Repair and Levee Repair (A Street SW) project; (flood)

0843-08-09, authorizing execution of Amendment No. 3 to the Professional Services Agreement with Snyder & Associates, Inc. specifying an increased amount not to exceed \$45,597 for design services in connection with the 33<sup>rd</sup> Avenue SW from Coyote Road to 18<sup>th</sup> Street Reconstruction project (total contract price with this amendment is \$322,057).

0844-08-09, authorizing execution of Change Order No. 1 in the amount of \$40,566 with 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 (total contract price with this amendment is \$3,065,529.75).

0845-08-09, authorizing execution of Change Order No. 4 in the amount of \$5,849.90 with Horsfield Construction, Inc. for the 33<sup>rd</sup> Avenue SW from West of 18<sup>th</sup> Street to West of 10<sup>th</sup> Street project (total contract price with this amendment is \$1,868,302.67).

0846-08-09, authorizing execution of Change Order No. 5 in the amount of \$15,129.45 with Rathje Construction Company for the Council Street NE from Bridge Over Dry Creek to 74<sup>th</sup> Street NE and Boyson Road NE from Inwood Court NE to Walden Road NE Reconstruction and Widening project (total contract price with this amendment is \$4,500,248.89).

0847-08-09, accepting a Warranty Deed in consideration of \$10 and other valuable consideration for dedication of street right-of-way for 4<sup>th</sup> Street SW south of 66<sup>th</sup> Avenue SW (east of 6<sup>th</sup> Street SW) as submitted by I-380 Flex Space, LLC.

0848-08-09, accepting a Warranty Deed in consideration of \$10 and other valuable consideration for dedication of additional street right-of-way for property located in the northwest corner of Wiley Boulevard SW and Wilson Avenue SW as submitted by DJB Properties, L.C.

0849-08-09, authorizing execution of a Purchase Agreement in the amount of \$560 and accepting an Easement for Sanitary Sewer and a Temporary Grading Easement for construction from Marilyn L. Cech Trust and Elmer F. Cech Trust, Justine R. Schulte, Trustee, Sharon K. Hahn and Keith A. Hahn, Ron E. Cech, Connie S. Wildfield and Robert W. Wildfield Jr., Debra L. Volesky and Dennis J. Volesky, and Staskal Farms, LLC, from land located on the west side 26<sup>th</sup> Street SW approximately ½ mile south of 60<sup>th</sup> Avenue SW in connection with the Sanitary Sewer Extension from Willow Creek Drive SW to South of 60<sup>th</sup> Avenue and West of 26<sup>th</sup> Street project.

0850-08-09, authorizing execution of a Professional Services Agreement with HDR Engineering, Inc. for an amount not to exceed \$371,820 for engineering services for Morgan Creek Lift Station Expansion and Rehabilitation. (20-50% flood)

0851-08-09, authorizing execution of Amendment No. 2 to the Professional Services Agreement with Brown and Caldwell specifying an increased amount of \$70,000 for additional engineering services for Flood Related Emergency Repairs to the Incinerator and Associated Solids Handling Facilities at the Water Pollution Control Facilities (total contract price with this amendment is \$431,400). (flood)

0852-08-09, authorizing execution of Amendment No. 1 in the amount of \$5,600 and Amendment No. 2 in the amount of \$67,768 to the Professional Services Agreement with RSM McGladrey, Inc. for program management consulting services.

0853-08-09, awarding and approving contract in the amount of \$379,711, bond and insurance of Rathje Construction Co. for the SE Quad Water Main Replacement project (Engineers estimate of cost is \$583,000).

0854-08-09, authorizing execution of an Agreement with Oracle on a time and material basis to assist with specific project tasks for the Customer Care and Billing implementation project in the amount of \$354,406.

0855-08-09, authorizing execution of an Amendment No. 2 with JCG Land Services, Inc. to reflect an expanded scope of work in the amount of \$7,659.40.

0856-08-09, authorizing Police Department to purchase 190 Taser™ X26E electrical control devices with accessories from Ed Roehr Safety Products for the total amount of \$181,039.10.

0857-08-09, authorizing execution of a Letter of Agreement with Young's General Contracting, Inc. for continued removal and disposal of flood related debris for an estimated amount not to exceed \$130,000. (flood)

0858-08-09, authorizing execution of a Contract with Family Environmental Compliance Services, Inc. for management services for the pre-demolition process, the demolition process and the closeout process of approximately 1,250 flood damaged structures for an amount not to exceed \$2,304,521.60. (flood)

0859-08-09, authorizing execution of a Contract with Linn County for FY10 paratransit service to persons with disabilities who cannot use the fixed route bus system in Cedar Rapids, Marion and Hiawatha in the amount of \$479,052.

0860-08-09, accepting the Flood Related Structure Demolition project and authorizing issuance of final payment in the amount of \$28,361.46 to DW Zinser Company (Final contract amount is \$1,341,356.14). (flood)

0861-08-09, directing preparation of plans and specifications, form of contract and notice to bidders for the 6<sup>th</sup> Street SW from Waconia Avenue to North of Prairie Creek Bridge Improvements project.

0862-08-09, directing preparation of plans and specifications, form of contract and notice to bidders for the East Post Road over Indian Creek Bridge Replacement project.

