

**CITY OF DUBUQUE, IOWA
CITY COUNCIL PROCEEDINGS
OFFICIAL**

The Dubuque City Council met in special session at 5:30 p.m. on December 20, 2010 in the Historic Federal Building.

Present: Mayor Buol, Council Members Braig, Connors, Lynch, Resnick, City Manager Van Milligen, City Attorney Lindahl

Absent: Council Members Jones and Voetberg

Mayor Buol read the call and stated this is a special session of the City Council to conduct a closed session in accordance with Chapter 21.5(1)(c)(j) Code of Iowa.

Motion by Lynch at 5:31 p.m. to go into closed session to discuss pending litigation pursuant to Chapter 21.5(1)(c)(j) Code of Iowa. Seconded by Resnick. Motion carried 5-0.

Upon motion at 5:59 p.m. the City Council reconvened in open session stating that staff had been given proper direction.

There being no further business, upon motion the City Council adjourned at 6:00 p.m.

/s/Kevin S. Firnstahl
Assistant City Clerk

1t 12/29

**CITY OF DUBUQUE, IOWA
CITY COUNCIL PROCEEDINGS**

The Dubuque City Council met in regular session at 6:30 p.m. on December 20, 2010 in the Historic Federal Building.

Present: Mayor Buol, Council Members Braig, Connors, Jones (Joined at 6:33 p.m.), Lynch, Resnick, City Manager Van Milligen, City Attorney Lindahl

Absent: Council Member Voetberg

Mayor Buol read the call and stated this is a regular session of the City Council to act upon such business that may properly come before the City Council.

Pledge of Allegiance

Invocation was provided by Mayor Buol.

CONSENT ITEMS

Motion by Lynch to receive and file the documents, adopt the resolutions, and dispose of as indicated. Seconded by Resnick. Connors requested (#20) Citizen Communication from Marion Martin Pliner be held for separate discussion. Motion carried 6-0.

Minutes and Reports Submitted: Cable TV Teleprogramming Commission of 11/2; City Council of 12/15; Civil Service Commission of 9/1; Community Development Advisory Commission of 12/1; Electrical Board of 11/22; Historic Preservation Commission Education Task Force of 11/17 and 12/1; Human Rights Commission of 11/8; Zoning Advisory Commission of 12/1; Zoning Board of Adjustment of 12/1. Upon motion the documents were received and filed.

Notice of Claims/Suits: Justine Pesko for vehicle damage; Kayla McLaughlin and Nicole Huseman for vehicle damage. Upon motion the documents were received, filed and referred to the City Attorney.

City Attorney advising that the following claim has been referred to Public Entity Risk Services of Iowa, the agent for the Iowa Communities Assurance Pool: Justine Pesko for vehicle damage. Upon motion the documents were received, filed and concurred.

Woodland Drive Storm Sewer Project: City Manager recommending acceptance of the Woodland Drive Storm Sewer Project as completed by McDermott Excavating in the final contract amount of \$21,942.75. Upon motion the documents were received and filed and Resolution No. 463-10 Accepting the Woodland Drive Storm Sewer Project and authorizing payment of the contract amount to the contractor was adopted.

Historic Shot Tower – Phase I Project: City Manager recommending acceptance of the Historic Shot Tower – Phase I Project as completed by Klauer Construction Company in the final contract amount of \$642,238.00. Upon motion the documents were received and filed and Resolution No. 464-10 Accepting the Historic Shot Tower – Phase I Project and authorizing payment of the contract amount to the contractor was adopted.

Water Pollution Control Plant: City Manager recommending approval to raise Miron Construction Company's contract limit to \$1 Million for the Water Pollution Control Plant, Mercury Spill at Trickling Filters Clean-Up Project. Upon motion the documents were received, filed, and approved.

Acquisition of Property – Bee Branch Creek Restoration Project: City Manager recommending approval of the acquisition of property at 2356 Washington Street for the Bee Branch Creek Restoration Project. Upon motion the documents were received and filed and Resolution No. 465-10 Approving the acquisition of real estate owned by Steven R. and Sue A. Boelk in the City of Dubuque was adopted.

