

MINUTES OF THE CITY COUNCIL
CITY OF CEDAR RAPIDS, IOWA

September 23, 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, Shey, Shields, Vernon and Wieneke. Also present were City Manager Prosser and City Attorney Flitz. Absent, Council member Podzimek.

The invocation was given by Police Chaplain Lon Marshall.

Presentation of the Downtown Achievement Award of Distinction from the International Downtown Association by Doug Neumann from the Downtown District, to the Mayor and City Council.

Public comments were heard.

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

A public hearing was held to consider the proposed plans, specifications, form of contract and estimated cost for the Tait Cummins restroom project (Engineer's estimate of cost is \$215,000). No comments or objections were heard or filed.

0918-09-09, adopting plans, specifications, form of contract and estimated cost for the Tait Cummins restroom project.

Council member Gulick moved to approve the Consent Agenda; seconded by Council member McGrane. Council member Shields requested that Item #9t.(Contract with Gatso USA, Inc. regarding the automated traffic enforcement systems) be removed from the Consent Agenda and moved to the Regular Agenda for discussion. Ayes, Council members Fagan, Gulick, McGrane, Shey, Shields, Vernon, Wieneke and Mayor Halloran. Motion carried as amended.

Motion to approve minutes.

Motions setting public hearing/hearing dates for:

- a. October 14, 2009 - to consider the disposal of a 7,628 square foot parcel of vacant City-owned land located on the north side of Otis Road SE, west of 44th Street SE and east of and adjacent to the MidAmerican Energy Company gas substation;
- b. October 14, 2009 - to consider a change of zone for property south of Wilson Avenue SW and west of and adjacent to 12th Street SW from I-1 Light Industrial Zone District and I-2 General Industrial Zone District to PUB Public Zone District as requested by Linn

County and Steven F. Dummermuth Revocable Trust and Hill's Maple Crest Farms Partnership; and

- c..October 14, 2009 - to consider a change of zone for property south of Wilson Avenue SW and west of and adjacent to 12th Street SW from I-1 Light Industrial Zone District to PUB Public Zone District as requested by Linn County and Steven F. Dummermuth Revocable Trust and Hill's Maple Crest Farms Partnership. (flood)

Motion filing plans, specifications, form of contract, estimated cost, setting a public hearing date for October 14, 2009 for the 1st Avenue (IA 922/US Bus.151) Marion Boulevard & Collins Road PCC Pavement with HMA Resurfacing project for bid opening to be held at the Iowa Department of Transportation on October 20, 2009 (Engineer's estimated cost is \$7,581,000).

Motion approving the beer/liquor/wine applications of:

- a. 1st Avenue Wine House, 3412 1st Avenue NE;
- b. ARA Gallery, 4850 Armar Drive SE (5-day permit for an event on September 25, 2009);
- c. Beaver Creek Saloon, 1010 2nd Avenue SW (outdoor service for an event on September 26, 2009);
- d. Blend, 221 2nd Avenue SE;
- e. Blue Strawberry Coffee Company, 118 2nd Avenue SE;
- f. Brick's Bar & Grill, 320 2nd Avenue SE;
- g. City Beat, 302 3rd Avenue SW;
- h. Coe College/Sodexo, 1220 1st Avenue NE;
- i. Coopacabana, 525-529 4th Avenue SE;
- j. Cooter's, 729 1st Avenue SW;
- k. Bulicek's Deli & Brew, 1616 6th Street SW (new-formerly Deli & Brew);
- l. Duds N Suds, 2133 Wiley Blvd SW;
- m. Genghis Grill, 2230 Edgewood Road SW;
- n. Hawkeye Convenience Store – Westgate, 4830 Johnson Avenue NW;
- o. Hy-Vee Drugstore #6, 505 Boyson Road NE;
- p. The Keg, 719 5th Street SE (outdoor service for an event on October 10, 2009);
- q. Kirkwood Community College – Iowa Hall, 6301 Kirkwood Blvd SW;
- r. Lancer Lanes, 3203 6th Street SW;
- s. Leonardo's Pizza, 2228 16th Avenue SW;
- t. Marco's Pizza, 3607 1st Avenue SE, Suite C (new);
- u. Oyama Sushi Japanese Steak House, 5350 Council Street NE;
- v. Papa Juan's/Stefano's, 5505 Center Point Road NE;
- w. Stadium Lounge, 957 Rockford Road SW;
- x. Target Store T-1771, 3400 Edgewood Road SW;
- y. Texas Roadhouse, 2605 Edgewood Road SW;
- z. Tycoon, 427 2nd Avenue SE;
- aa. Veterans of Foreign Wars Post #788, 3240 Southgate Place SW;
- bb. Volume, 329 2nd Avenue SE; and
- cc. West Side Lounge, 325 Edgewood Road NW.