0863-08-09, establishing No Parking Anytime on the east side of 14<sup>th</sup> Street NE, between B Avenue NE and C Avenue NE.

0864-08-09, granting permission for a proposed brick facial and columns to encroach onto

portions of the existing right-of-way at 819 5<sup>th</sup> Street SE as requested by Horizons.

0865-08-09, granting permission for a proposed bench to encroach onto portions of the existing right-of-way at 1435 1<sup>st</sup> Avenue SE as requested by John Khairallah.

0866-08-09, approving the Final Plat of Stoney Point Heights 18<sup>th</sup> Addition located north of Waterview Drive SW and east of Lakeview Drive SW.

0867-08-09, authorizing a study of issues pertaining to the potential purchase of the steam assets currently held by Interstate Power & Light Company.

0868-08-09, authorizing Gary McClure, Solid Waste Operation Manager, to attend SWANA Wastecon in Long Beach, CA, for an estimated amount of \$3,006.

0869-08-09, authorizing execution of a Letter of Agreement with Chicago Conservation Center to perform stabilization of the museum collection for an amount not to exceed \$190,500. Nay, Council member Wieneke. (flood)

Discussion: (Conni Huber)

0870-08-09, approving a three year contract with Health Solutions of Cedar Rapids for Wellness services for an estimated amount of \$750,000.

Discussion: (Marty Hoeger)

0871-08-09, authorizing City participation in the amount of \$27,000 for development of one new single-family home in the Oakhill Jackson (HAND) neighborhood at 912 10<sup>th</sup> Avenue SE as requested by Land, Logs & Timber LLC. (flood)

Discussion: (Marty Hoeger)

0872-08-09, authorizing City participation in the amount of \$132,964 for development of four new single-family homes in the Oakhill Jackson (HAND) neighborhood at 1015, 1023 and 912 8<sup>th</sup> Street SE and 817 9<sup>th</sup> Avenue SE as requested by Skogman Construction Company. (flood)

Discussion: (Vern Zakostelecky)

0873-08-09, approving the Preliminary Site Development Plan for property at 2229 Zika Avenue NW, generally located between 20<sup>th</sup> Street NW and 26<sup>th</sup> Street NW and south of Zika Avenue NW as requested by T. J. Berthel Enterprises Development, LLC. Nay, Council members Podzimek, Shields, Wieneke and Mayor Halloran.

Discussion: (Vern Zakostelecky)

(Council member Podzimek moved to table the following resolution; died for lack of a second).

0874-08-09, approving the Major Preliminary Plat of Sugar Creek Addition for property at 2229 Zika Avenue NW, generally located between 20<sup>th</sup> Street NW and 26<sup>th</sup> Street NW and south of Zika Avenue NW as requested by T. J. Bethel Enterprises Development, LLC. Nay, Council members Podzimek, Shields, Wieneke and Mayor Halloran.

Discussion: (Marty Hoeger)

City participation in the amount of \$2,349,000 for a proposed 81-lot single-family development located between 20<sup>th</sup> Street NW and 26<sup>th</sup> Street NW and south of Zika Avenue as requested by High Development Corp (flood)

Concensus of the Council was for staff to prepare a development agreement and identify funding sources such as CDBG or IDED and bring back to City Council with a resolution for approval.

Discussion: (Beth Chamberlin)

0875-08-09, approving the Minor Preliminary Plat of Airy First Addition located in the County, east and west of C Avenue extension and north of East Knoll Drive as requested by John J. and Philip W. Airy. Abstain, Council member Fagan

Discussion: (Council)

Additional review of evaluation criteria for options for Community Facilities.

Report on bids for the J Avenue CO2 System Improvements project. (Pat Ball)

Bids were received on August 20, 2009:

August Winter & Sons, Inc., Appleton, WI

CO2 Tank	\$338,500.00
Base Bid	\$143,082.00
Allowance	\$ 10,000.00

Kleiman Construction, Inc., Cedar Rapids, IA

CO2 Tank	\$338,500.00
Base Bid	\$208,948.00
Allowance	\$ 10,000.00

Carl A. Nelson & Company, Burlington, IA

CO2 Tank	\$338,500.00
Base Bid	\$212,340.00
Allowance	\$ 10,000.00

WRH, Inc. (Wendler), South Amana, IA

CO2 Tank	\$338,500.00
Base Bid	\$276,100.00

Allowance

\$ 10,000.00

Discussion: (Casey Drew)

Update on FY 2010 property tax abatement for flood impacted areas.

An Ordinance was approved with all Council members and Mayor Halloran voting “Aye” unless noted:

Ordinance No. \_\_\_\_\_, being an Ordinance amending Chapter 12 of the Municipal Code, Water Service, revising various sections to make terminology more uniform, reflecting changes to allowable service line locations and service lines under paved lot frontage, codifying responsibility for cost of replacement of private improvements in public right-of-way when removed to accomplish a service line repair, and defining allowable circumstances for common service lines, 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 City Clerk for public inspection as required by law, to be considered for action at a later date; seconded by Council member McGrane. Approved, Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran.

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 9:55 PM to meet Wednesday, September 2, 2009 at 5:30 PM.

Ann Ollinger, City Clerk