B & C Cathedral Development, LLC and United Clinical Laboratories, Inc. Irrevocable License: City Manager recommending approval of Irrevocable Licenses for B & C Cathedral Development, LLC and United Clinical Laboratories, Inc. to encroach the public right-of-way of Bluff and Emmett Streets. Upon motion the documents were received, filed, and approved.

Wild Rose Place – Plat of Survey: Zoning Advisory Commission recommending approval of the Plat of Survey of Wild Rose Place. Upon motion the documents were received and filed and Resolution No. 466-10 Approving the Plat of Survey of Wild Rose Place in Dubuque County, Iowa, was adopted.

Historic Millwork District Parking Lot Design: City Manager recommending approval of the selection of MSA Professional Services to design two parking lots in the Historic Millwork District. Upon motion the documents were received and filed and Resolution No. 467-10 Awarding contract was adopted.

Civil Service Commission: Civil Service Commission submitting the certified list for the positions of Recreation Program Supervisor, Environmental Engineer and Firefighter. Upon motion the documents were received, filed and made a Matter of Record.

Fiscal Year 2012 Annual Tax Increment Financing (TIF) Report: City Manager transmitting the Fiscal Year 2012 Annual Tax Increment Financing Report. Upon motion the documents were received and filed.

Scale Operator Position: City Manager recommending approval of the elimination of one Laborer position and the creation of one Scale Operator position. Upon motion the documents were received, filed, and approved.

HEART YouthBuild Program: Communication to the U.S. Department of Labor in support of the HEART YouthBuild program application to the DOL for support through YouthBuild funding. Upon motion the documents were received, filed, and approved.

Housing Enterprise Zone Program Agreement – 44 Main Street, LLC: City Manager recommending approval of a Housing Enterprise Zone Program Agreement for 44 Main Street, LLC, to provide 24 new market-rate housing units in the downtown area. Upon motion the documents were received and filed and Resolution No. 468-10 Approving a Housing Enterprise Zone Program Agreement by and among the Iowa Department of Economic Development, the City of Dubuque, and 44 Main Street, LLC, was adopted.

Regional Transit Authority Contract: City Manager recommending approval of a contract with the Regional Transit Authority (RTA) for two transit vehicles to be used by Keyline (The Jule). Upon motion the documents were received, filed, and approved.

Vision Iowa RECAT Application: City Manager recommending approval of a fundraising campaign for the Bee Branch Creek Restoration Project as part of the Vision Iowa RECAT application. Upon motion the documents were received, filed, and approved.

Alcohol Compliance – Civil Penalty for Alcohol License Holders: City Manager recommending approval of the Acknowledgement/Settlement Agreement for a first offense alcohol compliance violation for Creslanes Bowling and Pro Shop, 255 South Main Street. Upon motion the documents were received, filed, and approved.

Tobacco Compliance – Civil Penalty for Tobacco License Holder: City Manager recommending approval of the Acknowledgement/Settlement Agreement for a first offense tobacco compliance violation for Kwik Stop Food Mart, 2390 Central Avenue. Upon motion the

documents were received, filed, and approved.

PEG Capital Grant Expenditure Request: City Manager recommending approval of the Cable TV Tele-Programming Commission recommendation for funding from the Public, Educational, and Government (PEG) Capital Grant for Access Equipment and Facilities to the City of Dubuque for up to \$8,600 for a motion-controlled camera dolly component for the camBlock time lapse system. Upon motion the documents were received, filed, and approved.

Citizen Communication: Communication from Marion Martin Pliner, 2690 Marywood Drive, regarding the school bus stop at the corner of Marywood and John F. Kennedy Road. Motion by Connors to receive, file and refer to the City Manager. Seconded by Resnick. City Manager Van Milligen stated that Ms. Pliner would receive a response. Motion carried 6-0.

Upper Bee Branch Creek Restoration Project: City Manager recommending approval of a Green Project funding application submitted to the Iowa Department of Natural Resources (IDNR) for the Upper Bee Branch Creek Restoration Project. Upon motion the documents were received, filed, and approved.

Jane Doe v. Yager: City Manager recommending approval of the settlement in the case captioned "City of Dubuque on behalf of Jane Doe v. Yager". Upon motion the documents were received, filed, and approved.

