

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

The Dubuque City Council met in regular session at 6:30 p.m. on September 19, 2011 in the Historic Federal Building, 350 W. 6th Street.

Present: Mayor Pro-Tem Sutton, Council Members Braig, Connors, Jones, Lynch, Resnick, Acting City Manager Peck, City Attorney Lindahl

Absent: Mayor Buol, City Manager Van Milligen

Mayor Pro-Tem Sutton read the call and stated this is a regular session of the City Council to conduct such business that may properly come before the Council.

Pledge of Allegiance

Invocation was provided by Reverend Eugene Kutsch.

PROCLAMATION

Crop Walk Day (October 2, 2011) was accepted by Dorothy Krayer, 1205 Park Street.

CONSENT ITEMS

Motion by Lynch to receive and file the documents, adopt the resolutions, and dispose of as indicated with exception to #11 (Request to Rezone 340 Olympic Heights). Seconded by Jones. Motion carried 6-0.

Minutes and Reports Submitted: Arts and Cultural Affairs Advisory Commission of 7/26; Cable Community Teleprogramming Commission of 7/5; City Council proceedings of 9/6 and 9/12; Civil Service Commission of 9/5 and 9/6; Housing Trust Fund Committee of 8/19 and 9/23/10; Human Rights Commission of 7/25; Park and Recreation Advisory Commission of 8/9; Zoning Advisory Commission of 9/7; Zoning Board of Adjustment of 8/25

Library Board of Trustees Update from Meeting of August 25, 2011

Proofs of Publication for City Council Proceedings of August 24 and 24, 2011

Upon motion the documents were received and filed.

Notice of Claims/Suits: Curt and LuAnn Callahan for property damage; Lorraine Lattner for property damage; Sarah Ryan for property damage; Peter Sweeney for personal injury. 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: Nichole Bauer for vehicle damage; Curt Callahan for property damage; Lorraine Lattner for property damage; Sarah Ryan for property damage; Charles Sulcer for vehicle damage; Peter Sweeney for personal injury; Katy Wethal for property damage; Kim Yoko for personal injury. Upon motion the documents were received, filed and concurred.

2011 Justice Assistant Grant (JAG): City Manager recommending approval to accept the 2011 Justice Assistance Grant (JAG) award in the amount of \$57,858 from the Edward Byrne Memorial Assistance Grant program and authorize the signing of the award document and special conditions. Upon motion the documents were received, filed, and approved.

Fiscal Year 2011 City Street Financing Report: City Manager recommending approval of the City of Dubuque's Fiscal Year 2011 City Street Financing Report. Upon motion the documents were received and filed and Resolution No. 313-11 Approving the City of Dubuque Fiscal Year 2011 City Street Financing Report was adopted.

Manson Road Bridge and Watermain Emergency Repair: City Manager recommending emergency repairs to the Manson Road bridge and watermain and to retain IIW Engineers & Surveyors, PC to provide engineering consultant services. Upon motion the documents were received and filed and Resolution No. 314-11 Authorizing emergency repairs to the bridge and watermain on Manson Road and to retain the services of IIW Engineers & Surveyors, PC to provide engineering consultant services was adopted.

Consent Decree Semiannual Report: City Manager submitting the Environmental Protection Agency (EPA) Consent Decree, September 30, 2011 semiannual report. Upon motion the documents were received and filed.

Bishop Block Subordination: City Manager recommending approval of the subordination of the City's mortgage on the Bishop's Block Building at the request of Mercy Housing, Inc., in order to refinance existing indebtedness on the property. Upon motion the documents were received, filed, and approved.

Fiscal Year 2011 Consolidated Annual Performance and Evaluation Report (CAPER): City Manager recommending approval of the submission to U.S Department of Housing and Urban Development of the Consolidated Annual Performance and Evaluation Report (CAPER) for the period of July 1, 2010 through June 30, 2011. Upon motion the documents were received and filed and Resolution No. 315-11 Authorizing the submission of a Consolidated Performance and Evaluation Report (CAPER) for the period commencing July 1, 2010 and concluding June 30, 2011 was adopted.

PEG Capital Grant Expenditure Requests: City Manager recommending approval of a request from the City of Dubuque for up to \$37,500 for two 60-terabyte servers to provide storage and back up of the media files generated by the Cable TV Division and from Mediacom for up to \$23,500 to replace and upgrade the equipment in the public access studio. Upon motion the documents were received, filed, and approved.

