

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

The Dubuque City Council met in regular session at 6:30 p.m. on July 21, 2014 in the Historic Federal Building, 350 W. 6th Street.

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

Mayor Buol read the call and stated this is a regular session of the City Council called for the purpose of conducting such business that may properly come before the City Council.

PLEDGE OF ALLEGIANCE

PROCLAMATION(S)

Apples for Students Months (July/August 2014) was accepted by Jessica Pape, Development Director of St. Mark's Youth Enrichment, 1201 Locust St.

CONSENT ITEMS

Motion by Lynch to receive and file the documents, adopt the resolutions, and dispose of as indicated. Seconded by Connors. Motion carried 7-0.

1. Minutes and Reports Submitted: Arts and Cultural Affairs Advisory Commission of 5/27; Cable TV Commission of 6/4; City Council Proceedings of 7/7; Housing Commission of 6/24; Library Board of Trustees Update of 6/19; Zoning Advisory Commission of 7/2; Zoning Board of Adjustment of 6/24. Upon motion the documents were received and filed.

2. Notice of Claims and Suits: Stacey Duve for vehicle damage, Steve Maker II for vehicle damage. Upon motion the documents were received, filed and referred to the City Attorney.

3. Disposition of Claims: 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: Steve Duve for vehicle damage. Upon motion the documents were received, filed and concurred.

4. William D. Hatfield Award: Iowa Water Environment Association (IAWEA) announcing that Dubuque Water & Resource Recover Center Manager Jonathan Brown is the 2014 Recipient of the William D. Hattfield Award for outstanding performance and professionalism in the treatment and maintenance of a wastewater plant. Upon motion the documents were received and filed.

5. Dubuque Jaycees-Radio Dubuque 2015 Fireworks Request: Correspondence from Thomas Parsely, General Manager of Radio Dubuque and on behalf of the Dubuque Jaycees, requesting permission to conduct a fireworks display on Friday, July 3, 2015 from 9:00 p.m. to 10:30 p.m. on Volunteer Road between Hawthorne and Lime Streets with a rain date of July 4, 2015. Upon motion the documents were received, filed and approved.

6. Shelter Plus Care Program Contract: City Manager recommending approval of a contract with the U.S. Department of Housing and Urban Development for administration of the Shelter Plus Care Program. Upon motion the documents were received, filed and approved.

7. 2115 Sunnyview Drive - Agreement and Acceptance of Storm Sewer Easement: City Manager recommending approval of an agreement and acceptance of a storm sewer easement from James E. and Kristine E. Noonan for a proposed storm sewer relocation. Upon motion the documents were received and filed and Resolution No. 207-14 Approving a Memorandum of Agreement for Construction of a Storm Sewer and Accepting a Grant of Easement for Storm Sewer Through, Over and Across a Part of the Southerly 99 Feet of Lot 92 in Finley's Addition to the City of Dubuque, Dubuque, Iowa, was adopted.

8. Workers' Compensation Excess Insurance Renewal Fiscal Year 2015: City Manager recommending approval of the renewal rate submitted by Safety National for Fiscal Year 2015 Workers' Compensation Excess Insurance. Upon motion the documents were received, filed and approved.

9. Iowa Department of Transportation - Detours Agreement: Iowa Department of Transportation (IDOT) submitting an agreement for use of local agency roads as detours during the construction of the Intermodal Transportation Center. Upon motion the documents were received, filed and approved.

10. Collective Bargaining Agreement - Dubuque Professional Firefighter's Association #353: City Manager requesting that the City Council receive and file the arbitration award between the City of Dubuque and the Dubuque Professional Firefighters Association, Local #353, effective July 1, 2014 through June 30, 2015. Upon motion the documents were received and filed.

11. Collective Bargaining Agreement Teamsters Local 120 (Bus Operators): City Manager recommending approval of an Amendment to the Collective Bargaining agreement between the City and Dubuque and the Teamster Local Union No. 120 (Bus Operators). Upon motion the documents were received, filed and approved.

12. Property Acquisition - 420 Garfield Avenue: City Manager recommending approval to acquire property located at 420 Garfield Avenue from Thomas J. Blaser and Margaret M. Blaser as part of the acquisition program associated with the Bee Branch

Creek Restoration Project. Upon motion the documents were received and filed and Resolution No. 208-14 Approving the acquisition of real estate owned by Thomas J. Blaser and Margaret M. Blaser, D/B/A Dubuque Fire Equipment, Inc., in the City of Dubuque was adopted.

