

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

The Dubuque City Council met in regular session at 6:30 p.m. on March 21, 2011 in the Historic Federal Building.

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

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 presented by Reverend Nancy Bickel of First Congregational UCC.

PRESENTATION

2010 Drinking Water State Revolving Loan Fund – Award for Sustainable Public Health Protection was presented by Glenn Curtis, EPA Region 7 Chief of the Wastewater Management Branch.

CONSENT ITEMS

Motion by Lynch to receive and file the documents, adopt the resolutions, and dispose of as indicated. Seconded by Jones. Motion carried 6-0.

Minutes and Reports Submitted: Cable TV Teleprogramming Commission of 1/4; City Conference Board of 2/7; City Council of 3/3, 3/7, 3/10 and 3/12; Civil Service Commission of 1/14; Environmental Stewardship Advisory Commission of 3/10; Historic Preservation Commission of 2/17; Historic Preservation Commission Education Task Force of 3/2; Zoning Advisory Commission of 3/2; Zoning Board of Adjustment of 2/24

Library Board of Trustees Update from the Meeting of February 24, 2011

Proofs of Publication of City Council Proceedings of February 22 and 24, 2011 and List of Claims and Summary of Revenues for Month Ended January 31, 2011

Upon motion the documents were received and filed.

Notice of Claims/Suits: William and Rebecca Garr for vehicle damage; Joyce M. Terris for property damage; Wayne and Betty Bauer for property damage; Kevin Bradt for vehicle damage; Susanne Pauley for personal injury; Eugene K. Sand for personal injury; Monica Welter for vehicle damage. Upon motion the documents were received, filed and referred to the City Attorney.

City Attorney advising that the following claims have been referred to Public Entity Risk Services of Iowa, the agent for the Iowa Communities Assurance Pool: Oak Park Place for property damage; Zac and Amy Scherrman for property damage; Mamavi Mathey-Apossan for personal injury/property damage; William and Rebecca Garr for vehicle damage; Wayne and Betty Bauer for property damage; Kevin Bradt for vehicle damage; Susanne Pauley for personal injury; Eugene K. Sand for personal injury. Upon motion the documents were received, filed and concurred.

Dubuque Metropolitan Area Solid Waste Agency: Communication from the Dubuque Metropolitan Area Solid Waste Agency submitting the Fiscal Year 2012 budget and fee schedule which were approved by the Board of Directors. Upon motion the document was received and filed.

Scale Operator Position: City Manager recommending that one Laborer position in the Public Works Department be eliminated and one Scale Operator position created. Upon motion the documents were received, filed, and approved.

Building Code of Appeals Board: Communication from Ryan Anglese submitting his resignation from the Building Code of Appeals Board. Upon motion the document was received and filed and the resignation accepted.

State Historical Society of Iowa: Communication from the State Historical Society of Iowa advising that the Upper Main Historic District Amendment, 900s – 1000s Main Street, has been listed in the National Register of Historic Places effective February 11, 2011. Upon motion the document was received and filed.

Property Acquisition – 2275 Elm Street: City Manager recommending approval of the acquisition of property located at 2275 Elm Street as part of the Bee Branch Creek Restoration Project. Upon motion the documents were received and filed and Resolution No. 93-11 Approving the acquisition of real estate owned by Todd H. Schmitz in the City of Dubuque was adopted.

2010 / 2011 Snow and Ice Removal Assessments: City Manager recommending approval of the 2010 / 2011 snow and ice removal from City right-of-way assessments. Upon motion the documents were received and filed and Resolution No. 94-11 Adopting the final assessment schedule for the Snow Removal Assessment – Right-of-Way Obstruction Removal Assessment Project was adopted.

Dubuque Levee and Floodwall Certification – PAL Progress Report #6: City Manager transmitting the City of Dubuque's Provisionally Accredited Levee (PAL) Progress Report #6 to FEMA for certification of the Dubuque levee and floodwall system along the Mississippi River. Upon motion the documents were received and filed.

Supplemental Flood Protection Measures: City Manager recommending approval of the purchase of HESCO flood barriers in the current fiscal year instead of waiting until Fiscal Year 2013 when they are in the Capital Improvement Program budget. Upon motion the documents were received, filed, and approved.