Community Development Advisory Commission Liaison: City Manager recommending approval of the appointment of Housing Commissioner Ricardo Woods as liaison to the Community Development Advisory Commission. Upon motion the documents were received, filed, and approved.

U.S. Department of the Interior – National Park Service: Communication from Rachel Weekley, U.S. Department of the Interior – National Park Service, regarding the Biennial Report for the Historic Federal Building. Upon motion the document was received and filed.

American Recovery and Reinvestment Act: City Manager transmitting the City's latest update on local efforts to obtain federal grants through the American Recovery and Reinvestment Act. Upon motion the documents were received and filed.

Northeast Iowa Community College: Communication from Northeast Iowa Community College thanking the City and East Central Intergovernmental Association for providing transportation to NICC students. Upon motion the document was received and filed.

Checkout Plastic Bag Elimination: City Manager providing information on staff progress regarding the City Council directive to eliminate checkout plastic bag usage by 2014. Upon motion the documents were received and filed.

Bowling and Beyond Settlement Agreement: City Manager recommending approval of the Settlement Agreement Assessing Penalties for a second offense alcohol compliance violation for Bowling & Beyond Dubuque, Inc., 1860 Hawthorne Street. Upon motion the documents were received and filed.

Human Rights Commission: Communication from Colin Scott submitting his resignation from the Human Rights Commission. Upon motion the document was received, filed and the resignation was accepted.

Contracts: Fire Station Expansion / 975 Central Parking Ramp Change Order #1 – FS and Change Order #1 – PS; Fire Station Expansion / 975 Central Parking Ramp Change Order #2; and Bee Branch Creek Restoration Project – Agreement for Design and Engineering Services – Strand Associates, Inc. Upon motion the documents were received and filed.

Liquor License Refund: Request of David Kirkpatrick, Rosewood Diner and Supper Club, LLC, for a refund of Liquor License #LC0037522 in the amount of \$211.25. Upon motion the documents were received, filed, and approved.

Liquor License Applications: City Manager recommending approval of annual liquor license renewals as submitted. Upon motion the documents were received and filed and Resolution No. 469-10 Granting the issuance of a Class “B” Beer Permit to UAW Local #94 and a Class “C” Beer Permit to Puff n Snuff; and Resolution No. 470-10 Granting the issuance of a Class “C” Beer/Liquor License to Cue Masters Billiard, Bowling & Beyond, The Morocco, The Screaming Eagle Bar and Las Margaritas; a Class “B” Wine Permit to Puff n Snuff; and a Class “WBN” Native Wine Permit to Hy-Vee Gas #2 were adopted.

BOARDS/COMMISSIONS

Appointments to the following Boards/Commissions:

Human Rights Commission: Three 3-year terms through January 1, 2014 (Terms of Davis, Scott, and Rubenstein); One 3-year term through January 1, 2013 (Term of Sharrad); and One 3-year term through January 1, 2012 (Term of Wilberding). Applicants: Andrea Beacham, 1749 Churchill Drive (Additional Applicant); Frederick Davis, Jr., 2274½ Washington Street; Michael Elliott, 301 S. Grandview Avenue (Additional Applicant); Megan Gloss, 1130 Main Street (Additional Applicant); Kurt Hansen, 511 Nocturnal Lane; and Marcos Rubinstein, 663 Fenelon Place.

Upon roll-call vote, Andrea Beacham, Michael Elliot and Megan Gloss were appointed to 3-year terms through January 1, 2014. Frederick Davis, Jr., was appointed to a 3-year term through January 1, 2013; and Kurt Hansen was appointed to a 3-year term through January 1, 2012.

Mediacom Cultural Affairs Charitable Foundation: Two 1-year terms through December 31, 2011 (Terms of Chavenelle and Twining). Applicants: Gail Chavenelle, 1155 Kelly Lane; and Connie Twining, 421 N. Booth Street. Motion by Braig to appoint Gail Chavenelle and Connie Twining to the Mediacom Cultural Affairs Charitable Foundation for 1-year terms through December 31, 2011. Seconded by Connors. Motion carried 6-0.