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

0919-09-09, approving bills.

0920-09-09, approving payroll.

0921-09-09, approving the special event application for the “Especially for You” Race Against Breast Cancer on October 11, 2009.

0922-09-09, intent to assess for Solid Waste & Recycling clean up costs at 5 properties.

0923-09-09, levy assessments for Solid Waste & Recycling clean up costs at 2 properties.

0924-09-09, intent to assess for Utilities Department delinquent municipal utility bills at 20 properties.

0925-09-09, levy assessments for Utilities Department delinquent municipal utility bills at 16 properties.

0926-09-09, awarding and approving contract in the amount of \$2,244,712.11 plus incentive up to \$50,000, bond and insurance of Peterson Contractors, Inc. for the East Post Road SE over Indian Creek Bridge Replacement project (Engineer’s estimated cost is \$3,010,000).

0927-09-09, authorizing execution of an Agreement in the amount of \$1.00 and other valuable consideration and accepting an access easement for wall maintenance from Cedar Memorial Park Cemetery Association, Inc. from land at 4200 1st Avenue NE and to vacate City right-of-way to Cedar Memorial Park Cemetery Association, Inc., in connection with the 1st Avenue (IA 922/US BUS 151) Marion Boulevard & Collins Road NE Improvements project.

0928-09-09, authorizing execution of an Agreement No. 6-09-STPA-51 for an Iowa Clean Air Attainment Program (ICAAP) project with the Iowa Department of Transportation (IDOT) in an amount not to exceed \$252,000 in connection with the Wiley Boulevard & 16th Avenue SW Traffic Signal Interconnect Project.

0929-09-09, authorizing execution of an Agreement No. 2009-16-280 with the Iowa Department of Transportation (IDOT) in the amount of \$3,855,566 in connection with the 1st Avenue (IA 922/BUS 151) Marion Boulevard & Collins Road Improvements project.

0930-09-09, authorizing execution of a Purchase Agreement in the amount of \$37,480 and accepting an Easement for Sanitary Sewer and Temporary Grading Easement for Construction from Archer Daniels Midland Company from vacant land located at the northwest corner of Willow Creek

Drive SW and 60th Avenue SW in connection with the Sanitary Sewer Extension from Willow Creek Drive SW to South of 60th Avenue and West of 26th Street project.

0931-09-09, authorizing execution of a Professional Services Agreement with Foth Infrastructure and Environment, LLC in an amount not to exceed \$39,914 for design services in connection with the C Avenue NE Fiber Optic Infrastructure project.

0932-09-09, authorizing execution of a Professional Services Agreement with Aspect architecture:design in an amount not to exceed \$279,470 for architectural and engineering services to enable the replacement of steam system couplings and control system at the US Cellular Center. (flood)

0933-09-09, authorizing execution of Change Order No. 2 in the amount of \$172,435.39 with Minger Construction, Inc. for the B & C Avenues NW from 5th Street to 13th Street, 13th Street from C Avenue to E Avenue, and E Avenue from 13th Street to west of 15th Street – Sanitary Sewer and Water Main Replacement project (total contract price with this amendment is \$3,237,965.14).

0934-09-09, authorizing execution of a Revised 28E Agreement with the Cedar Rapids Community School District and Linn County for Joint Fiber Optics Communication Network.

0935-09-09, authorizing the Information Technology Department purchase of an estimated 48 mobile data computers from Tough Solutions, Inc. for an estimated amount of \$150,000.

0936-09-09, authorizing execution of Amendment No. 1 to the Professional Services Agreement with ProSource Technologies, Inc. specifying an increased amount not to exceed \$64,700 to reflect an expanded scope of work and a contract renewal to the Property Documentation Services contract (total contract price with this amendment is \$581,100). (flood)

0937-09-09, authorizing Renewing the Letter of Agreement with Fauser Energy Resources for motor oil products on a city wide basis for an annual amount not to exceed \$100,000.