Notice of Finding of No Significant Impact (FONSI) on the Environment – CARADCO, LLLP, Project: City Manager recommending approval of the execution of a Request for Release of Funds and Certification for Iowa Community Development Block Grant (CDBG) disaster recovery funds for the Caradco Building project. Upon motion the documents were received and filed and Resolution No. 95-11 Authorizing Request for Release of Funds and Certification for Iowa Community Development Block Grant (CDBG) Housing Disaster Recovery Funds for the Caradco Building project was adopted.

Dubuque Golf and Country Club: Communication from Richard Bugalski, General Manager – Dubuque Golf and Country Club, requesting permission to display fireworks on Monday, July 4, 2011 with a rain date of Tuesday, July 5, 2011. Upon motion the document was received, filed, and approved.

Signed Contracts: A. Cartegraph Software Purchase; B. Water Pollution Control Plant Project – Strand Associates, Inc. – Additional services for Davis-Bacon Compliance; and C. Water Pollution Control Plant Project – Change Order #6. Upon motion the documents were received and filed.

Liquor License Transfer: Permanent transfer of the liquor license of Easy Street from 431 Rhomberg Avenue to 30 Main Street. 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. 96-11 Granting the issuance of a Class “C” Beer Permit to Kwik Stop C-Store and Para Food Mart; and Resolution No. 97-11 Granting the issuance of a Class “C” Beer/Liquor License to Salsa’s Mexican Restaurant, Ground Round Restaurant, Bunker Hill Golf Course, Chopper’s, and the Yardarm Restaurant; a Special Class “C” Liquor License to Mindframe Theaters; and a Class “WBN” Native Wine to Kwik Stop C-Store were adopted.

ITEMS TO BE SET FOR PUBLIC HEARING

Motion by Connors to receive and file the documents, adopt the resolutions, set the public hearings as indicated, and direct the City Clerk to publish notice as prescribed by law. Seconded by Braig. Motion carried 6-0.

Franklin Investments, LLC – Development Agreement: City Manager recommending that a public hearing be set for April 4, 2011 to consider approval of entering into a Development Agreement with Franklin Investments, LLC for redevelopment of the property located at 39 Bluff Street, most recently the site of Central Alternative School. Upon motion the documents were received and filed and Resolution No. 98-11 Fixing the date for a public hearing of the City Council of the City of Dubuque, Iowa, on the proposed issuance of Urban Renewal Tax Increment Revenue Obligations and the execution of a Development Agreement relating thereto with Franklin Investments, LLC and providing for the publication of notice thereof was adopted setting a public hearing for a meeting to commence at 6:30 p.m. on April 4, 2011 in the Historic Federal Building.

Greater Downtown Urban Renewal District Expansion: City Manager recommending that a public hearing be set for May 2, 2011 to consider a Resolution of Necessity for expansion of the Greater Downtown Urban Renewal District. Upon motion the documents were received and filed and Resolution No. 99-11 Resolution of necessity finding that certain areas adjacent to the Greater Downtown Urban Renewal District meet the definition of a blighted area or economic development area under the Urban Renewal Law and that development of said areas is necessary in the interest of the residents of the City of Dubuque, Iowa, was adopted setting a public hearing for a meeting to commence at 6:30 p.m. on May 2, 2011 in the Historic Federal Building.

BOARDS/COMMISSIONS

Appointments to the following Boards/Commissions: Zoning Board of Adjustment. One 5-year term through March 26, 2016 (Term of Klauer). Applicant: Randall Klauer, 2437 Matthew John Drive. Motion by Braig to appoint Randall Klauer to the Zoning Board of Adjustment for a 5-year term through March 26, 2016. Seconded by Jones. Motion carried 6-0.

PUBLIC HEARINGS

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

Request to Rezone – 515/517/531/537 West 8th Street: Proof of publication on notice of public hearing to consider a request from Thomas Frost to rezone property located at 515/517/531/537 West 8th Street from C-4 Downtown Commercial District to OC Office Commercial District 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. Assistant City Planner Kyle Kritz provided a staff report. Motion carried 6-0.