Safe Community Advisory Committee: Nine 1-year terms through December 31, 2011. Applicants: Anthony Allen, 1725 Delhi Street; Mary Rae Bragg, 350 Kaufmann Avenue; Diane Callahan, 531 Sapphire Circle; Jonathan Cheatham, 2396 University Avenue; Rachel Daack, 800 Laurel Street; Amanda Elkins, 2257 Chaney Road; Ann Ernst, 899 Mt. Carmel Road; Phil French, 1035 Rockdale Road; Bob Lanka, 2280 Jackson Street; Doug Stillings, 1255 Locust Street; Susan Stork, 2115 Golden Eagle Drive; and Lynn Sutton, 876 Yale Court.

Upon roll-call vote, Anthony Allen, Mary Rae Bragg, Diane Callahan, Jonathan Cheatham,

Rachel Daack, Ann Ernst, Doug Stillings, Susan Stork, and Lynn Sutton were appointed to 1-year terms through December 31, 2011.

PUBLIC HEARINGS

Upon motion the rules were suspended allowing anyone present to address the City Council.

Historic Millwork District Complete Streets Project: Proof of publication of notice of public hearing to consider approval of the plans and specifications, form of contract, estimated cost and Resolution of Necessity for the Historic Millwork District Complete Streets Project and City Manager recommending approval. Motion by Jones to receive and filed the documents and adopt Resolution No. 471-10 Approval of plans, specifications, form of contract, and estimated cost for the Historic Millwork District Complete Streets Project; Resolution No. 472-10 Approving schedule of assessments and estimate of total cost for the Historic Millwork District Complete Streets Project; and Resolution No. 473-10 Resolution of Necessity. Seconded by Braig. Speaking on behalf of Dubuque Main Street, 1069 Main Street, Executive Director Dan LoBianco commended the City Council and staff for their work and incentives related to the project. Responding to questions from City Council, City Manager Van Milligen stated that tree plantings were not included in the design because of the Historic Preservation Commission's concept of maintaining the historic character of the original millwork district. Motion carried 6-0.

Dubuque Industrial Center – Planned Unit Development District (Tabled on June 7, 2010): City Manager requesting that this item be tabled to July 5, 2011.

Proof of publication on notice of hearing to consider a request from the City of Dubuque/ Dubuque Initiatives to amend the Planned Unit Development (PUD) for the Dubuque Industrial Center, located on Chavenelle Road and the Northwest Arterial, to change the designation of property from open space to commercial and Zoning Advisory Commission recommending approval, with conditions.

Motion by Connors to remove from the table. Seconded by Resnick. Motion carried 6-0.

Motion by Connors to table a proposed ordinance amending Appendix A (the Zoning Ordinance) of the City of Dubuque Code of Ordinances by adopting a revised Planned Unit Development Ordinance for the Dubuque Industrial Center Phases I and II located at the southwest corner of Highway 32 (Northwest Arterial) and Chavenelle Road and by repealing Ordinance 22-07 to July 5, 2011. Seconded by Braig. Motion carried 6-0.

Request to Rezone – Dubuque Metropolitan Area Solid Waste Agency: Proof of publication on notice of public hearing to consider a request from the Dubuque Metropolitan Area Solid Waste Agency (DMASWA) to rezone property located on U.S. Highway 20 West from County A-1 Agricultural District, County R-1 Rural Residential District and City AG Agricultural District to City HI Heavy Industrial District, with conditions, in conjunction with annexation and Zoning Advisory Commission recommending approval.

Motion by Connors to receive and file the documents and that the requirement that a proposed ordinance be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be passed be suspended. Seconded by Lynch. Planning Services Manager Laura Carstens provided a staff report. Dan Gotto, 15265 Briarwood Drive, Peosta, stated that he was not made aware of the request and had concerns, which included increased truck traffic and noise as the landfill encroaches on the neighboring subdivisions. Responding to questions from City Council, Carstens stated that property owners within 200 feet of the

proposed request were notified in accordance with and in excess of state and local requirements. Public Works Director Don Vogt stated that the landfill has been in existence since 1976 and is already a regional landfill jointly operated by the City of Dubuque and Dubuque County with contracts/customers in Delaware, Jo Daviess, and Jackson Counties. He added that additional expansion and cells are planned and that state law dictates many of the landfills operations. Motion carried 6-0.