13. Partial Property Acquisition - 430 Garfield Avenue: City Manager recommending approval to purchase a portion of 430 Garfield Avenue and two temporary construction easements through 430 Garfield Avenue that are required for the Bee Branch Creek Restoration Project; and that a Memorandum of Understanding be executed with Robert Klauer regarding relocation, re-establishment expenses and points of discussion. Upon motion the documents were received and filed and Resolution No. 209-14 Approving the acquisition of real estate owned by Robert F. Klauer in the City of Dubuque was adopted.

14. 2014 Access Ramp Installation Project Phase 2 – Award: City Manager recommending that the award for the 2014 Access Ramp Installation Project – Phase 2 be officially recorded in the minutes of the City Council. Upon motion the documents were received, filed and made a Matter of Record.

15. Community Development Block Grant (CDBG) 2014 Curb Access Ramp Installation Project Award: City Manager recommending that the award for the 2014 CDBG Curb Access Ramp Installation Project be officially recorded in the minutes of the City Council. Upon motion the documents were received, filed and made a Matter of Record.

16. Harvest Kitchen and Bar - Request for Release of Community Development Block Grant (CDBG) Funds: City Manager recommending approval of a resolution authorizing the Request Release of Funds for the proposed Economic Development Financial Assistance Program Community Development Block Grant loan to Harvest Kitchen and Bar. Upon motion the documents were received and filed and Resolution No. 210-14 Authorizing Request for release of Community Development Block Grant funds for Economic Development Financial Assistance Program - Harvest Kitchen and Bar

17. Harvest Kitchen and Bar - CDBG Loan Agreement: City Manager recommending approval of a forgivable loan through the Community Development Block Grant (CDBG) Economic Development Loan Program to the owners of Harvest Kitchen and Bar, a new business to be located in the Schmid Innovation Center at 955 Washington Street. Upon motion the documents were received and filed and Resolution No. 211-14 Approving a Community Development Block Grant Loan Agreement for One Hundred Seventy-Five Thousand Dollars (\$175,000) for Harvest Kitchen and Bar was adopted.

18. Pre-Annexation Agreement - Richard M. and Mary Lou Bradley: City Manager recommending approval of a pre-annexation agreement with Richard M. and Mary Lou Bradley, property owners, in conjunction with their request for approval of a Final Plat of Richard Bradley Third Addition in Dubuque County. Upon motion the documents were

received and filed and Resolution No. 212-14 Approving a Pre-Annexation Agreement between the City of Dubuque, Iowa and Richard M. and Mary Lou Bradley was adopted,

19. Jule Bus Purchase Acceptance: City Manager recommending final acceptance of a bus as delivered from Hogle Bus Co., Inc. and establishing the final contract amount Upon motion the documents were received and filed and Resolution No. 213-14 Accepting the Jule bus purchase and authorizing the payment of the contract amount to the contractor was adopted.

20. Sisters of Charity of the Blessed Virgin Mary: Correspondence from Sister Teri Hadro, BVM, of the Sister of Charity advising the City that they anticipate resubmitting their request to rezone property at 1100 Carmel Drive in the fall of 2014. Upon motion the documents were received and filed.

21. Dubuque City Assessors Office: Correspondence from Dubuque City Assessor Rick Engelken advising the City of property tax appeals filed with the Iowa Property Assessment Appeal Board for the 2014 assessment. Upon motion the documents were received and filed.

22. College Partnership Contracts Fiscal Year 15: City Manager recommending approval of the contracts for College/University Transit Partnership with Clarke University, Loras College and University of Dubuque for the 2014-2015 school year. Upon motion the documents were received, filed and approved.

23. USDA Local Foods, Local Places Program: City Manager recommending approval of a letter of intent to apply for the USDA Local Foods, Local Places technical assistance program. Upon motion the documents were received, filed and approved.

24. Mediacom Communications Company: Correspondence from Mediacom Communications Company advising the City that it will be changing the seasonal rates for some services on or about September 1, 2014. Upon motion the documents were received and filed.