Final Plat – Pine View Subdivision: Zoning Advisory Commission recommending approval of the Final Plat for Pine View Subdivision (12724 Pine View Drive) as requested by John Sibley. Upon motion the documents were received and filed and Resolution No. 316-11 Approving the Final Plat of Pine View Subdivision in Dubuque County, Iowa, was adopted.

Plat of Survey – Olympic Heights: Zoning Advisory Commission recommending approval of the Plat of Survey of Gillespie's Third Addition (340 Olympic Heights) as submitted by Allen Weber. Upon motion this item was removed from the agenda.

Plat of Survey – Asbury Plaza No. 16: Zoning Advisory Commission recommending approval of the Plat of Survey for Asbury Plaza No. 16 (Asbury Drive) as submitted by Dave Schneider. Upon motion the documents were received and filed and Resolution No. 317-11 Approving the Plat of Survey for Asbury Plaza No. 16 in City of Dubuque, Iowa, was adopted.

Setting Fees for Memorial Benches in Various City Areas: City Manager recommending approval to set the cost of sponsorship of a bench at \$2,000 for community parks and high service/impact areas such as the Bee Branch and Historic Millwork District, and \$1,600 for mini and neighborhood parks and trails. Upon motion the documents were received, filed, and approved.

Collective Bargaining – International Union of Operating Engineers Local No. 234 Amendment to Agreement: City Manager recommending approval of the annual amendment for full-time Public Safety Dispatchers to have a schedule of ten hours per day and four days per week effective October 1, 2011 through September 30, 2012. Upon motion the documents were received, filed, and approved.

Civil Service Commission: Civil Service Commission submitting the Certified Lists for the positions of Lead Public Safety Dispatcher, Mechanic, Sanitation Driver, and Police Officer. Upon motion the documents were received, filed and made a Matter of Record.

Tri-State Business Times- Rising Stars: City Manager transmitting information from the Tri-State Business Times featuring Assistant Economic Development Director Aaron DeJong as one of eight rising stars of the tri-state business world. Upon motion the document was received and filed.

U.S. Department of Housing and Urban Development (HUD): Communication from Director Michelle Miller, Programs Division Director for the U.S. Department of Housing and Urban Development informing the City that it's Green and Healthy Homes and Lead Hazard Control program's overall performance is outstanding. Upon motion the documents were received and filed.

Federal Emergency Management Agency (FEMA): Correspondence from Sandra Knight, Deputy Federal Insurance and Mitigation Administrator for the Federal Emergency Management Agency (FEMA) advising that the City has until October 18, 2011 to adopt and have the Department of Homeland Security's Federal Emergency Management Agency (FEMA) Regional Office approve floodplain management measures that satisfy 44 Code of Federal Regulations (CFR) Section 60.3(d) of the National Flood Insurance Program (NFIP) regulations. Upon motion the documents were received, filed and referred to the City Manager.

Sustainable Dubuque: City Manager recommending purchase of Sustainable Dubuque promotional items for use at the Growing Sustainable Communities conference and for community activities. Upon motion the documents were received, filed, and approved.

City of Dubuque Code of Ordinances – Supplement No. 5: City Manager recommending adoption of Supplement No. 5 to the City of Dubuque Code of Ordinances. Upon motion the documents were received and filed and Resolution No. 318-11 Adopting Supplement No. 5 to the Code of Ordinances of the City of Dubuque, Iowa, was adopted.

Housing Trust Fund Committee: Housing Commission recommending approval of the appointment of Dorothy Schwendinger as the Commission's representative to the Housing Trust Fund Committee. Upon motion the documents were received, filed, and approved.

Dubuque Metropolitan Area Transportation Study (DMATS): City Manager transmitting a letter of support for the Dubuque Metropolitan Area Transportation Study (DMATS) for a Sustainable Communities Regional Planning grant to the U.S. Department of Housing and Urban Development (HUD). Upon motion the documents were received and filed.

Alcohol Compliance – Civil Penalties for Alcohol License Holders – Casey's #2421: City Manager recommending approval of the Alcohol Compliance Settlement Agreement with Casey's General Store #2421. Upon motion the documents were received, filed, and approved.