Motion by Connors for final consideration and passage of Ordinance No. 61-10 Amending Title 16 of the City of Dubuque Code of Ordinances, Unified Development Code, by reclassifying hereinafter described property located on U.S. Highway 20 West from County A-1 Agricultural District, County R-1 Rural Residential District and City AG Agricultural District to City HI Heavy Industrial District, with conditions. Seconded by Braig. Motion carried 6-0.

Request to Annex – Dubuque Metropolitan Area Solid Waste Agency (Tabled from November 15, 2010 City Council Meeting): Proof of publication on notice of public hearing to consider a request from the Dubuque Metropolitan Area Solid Waste Agency to voluntarily annex and rezone 178.29 acres of property on the west side of the City of Dubuque and City Manager recommending approval. Motion by Connors to remove from the table. Seconded by Resnick. Motion carried 6-0.

Motion by Connors to receive and file the documents and adopt Resolution No. 474-10 Approving application for voluntary annexation of territory to the City of Dubuque. Seconded by Lynch. Planning Services Manager Laura Carstens provided a staff report. Motion carried 6-0.

Request to Rezone – 6900, 6950 and 7000 Pennsylvania Avenue: Proof of publication on notice of public hearing to consider a request from the City of Dubuque to rezone property located at 6900, 6950 and 7000 Pennsylvania Avenue from AG Agricultural District to PUD Planned Unit Development with a PI Planned Industrial District designation and Zoning Advisory Commission recommending approval.

Motion by Jones to receive and file the documents and that the requirement that a proposed ordinance be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be passed be suspended. Seconded by Braig. Planning Services Manager Laura Carstens provided a staff report. Motion carried 6-0.

Motion by Jones for final consideration and passage of Ordinance No. 62-10 Amending Title 16 of the City of Dubuque Code of Ordinances, Unified Development Code, by amending Ordinances No. 14-98, 7-02, and 83-04 by reclassifying three (3) parcels along Pennsylvania Avenue from AG Agricultural District to PUD Planned Unit Development with a PI Planned Industrial District designation to incorporate the three parcels into the Dubuque Industrial Center West. Seconded by Braig. Motion carried 6-0.

Text Amendment – City of Dubuque: Proof of publication on notice of public hearing to consider a request from the City of Dubuque to amend Article 2.3 Definitions and Article 5-19.1 HI Heavy Industrial District to modify regulation of Resource Recovery/Recycling Centers and Zoning Advisory Commission recommending approval.

Motion by Lynch to receive and file the documents and that the requirement that a proposed ordinance be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be passed be suspended. Seconded by Connors. Planning Services Manager Laura Carstens provided a staff report. Motion carried 6-0.

Motion by Lynch for final consideration and passage of Ordinance No. 63-10 Amending the City of Dubuque Code of Ordinances, Unified Development Code, by amending Article 2, Definitions, to modify definitions of Resource/Recycling Center, and amend Article 5, Zoning

Districts, to eliminate outdoor resource recovery/recycling center. Seconded by Connors. Motion carried 6-0.

Upon motion the rules were reinstated limiting discussion to the City Council.

ACTION ITEMS

Washington Neighborhood Conservation District: City Manager recommending approval of expansion of the Washington Neighborhood Conservation District to encompass the entire neighborhood and that this be referred to the Historic Preservation Commission so they can hold a public hearing and provide a recommendation to the City Council.

Motion by Connors to receive and file the documents and that the requirement that a proposed ordinance be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be passed be suspended. Seconded by Braig. Motion carried 6-0.

Motion by Connors for final consideration and passage of Ordinance No. 64-10 Establishing a moratorium on the issuance of demolition permits in the Washington Street Neighborhood Conservation District. Seconded by Braig. Motion carried 6-0.

IBM Joint Development Agreement – Amendment No. 2: City Manager recommending approval of an amendment to the existing IBM Joint Development Agreement on Smarter Water. Motion by Jones to receive and file the documents and approve the recommendation. Seconded by Braig. Motion carried 6-0.