0938-09-09, authorizing execution of Amendment No. 2 to the Flood Related Structure Demolition contract with D.W. Zinser Company to reflect a change in the quantity of work and to increase the not to exceed amount by \$237,714.07 for a total of \$1,443,264.07 and to extend the contract through November 13, 2009. (flood)

0939-09-09, awarding and approving contract in the amount of \$208,500, bond and insurance of Gingerich Well & Pump, LLC, for the Raising Seminole Valley Vertical Wells project (Engineer's estimate of cost is \$241,500). (flood)

0940-09-09, awarding and approving contract in the amount of \$508,626.30, bond and insurance of Connolly Construction, Inc. for the Cedar River Bank Stabilization project (Engineer's estimate of cost is \$864,000). (flood)

0941-09-09, authorizing execution of an Agreement for Water Service and to Annex to the City of Cedar Rapids, Iowa from property owners William W. and Julie R. Taylor for property at 2910 Indian Hill Road.

0942-09-09, accepting the FY09 Repair of Water Service Lines project, authorizing execution of Change Order No. 1 in the amount of \$105,773.43 and authorizing final payment of retainage in the amount of \$26,887.75 to B.G. Brecke, Inc.(Total cost of this project with Change Order No. 1 is \$608,133.48). Abstain, Council member Fagan

0943-09-09, authorizing execution of a Joint Funding Agreement with the United States Geological Survey (USGS) for the Cooperative Study of the Cedar River and the City's Well Fields for FY10 for a project cost of \$223,000 (Project cost to be shared on a 45/55 basis with the City's share to be \$122,650).

0944-09-09, authorizing execution of a Professional Services Agreement with HDR Engineering, Inc. for the Northwest Water Treatment Plant Capacity Improvements Study for an amount not to exceed \$128,000.

0945-09-09, accepting Sanitary Sewer in Hidden Springs First Addition and approving Maintenance Bond submitted by Connolly Construction, Inc. in the amount of \$67,861.40.

0946-09-09, accepting Storm Sewer in Hidden Springs First Addition and approving Maintenance Bond submitted by Connolly Construction, Inc. in the amount of \$74,746.60.

0947-09-09, accepting the PCC Paving in Hidden Springs First Addition and approving Maintenance Bond submitted by City Wide Construction Corporation in the amount of \$139,831.94.

0948-09-09, accepting the Water system improvements in Cedar Ridge Place 3rd Addition and approving Maintenance Bond submitted by Maxwell Construction, Inc. in the amount of \$39,270.

0949-09-09, accepting the 3rd Avenue SE from 10th Street to Park Court Asphalt Resurfacing project, commencing the four year correction period of the Performance Bond and authorizing issuance of final payment in the amount of \$25,612.28 to LL Pelling Company, Inc. (Final contract amount is \$512,245.54)

0950-09-09, authorizing acceptance of Patent No. 5672 and Easement No. E5671 for right-of-way and easement for utilities from the State of Iowa from land at 5455 Kirkwood Boulevard SW in

connection with the Kirkwood Boulevard SW from Kirkwood Court SW to Highway 30 and Miller Avenue SW Re-Alignment project.

0951-09-09, granting permission for a garage to encroach onto portions of the existing 30-foot drainage and utility easement at 169 Alma Drive NW as requested by Darin Esser.

0952-09-09, rescinding Resolution No. 826-4-01 which established a Bus Loading Zone, rescinding Resolution No. 2272-10-01 which established a Tow-Away Zone and establishing a No Parking Anytime sign on both sides of 8th Street SE, between 5th Avenue and 8th Avenue SE.

0953-09-09, authorizing submittal of a grant application to the Iowa Department of Transportation for Safe Routes to School funds to provide funding for a sidewalk in the Erskine School area.

0954-09-09, authorizing submittal of four Iowa Clean Air Attainment Program (ICAAP) project applications to the Iowa Department of Transportation (IDOT) for improvements at the intersection of Cottage Grove Avenue & Forest Drive SE; intersection of Kirkwood Boulevard & 76th Avenue SW; A Avenue from 7th Street to 10th Street NE and Ellis Boulevard & 6th Street NW Connector projects.

0955-09-09, approving the Final Plat of Diamond V Mills Addition located south of 60th Avenue SW and east of 26th Street SW.

0956-09-09, authorizing the Finance Department to electronically file the fiscal year ending 2009 City Street Financial Report with the Iowa Department of Transportation (IDOT).

0000-00-00, accepting Contract with Gatso USA, Inc. regarding the automated traffic enforcement systems. Council member Vernon moved to table the resolution until October 14th; seconded by Council member McGrane. Nays, Council member Wieneke and Mayor Halloran. Motion carried. **Resolution tabled until October 14, 2009.**

Discussion: (Vern Zakostelecky)

0957-09-09, approving the Preliminary Site Development Plan for property east of Lakeview Drive SW and west of Waterview Court as requested by Stoney Point Heights, L.L.C.