Motion by Jones for final consideration and passage of Ordinance No. 26-11 Amending Title 16 of the City of Dubuque Code of Ordinances, Unified Development Code, by reclassifying hereinafter described property located at 515 – 537 West 8th Street from C-4 Downtown Commercial District to OC Office Commercial District. Seconded by Braig. Motion carried 6-0.

EverGreen Real Estate Development Corporation: Proof of publication on notice of public hearing to consider a request from EverGreen Real Estate Development Corporation to amend the Cedar Lake Plaza Planned Commercial District to allow a senior assisted-living housing development 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 Jones. Tim Brown, 8147 Savanna Valley Way, Victoria, MN, and representing EverGreen Real Estate Development Corporation provided a slide presentation on the background of the project and spoke in support of the proposed ordinance. Responding to questions from City Council, Mr. Brown stated that the Zoning Commission did not have access to the setback information presented, the setback does include the sidewalk, and walking paths around the building are included. Assistant City Planner Kyle Kritz provided a staff report. Zoning Commission Vice Chairperson Charles Miller explained the vote of the Commission regarding the 20 ft. recommended setback. Motion carried 6-0.

Motion by Braig to amend the proposed ordinance to reduce the setback to 15 ft. Seconded by Connors. Motion carried 6-0.

Motion by Connors for final consideration and passage of Ordinance No. 27-11 Amending Title 16 of the City of Dubuque Code of Ordinances, Unified Development Code, by providing for the amendment of Ordinances 8-96 and 63-97, which established regulations for Cedar Lake Plaza, a Planned Unit Development with a Planned Commercial Designation, located at Cedar Cross Road and Lake Ridge Drive and now being amended to allow housing for elderly or persons with disabilities as a permitted use. Seconded by Lynch. Motion carried 6-0.

CARADCO – Development Agreement: Proof of publication on notice of public hearing to consider entering into a Development Agreement with CARADCO Building, LLLP for the purpose of redeveloping the property located at 900 Jackson Street and City Manager recommending approval. Motion by Jones to receive and file the documents and adopt Resolution No. 100-11 Approving a Development Agreement with CARADCO Building, LLLP for the property at 900 Jackson Street. Seconded by Resnick. Motion carried 6-0.

Nottingham Properties, LLC – Development Agreement: Proof of publication on notice of public hearing to consider entering into a Development Agreement with Nottingham Properties, LLC for the purpose of redeveloping property located at 485 Locust Street and City Manager recommending approval. Motion by Connors to receive and file the documents and adopt Resolution No. 101-11 Approving a Development Agreement with Nottingham Properties, LLC for the property located at 485 Locust Street. Seconded by Jones. Motion carried 6-0.

Iowa 32 Hike / Bike Trail Phase 3 Project: Proof of publication on notice of public hearing to consider the plans and specifications, form of contract and estimate of cost for the Iowa 32 Hike / Bike Trail Phase 3 Project and City Manager recommending approval. Motion by Braig to receive and file the documents and adopt Resolution No. 102-11 Approving plans, specifications, form of contract, and estimated cost for the Iowa 32 Hike / Bike Trail Phase 3 Project. Seconded by Jones. Van Milligen stated that the funding source is a State of Iowa REAP grant and is specific to the project. Motion carried 6-0.

Central Avenue HMA Resurfacing Project from 21st to 32nd Street: Proof of publication on notice of public hearing to consider the plans and specifications, form of contract and estimate of cost for the Central Avenue HMA Resurfacing Project from 21st to 32nd Street and City Manager recommending approval. Motion by Connors to receive and file the documents and adopt Resolution No. 103-11 Approving plans, specifications, form of contract, and estimated cost for the Central Avenue HMA Resurfacing Project from 21st to 32nd Street. Seconded by Braig. Motion carried 6-0.