25. Iowa Department of Natural Resources - NPDES Inspection: Correspondence from the Iowa Department of Natural Resources providing the City with an inspection report of the Water & Resource Recover Center and Notice of Violation. Upon motion the documents were received, filed and Referred to the City Manager.

26. Signed Contracts: Dittmer Recycling, Inc. Third Amendment to Agreement with Dubuque Metropolitan Area Solid Waste Agency. Upon motion the documents were received and filed.

27. Improvement Contract and Maintenance Bonds: Portzen Construction, Inc., for the E. B. Lyons Expansion Project. Upon motion the documents were received, filed and approved.

28. Alcohol Compliance Civil Penalty for Alcohol License Holders – Oky Doky #1: City Manager recommending approval of the Acknowledgment/Settlement Agreement for an alcohol compliance violation for Oky Doky #1, 250 W. 1st Street. Upon motion the documents were received, filed and approved.

29. Tobacco Compliance – Civil Penalty for Tobacco License Holders – Oky Doky #1: City Manager recommending approval of the Acknowledgment/Settlement Agreement for a tobacco compliance violation for Oky Doky #1, 250 W. 1st Street. Upon motion the documents were received, filed and approved.

30. Alcohol Compliance Civil Penalty for Alcohol License Holders – Murph's South End Tap: City Manager recommending approval of the Acknowledgment/Settlement Agreement for an alcohol compliance violation for Murph's South End Tap 55 Locust Street. Upon motion the documents were received, filed and approved.

31. Alcohol and Tobacco License Applications: City Manager recommending approval of annual liquor, beer, wine and tobacco licenses as submitted. Upon motion the documents were received and filed and Resolution No. 214-14 Approving applications for beer, liquor, and/or wine permits, as required by City of Dubuque Code of Ordinances Title 4 Business and License Regulations, Chapter 2 Liquor Control, Article B Liquor, Beer and Wine Licenses and Permits; and Resolution No. 215-14 Approving applications for retail cigarette/tobacco sales permits, as required by Iowa Code 453A.47A were adopted.

ITEMS TO BE SET FOR PUBLIC HEARING

Motion by Lynch 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 Connors. Motion carried 7-0.

1. Elm Street Parking Lot Project: City Manager recommending initiation of the public bidding process for the construction of the Elm Street Parking Lot Project, and further recommends that a public hearing be set for August 4, 2014. Upon motion the documents were received and filed and Resolution No. 216-16 Preliminary approval of plans, specifications, form of contract, and estimated cost; setting date of public hearing on plans, specifications, form of contract, and estimated cost; and ordering the advertisement for bids was adopted setting a public hearing for a meeting to commence at 6:30 p.m. on August 4, 2014 in the Historic Federal Building.

2. SRF Green Alley Project Bid Set 2 - Year 2: City Manager recommending initiation of the public bidding process for the SRF Green Alley Bid Set 2 – Year 2 Project, and further recommends that a public hearing be set for August 18, 2014. Upon motion the documents were received and filed and Resolution No. 217-14 Preliminary approval of plans, specifications, form of contract, and estimated cost; setting date of public hearing on plans, specifications, form of contract, and estimated cost; and ordering the advertisement for bids; Resolution No. 218-14 Approving the plats, Schedule of

Assessments and estimate of total cost for the SRF Green Alley Bid Set 2 - Year 2 Project; Resolution No. 219-14 Resolution of Necessity for the SRF Green Alley Bid Set 2 - Year 2 Project and Resolution No. 220-14 Fixing date of public hearing on Resolution of Necessity were adopted setting a public hearing for a meeting to commence at 6:30 p.m. on August 18, 2014 in the Historic Federal Building.

BOARDS/COMMISSIONS

Applicants were invited to address the City Council regarding their appointment to the following Boards/Commissions:

1. Housing Commission: One, 3-year term through August 17, 2017 (Expiring term of Baumhover). Applicant: Rick Baumhover, 601 Garfield Ave #104. Mr. Baumhover spoke in support of his appointment.

2. Human Rights Commission: One, 3-year term through January 1, 2016 (Vacant term of Helgager). Applicants: Nikkole Nutter, 2897 Asbury Rd.; Susan Stone, 1384 Solon St. Ms. Nutter and Ms. Stone spoke in support of their respective appointments.

PUBLIC HEARINGS

Upon motion the rules were suspended to allow anyone present to address the City Council and the following items.