Alcohol Compliance – Civil Penalties for Alcohol License Holders – Hilton Garden Inn / Houlihan's Restaurant: City Manager recommending approval of the Alcohol Compliance Settlement Agreement with Hilton Garden Inn / Houlihan's Restaurant. Upon motion the documents were received, filed, and approved.

Alcohol Compliance – Civil Penalties for Alcohol License Holders – Instant Replay: City Manager recommending approval of the Alcohol Compliance Settlement Agreement with Instant Replay. Upon motion the documents were received, filed, and approved.

Alcohol Compliance – Civil Penalties for Alcohol License Holders – Murph's South End Tap: City Manager recommending approval of the Alcohol Compliance Settlement Agreement with Murph's South End Tap. Upon motion the documents were received, filed, and approved.

Tobacco Compliance – Civil Penalties for Tobacco License Holders – Casey's Store #2421: City Manager recommending approval of the Tobacco Compliance Settlement Agreement with Casey's General Store #2421. Upon motion the documents were received, filed, and approved.

Tobacco Compliance – Civil Penalties for Tobacco License Holders – Kwik Star #495: City Manager recommending approval of the Tobacco Compliance Settlement Agreement with Kwik Star #495. Upon motion the documents were received, filed, and approved.

Liquor License Refund: Request by Rick Worcester of the Lift Bar requesting a refund on Beer and Liquor Combination License No. LC0037590 in the amount of \$633.75. Upon motion the documents were received, filed, and approved.

Signed Contracts: A) Port of Dubuque Ramp Repairs – RAM Change Order; B) Dubuque Community School District agreement with Jule Transportation; C) Water Pollution Control Plant Modifications Project contract with Terracon Consultants for site investigation services. Upon motion the documents were received and filed.

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. 319-11 Granting the issuance of a Class "C" Beer/Liquor License to Happy's Place, the Grand Tap, Manna Java World Café, Angie's Bar, and The District; a Class "B" Wine License

to Eagle Country Market; and Resolution No. 320-11 Granting the issuance of a Class "C" Beer Permit to Eagle Country Market 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.

Dubuque Regional Airport – Conservation Easement: City Manager recommending setting a public hearing for October 3, 2011 to consider disposal of an interest in City-owned property as set forth in the Declaration of Conservation Covenants and Restrictions Conservation Easement on the specified property at the Dubuque Regional Airport. Upon motion the documents were received and filed and Resolution No. 321-11 Resolution of intent to dispose of an interest in City of Dubuque real estate and fixing the date for a public hearing of the City Council of the City of Dubuque, Iowa, on the proposed disposition of City owned-property in the form of a Declaration of Conservation Covenants and Restrictions 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 October 3, 2011 in the Historic Federal Building.

BOARDS/COMMISSIONS

Applicants were invited to address the City Council regarding their desire to serve on the following Boards/Commissions: Civic Center Commission: One 3-year term through June, 29, 2013 (vacant term of Fields). Applicant: Jody Willenborg, 3497 Hillcrest Road, #2. Ms. Willenborg spoke in support of her appointment.

PUBLIC HEARINGS

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

Request to Rezone – 3400 Block of Keymont Drive: Request from Tom Thompson to rezone property located at 3400 Keymont Drive from R-2 Two-Family Residential District to R-3 Moderate Density Multi-Family Residential District and the 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. Charles Daoud, 396 Moore Heights, spoke in support of the proposed ordinance. Planning Services Manager Laura Carstens provided a staff report. Responding to questions from City Council, Zoning Advisory Commission Chairperson Charles Miller, Mr. Daoud and Ms. Carstens addressed sustainability elements, security and ownership issues. Motion carried 6-0.

Motion by Connors for final consideration and passage of Ordinance No. 44-11 Amending Title 16 of the City of Dubuque Code of Ordinances, Unified Development Code, by reclassifying hereinafter described property located in the 3400 block of Keymont Drive from R-2 Two-Family Residential District to R-3 Moderate Density Multi-Family Residential District. Seconded by Jones. Motion carried 6-0.

Request to Rezone – 3485 Windsor Avenue: Request from William Peterson Architects to amend the Padre Pio Healthcare Center Institutional District to allow construction of a four-story nursing addition and a one-story therapy center and the 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. Responding to questions from City Council, the architect stated that parking will still meet requirements and a generator-powered elevator is planned for emergency situations. Motion carried 6-0.