Port of Dubuque Marina Dock System and Utilities Project – Bid Package #1: Proof of publication on notice of public hearing to consider the plans and specifications, form of contract and estimate of cost for the Port of Dubuque Marina Dock System and Utilities Project – Bid Package #1 and City Manager recommending approval. Motion by Lynch to receive and file the documents and adopt Resolution No. 104-11 Approving plans, specifications, form of contract, and estimated cost for the Port of Dubuque Marina Dock System and Utilities Project – Bid Package #1. Seconded by Resnick. Motion carried 6-0.

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

ACTION ITEMS

Fourth Ward Appointment: City Council appointment of the Fourth Ward representative. Motion by Connors to receive and file the documents and adopt Resolution No. 105-11 Filling the vacancy in the office of City Council Member for the Fourth Ward. Seconded by Lynch. Upon roll call vote Lynn Sutton was appointed to the Office of City Council for the Fourth Ward with Resnick, Braig, Connors and Lynch voting for Lynn Sutton; Buol voting for Eric Honda; and Jones voting for William McIntee. Motion carried 6-0.

Sustainable Development Incentives for Residential Subdivisions: City Manager recommending adoption of a standard for sustainable development incentives for new major residential subdivisions that score at least 80 points in the Unified Development Code process by utilizing sustainable subdivision tools. Motion by Connors to receive and file the documents and approve the recommendation. Seconded by Braig. Responding to questions from City Council, Assistant City Planner Kyle Kritz explained low-impact development options and point assignment. Van Milligen stated that ADA compliance is required and that 80 points allows access to City incentives. Motion carried 5-1 with Lynch voting nay.

Arts and Cultural Affairs Advisory Commission: City Manager recommending approval of the Arts and Cultural Affairs Advisory Commission recommendation that functional public art be integrated into the Bee Branch Creek Parkway project. Motion by Braig to receive and file the documents and approve the recommendation. Seconded by Jones. Motion carried 6-0.

Lead Paint Hazard Control Grant and Healthy Homes Production Grant: City Manager recommending approval of a Notice of Intent to Request Release of Funds for the Lead Paint Hazard Control Grant in the amount of \$3,099,948 and Healthy Homes Production Grant in the amount of \$999,973. Motion by Jones to receive and file the documents and adopt Resolution No. 106-11 Authorizing Request for Release of Funds and Certification for Lead Paint Hazard Control Grant and Healthy Homes Production Grant Programs. Seconded by Braig. Motion carried 6-0.

University of Iowa – Iowa Initiative for Sustainable Communities Partnership: City Manager recommending approval of a proposed partnership with the University of Iowa School of Urban and Regional Planning Program’s Iowa Initiative for Sustainable Communities. Motion by Jones to receive and file the documents and approve the recommendation. Seconded by Connors. Responding to questions from City Council, University of Iowa Professor Charles Connerly described what the funding would be used for. Motion carried 6-0.

City Hall HVAC System Replacement: City Manager recommending approval of the replacement of the existing City Hall HVAC system in order to save significant potable water and energy resources. Motion by Connors to receive and file the documents and approve the recommendation. Seconded by Braig. Responding to questions from City Council Building Services Manager Rich Russell and Water Plant Manager Bob Green explained the statistical information provided in the original study and water samplings. Motion carried 6-0.

Safe Community Task Force: Juvenile Curfew Recommendation (Parental Responsibility Ordinance) (First Reading on March 7, 2011): 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 Resnick. Responding to questions from City Council, Assistant City Attorney Crenna Brumwell defined the term “reasonable control.” Police Chief Mark Dalsing spoke in support of the ordinance from the standpoint of the Police Department. Motion carried 6-0.

Motion by Jones for final consideration and passage of Ordinance No. 28-11 Amending City of Dubuque Code of Ordinances Title 7 Police, Fire, and Public Safety, Chapter 5 Offenses, by adopting a new Article D Parental Responsibility requiring the parent of a minor to exercise reasonable control over the minor and establishing penalties for a violation thereof. Seconded by Braig. Motion carried 6-0.

COUNCIL MEMBER REPORTS

Jones reported on the Weather Spotter class scheduled for March 22 and on a citizen inquiry he received regarding smoking outside of businesses.

There being no further business, upon motion the City Council adjourned at 8:30 p.m.

/s/Jeanne F. Schneider, CMC
City Clerk

1t 3/30