Discussion: (Vern Zakostelecky)

0958-09-09, approving the Minor Preliminary Plat of West Side Corporate Park Fourth Addition between 6th Street SW and I-380 at the north end of High Life Court as requested by West Side Unlimited Corp and I-380 Flex Space, LLC.

Discussion: (Richard Luther)

0959-09-09, authorizing execution of an Agreement for Private Redevelopment to provide for an Economic Development grant in the amount of \$145,000 to St. Martin Airport Plaza, LLC for construction of a new commercial and office facility on property located on the west side of I-380 northerly of Wright Brothers Boulevard within the Southwest Urban Renewal Area.

Discussion: (Paula Hinzman Mitchell)

0960-09-09, expressing support for an application by Affordable Housing Network, Inc. (AHNI) to the Iowa Finance Authority (IFA) for \$1,300,000 from the Affordable Housing Assistance Grant Fund for acquisition and rehabilitation of flood damaged homes through the Block by Block Program. (flood)

Discussion: (Brad Larson)

0961-09-09, resolution of support for the Grant Wood Cultural District.

Report on bids for the Willowbend Road NE Storm Sewer Outlet Repair and Sanitary Sewer Improvements project. (Ken DeKeyser)

Bids were received September 17, 2009:

Dolan Excavating, LLC, Manchester, IA	\$62,141.00
Dave Schmitt Construction Co., Inc., Cedar Rapids, IA	\$89,006.00
Ricklefs Excavating, Ltd., Anamosa, IA	\$89,828.00
Gee Grading & Excavating, Inc., Cedar Rapids, IA	\$97,504.15
Pirc-Tobin Construction, Inc., Alburnett, IA	\$99,998.50
Tschiggfrie Excavating Co., Dubuque, IA	\$108,639.30
Borst Brothers Construction, Inc., Marion, IA	\$110,896.15

0962-09-09, awarding and approving contract in the amount of \$62,141 plus incentive up to \$1,500, bond and insurance of Dolan Excavating, LLC for the Willowbend Road NE Storm Sewer Outlet Repair and Sanitary Sewer Improvements project.

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

Ordinance No. 036-09, being an Ordinance vacating public ways and grounds in and to the property described as Lot A, Westgate Unit Six (adjacent to 303 Stoney Point Road SW) as requested by Richard E. and Susan M. Enyart, was presented and read the second time.

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

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

0963-09-09, authorizing vacation of public ways and grounds in and to the property described as Lot A, Westgate Unit Six (adjacent to 303 Stoney Point Road SW) as requested by Richard E. and Susan M. Enyart.

Ordinance No. 037-09, being an Ordinance vacating an 85-square foot right-of-way parcel located in front of 4202 1st Avenue NE as requested by Cedar Memorial Park Cemetery Association, Inc., was presented and read the second time.

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

Council member Gulick 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, Shey, Shields, Vernon and Wieneke.

0964-09-09, authorizing vacation of an 85-square foot right-of-way parcel located in front of 4202 1st Avenue NE as requested by Cedar Memorial Park Cemetery Association, Inc.

Ordinance No. 038-09, being an Ordinance granting a change of zone for property east of and adjacent to Council Street NE between 74th 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., was presented and read the second time.

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

Council member Gulick 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, Shey, Shields, Vernon and Wieneke.

Ordinance No. 039-09, being an Ordinance amending Chapter 6 of the Municipal Code, City Administration, by repealing Section 6.14 regarding the Riverfront Improvement Commission and adopting a new Section 6.14 establishing the River Recreation Commission, was presented and read the second time.

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

Council member Gulick 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, Shey, Shields, Vernon and Wieneke.

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 second time.

Council member Vernon moved the approval of the Ordinance on its second reading; seconded by Council member McGrane. Discussion was held. Council members Vernon and McGrane moved to withdraw their previous motion.

Council member Fagan moved to table the Ordinance until the Regular City Council meeting to be held October 14, 2009; seconded by Council member Gulick. Ayes, Council members Fagan, Gulick, McGrane, Shey, Shields, Vernon, Wieneke and Mayor Halloran. Motion carried. **Ordinance tabled until October 14, 2009.**

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 7:10 PM to meet Wednesday, October 7, 2009 at 5:30 PM.

Ann Ollinger, City Clerk