Ordinance Changes – Through Streets, Stop/Yield Intersections: City Manager recommending approval of changes to the City of Dubuque Code of Ordinances involving stop intersections, yield intersections and through streets.

Motion by Connors to receive and file the documents and that the requirement that a proposed ordinance be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be passed be suspended. Seconded by Jones. Motion carried 6-0.

Motion by Connors for final consideration and passage of Ordinance No. 65-10 Amending City of Dubuque Code of Ordinances Title 9 Motor Vehicles and Traffic, Chapter 1 General Provisions, Section 9-1-321.1 Definitions by amending the definition of through (or thru) highway; Amending Chapter 7 Operation, Section 9-7-321.321 Entering Through Streets by removing streets designated as through streets; amending Chapter 7 Operation, Section 9-7-321.322 Stop and Yield Intersections by removing intersections designated as stop and yield intersections; and amending Chapter 7 Operation, Section 9-7-321.322A by removing such section. Seconded by Braig. Motion carried 6-0.

Neighborhood Watch: City Manager transmitting information on the process being used to further explore the Safe Community Task Force recommendation to develop a Neighborhood Watch Program. Motion by Lynch to receive and file the documents. Seconded by Resnick. Connors thanked the City Manager and Police Chief Mark Dalsing for their work and noted that recommendations from the Safe Community Task Force have appeared regularly on recent agendas for action by the City Council. Motion carried 6-0.

Landlord Notification Letters: City Manager transmitting information on the status of the Police Department's Landlord Notification System implemented in 2010. Motion by Braig to receive and file the documents. Seconded by Connors. Motion carried 6-0.

Intercultural Communication Training for Board and Commission Members: City Manager recommending that the City offer Intercultural Communication Training sessions once per year to City board and commission members. Motion by Connors to receive and file the documents and strongly recommend all current board and commission members and future applicants attend these intercultural communication sessions. Seconded by Jones. City Council discussion centered around making the training mandatory or voluntary, for current or only new members, taken within the first year or first term, and if it would affect re-appointment. Motion carried 4-2 with Lynch and Braig voting nay.

Smart Planning Grant Contract: City Manager recommending approval of an agreement with East Central Intergovernmental Association (ECIA) for a joint Smart Planning Local Comprehensive Planning Grant application with Dubuque County, Peosta, Asbury, Dyersville, Farley, Epworth and Cascade. Motion by Jones to receive and file the documents and adopt Resolution No. 475-10 Authorizing Smart Planning Grant Agreement. Seconded by Lynch. Motion carried 6-0.

Bee Branch Creek Restoration Project – Additional Property Acquisitions: City Manager recommending approval of the acquisition of additional property for the Bee Branch Creek Restoration Project. Motion by Connors to receive and file the documents and approve the recommendation. Seconded by Braig. City Manger Van Milligen clarified the details and costs of the project’s different options as they related to soil excavation, property acquisition, and new facilities. Motion carried 6-0.

Fiscal Year 2012 Policy Guidelines: City Manager recommending approval of the Policy Guidelines for Fiscal Year 2012. Motion by Connors to receive and file the documents and approve the recommendation. Seconded by Braig. Jones voiced objection to item #10 relating to salary increases over the amount budgeted for salaries as he believes it is the definition of bad-faith bargaining. Resnick stated that citizens are already facing financial hardships, questioned the meaning of the City Council’s priorities, and believed a lesser increase could be achieved. Connors agreed that the increase was due largely to increased pension costs and is mandated by the state, which takes it out of the City’s control. Lynch stated he is frustrated over other taxing authorities but depends upon the City Manager and Budget Director’s judgment. Braig stated that she is aware of how hard staff works to keep costs low, but city services come with a price and the tax increase isn’t a significant hardship. Buol stated that over the years he has served on the City Council, he has always tried to keep costs down and depends upon the Council and staff’s visioning. He added that city services take a tremendous financial outlay and citizens have grown used to a certain level of service. Motion carried 5-1 with Resnick voting nay.

There being no further business, upon motion the City Council adjourned at 8:17 p.m.

/s/Kevin S. Firnstahl
Assistant City Clerk

1t 12/29