1. Code of Ordinances Amendment - Title 16 Unified Development Code - Payday Lenders: Proof of publication on notice of public hearing to consider a request by the City of Dubuque to amend Section 16-7, of the Unified Development Code - Supplemental Use Regulations, by adding a new Section 16-7.5 Pay Day Lending Establishments and adding siting requirements 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 7-0.

Motion by Jones for final consideration and passage of Ordinance No. 46-14 Amending Title 16 of the City of Dubuque Code of Ordinances, Unified Development Code, by Amending Article 16-7 Supplemental Use Regulations by Adding a New Section 7-5 Titled Pay Day Lending Establishments and Establishing Regulations to Their Location in the Community. Seconded by Braig. Motion carried 7-0.

2. Code of Ordinances Amendment Title 16 - Unified Development Code Keeping of Hens: Proof of publication on notice of public hearing to consider a request by the City of Dubuque to amend the Unified Development Code to allow the keeping of Hens for Egg Production as an accessory use in residential districts 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 7-0.

Motion by Jones for final consideration and passage of Ordinance No. 47-14 Amending Title 16 of the City of Dubuque Code of Ordinances, Unified Development Code, by Amending Article 16-8-5.10 Conditional Uses by Eliminating the Keeping of Hens and Amending Articles 16-5-2.3 (R-1), 16-5-3.3 (R-2), 16-5-4.3 (R-2a), 16-5-5.3 (R-3), and 16-5-6.3 (R-4) to Allow the Keeping of Hens for Egg Production as an Accessory Use in Residential Districts. Seconded by Connors. Motion carried 7-0.

3. Code of Ordinances Amendment - Title 16 Unified Development Code Definitions: Proof of publication on notice of public hearing to consider a request by the City of Dubuque to amend Section 16-2-3 of the Unified Development Code to remove the definition of disability and to redefine the definition of family to include a reference to City Code Chapter 8-1.1 defining disability 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. Planning Services Manager Laura Carstens provided a staff report. Motion carried 7-0.

Motion by Connors for final consideration and passage of Ordinance No. 48-14 Amending Title 16 of the City of Dubuque Code of Ordinances, Unified Development Code, by Amending Article 16-2 -3 by Eliminating the Definition of Disability and to Modify the Definition of Family to Include a Reference to City Code Chapter 8-01.1 Defining Disability. Seconded by Jones. Motion carried 7-0.

4. Southwest Arterial Right-of-Way Property Acquisition: Proof of publication on notice of public hearing to consider the City's intent to acquire, or condemn if necessary, property for the Southwest Arterial Project, and the City Manager recommending approval. Correspondence from Hugh McFadden. Motion by Braig to receive and file the documents and adopt Resolution No. 221-14 Establishing the fair market value of real property for the Southwest Arterial Project, directing good faith negotiations for the acquisition of property and authorizing the commencement of eminent domain proceedings, if necessary, to acquire property. Seconded by Connors. Hugh McFadden, 10618 Cedar Point Ct., spoke in opposition to the project stating that he believed the City was first obligated to complete the utilities extension at the end of Pennsylvania Avenue. Motion carried 7-0.

5. Dubuque Regional Airport Property Easement Acquisition for Extension of Public Utilities: Proof of publication on notice of public hearing to consider the City's intent to acquire, or condemn if necessary, property for the extension of public utilities to the Airport and the City Manager recommending approval. Correspondence from Hugh McFadden. Motion by Jones to receive and file the documents and adopt Resolution No. 222-14 Establishing the fair market value of real property for the extension of public utilities to the Dubuque Regional Airport, directing good faith negotiations for the acquisition of property and authorizing the commencement of eminent domain proceedings, if necessary, to acquire property. Seconded by Braig. Hugh McFadden,

10618 Cedar Point Ct., spoke in opposition to the project stating that he believed the City was first obligated to complete the utilities extension at the end of Pennsylvania Avenue. City Manager Van Milligen stated that Mr. McFadden was addressing a private property sewer extension and that this is a public improvement project. Motion carried 7-0.