Motion by Lynch for final consideration and passage of Ordinance No. 45-11 Amending Title 16 of the City of Dubuque Code of Ordinances, Unified Development Code, rescinding Ordinance 66-95, and approving an amended Campus Development Plan for Padre Pio Health Care Center Institutional District for a new four-story nursing addition and a one-story therapy addition. Seconded by Connors. Motion carried 6-0.

Unified Development Code: City of Dubuque: Request from the City of Dubuque to amend Section 6-4 Flood Hazard Overlay of the Unified Development Code and the 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. 46-11 Amending Title 16 of the City of Dubuque Code of Ordinances, Unified Development Code, by repealing Section 6-4 Flood Hazard Overlay District and enacting a new Section 6-4 Flood Hazard Overlay District to comply with National Flood Insurance Program Requirements. Seconded by Braig. Motion carried 6-0.

Fiscal Year 2012 Budget Amendment No. 1: Proof of publication on notice of public hearing to consider the Fiscal Year 2012 Budget Amendment No. 1, and the City Manager recommending approval. Motion by Connors to receive and file the documents and adopt Resolution No. 322-11 Amending the current budget for the fiscal year ending June 30, 2012. Seconded by Jones. Responding to questions from City Council, Budget Director Jenny Larson clarified that this involves carryover of funds for projects and grants which cross multiple fiscal years. Motion carried 6-0.

Rose of Dubuque, LLP – Development Agreement: Proof of publication on notice of public hearing to consider a Development Agreement with the Rose of Dubuque, LP for a 70-unit affordable living facility on Lake Ridge Drive and the City Manager recommending approval. Motion by Jones to receive and file the documents and adopt Resolution No. 323-11 Approving a Development Agreement with the Rose of Dubuque, L.P. for property located on Lake Ridge Drive. Seconded by Resnick. Responding to questions from City Council, developer Greg McClenahan addressed the issue that all residents are encouraged to wear electronic pendants for the 24-hour emergency safety system. Motion carried 6-0.

Dubuque River Rides, Inc. – Docking Lease Agreement: Proof of publication on notice of public hearing to consider the proposed Docking License Agreement between the City of Dubuque and Dubuque River Rides, Inc., and the City Manager recommending approval. Motion by Jones to receive and file the documents and adopt Resolution No. 324-11 Disposing

of an Interest in real property by License Agreement with Dubuque River Rides, Inc. Seconded by Braig. Motion carried 6-0.

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

ACTION ITEMS

Electrical Code Amendments: City Manager recommending approval of amendments to the City of Dubuque's Electrical Code that have been recommended by the Electrical Board of Appeals. 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 Resnick. Motion carried 6-0.

Motion by Connors for final consideration and passage of Ordinance No. 47-11 Amending City of Dubuque Code of Ordinances Title 14 Building and Development, Chapter 1 Building Codes, Section 14-1D-2 National Electrical Code Amendments by removing replacement, installation, and alteration from activities allowed as routine maintenance and performed by a maintenance electrician and by removing Section 83-8 Bonding, Article 250.104(B) Other Metal Piping, and Article 250.104(E) Gas Piping System Bonding requirement. Seconded by Braig. Motion carried 6-0.

Iowa Clean Air Attainment Program (ICAAP) Grant Application: City Manager recommending approval of the submission of the Iowa Clean air Attainment Program (ICAAP) grant in the amount of \$2,535,832 to fund the IBM research and pilot route services for two years. Motion by Lynch to receive and file the documents and adopt Resolution No. 325-11 Endorsing the submission of an Iowa Clean Air Attainment Program (ICAAP) grant application to the Iowa Department of Transportation to fund IBM research and for implementation of two pilot route services. Seconded by Jones. Motion carried 6-0.

Request for Work Session: City Manager requesting setting a work session on Monday, December 5, at 5:30 p.m. for a presentation on Council Bluff's activities related to the 2011 Missouri River flooding. Motion by Connors to receive and file the document and set a work session for the requested date and time. Council Member Lynch stated that he will not be able to attend. Seconded by Jones. Motion carried 6-0.

COUNCIL MEMBER REPORTS

Council Member Braig and Mayor Pro-Tem Sutton reported on the Midwest Culturally Inclusive Conference they attended in Platteville on September 16 and 17.

There being no further business, upon motion the City Council adjourned at 7:31 p.m.

Kevin S. Firnstahl
City Clerk

1t 9/28