6. Iowa Department of Natural Resources - Mines of Spain Lease Agreement: Proof of publication on notice of public hearing to consider an amended agreement between the City of Dubuque and the Iowa Department of Natural Resources to add the E.B. Lyons Interpretive Area Addition (Bottoms Farm) to the City's lease with the Iowa Department of Natural Resources and the City Manager recommending approval. Motion by Lynch to receive and file the documents and adopt Resolution No. 223-14 Authorizing Second Amendment of Lease Agreement with Iowa Department of Natural Resources for the E.B. Lyons Interpretive Area Addition. Seconded by Connors. Charles Winterwood, 1555 Montrose Terrace, spoke in favor of the recommendation. Motion carried 7-0.

7. Chaplain Schmitt Island Master Plan: Proof of publication on notice of public hearing to consider approval of the Chaplain Schmitt Island Master Plan and the City Manager recommending approval. Motion by Connors to receive and file the documents and adopt Resolution No. 224-14 Adopting the Chaplain Schmitt Island Master Plan. Seconded by Jones. Andrew Dresdner of Cunningham Group provided a slide presentation of the project overview. Ken Guinter, President of the Mississippi Walleye Club, asked the City Council to consider parking issues at the Hawthorne Boat Ramp that he stated are increasing on summer weekends. Charles Winterwood, 1555 Montrose Terrace, questioned developing land that is not flood protected and asked if the project had received approval from the Long Range Planning Advisory Commission. Motion carried 7-0.

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

ACTION ITEMS

1. Sustainable Dubuque Community Grant Program Recommendations: City Manager recommending approval for funding of nineteen Sustainable Dubuque Community grant applications. Motion by Lynch to receive and file the documents and approve the recommendation. Seconded by Jones. Motion carried 7-0.

2. Smarter Travel Project Local Match: City Manager recommending approval of local funds to match the Iowa Department of Transportation's ICAAP funds to implement the IBM Smarter Travel project. Motion by Jones to receive and file the documents and approve the recommendation. Seconded by Connors. Motion carried 7-0.

3. Jule Transit Facility Roof & Sprinkler Repair Project Award: This item was removed from the agenda at the request of the City Manager.

4. Code of Ordinances Amendment - Title 10 Motorized Personal Watercraft: City Manager recommending amending City Ordinance Section 10-7-13 to add motorized personal watercraft operation to the list of prohibited activities, as well as add additional areas where activities are prohibited. 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. Motion carried 7-0.

Motion by Connors for final consideration and passage of Ordinance No. 49-14 Amending City of Dubuque Code of Ordinances Title 10 Public Ways and Property, Chapter 7 Boats, Boating and Waterfront Structures, Section 10-7-13 Activities by Adding Motorized Personal Watercraft Operation to the List of Prohibited Activities and Adding Additional Areas Where Activities are Prohibited. Seconded by Lynch. Motion carried 7-0.

5. Code of Ordinances Amendment - Title 5 Transit Advisory Board: City Manager recommending approval of an ordinance which repeals Chapter 1 Transit Advisory Board provisions and adopting a new Chapter 1 which establishes the Transit Advisory Board and provides for the powers, operation, membership, meetings and procedure for fare increase or reduction in service. 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 Connors. Motion carried 7-0.

Motion by Jones for final consideration and passage of Ordinance No. 50-14 Amending City of Dubuque Code of Ordinances Title 5 Transit System by Repealing Chapter 1 Transit Advisory Board; General Provisions and Adopting a New Chapter 1 Transit Advisory Board in Lieu Thereof Establishing the Transit Advisory Board and Providing for the Powers, Operation, Membership, Meetings, and Procedure for Fare Increase or Reduction in Service. Seconded by Braig. Motion carried 7-0.

COUNCIL MEMBER REPORTS

Mayor Buol and Council Member Connors paid tribute to former Council Member Ann Michalski, who passed away on July 17, 2014.

Council Member Jones reported on Senator Tom Harkin's Legacy Tour, which stopped in Dubuque.

CLOSED SESSION

Motions by Jones to convene in closed session at 8:24 p.m. to discuss pending litigation and property acquisition pursuant to Chapter 21.5(1)(c), -(j) Code of Iowa. Seconded by Connors. Motion carried 7-0.

Upon motion the City Council reconvened in open session at 9:26 p.m. stating that staff had been given property direction.

There being no further business, the City Council adjourned at 9:27 p.m.

/s/Kevin S. Firnstahl, CMC
City Clerk

1t 7/30