

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

The Dubuque City Council met in regular session at 6:00 p.m. on November 20, 2017 in the Historic Federal Building, 350 W. 6th Street.

Present: Mayor Buol; Council Members Connors, Del Toro, Lynch, Resnick, Rios; City Manager Van Milligen, City Attorney Brumwell

Absent: Council Member Jones

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.

PROCLAMATION(S)

1. Small Business Saturday (November 25, 2017) was accepted by Paige Murphy, Membership Concierge Manager for the Dubuque Area Chamber of Commerce.

CONSENT ITEMS

Motion by Lynch to receive and file the documents, adopt the resolutions, and dispose of as indicated. Seconded by Connors. Kate West requested #21 be held for separate discussion. Motion carried 6-0.

1. Minutes and Reports Submitted: Cable TV Commission of 11/1; City Council Proceedings of 11/6, 11/13; Human Rights Commission of 10/9; Investment Oversight Advisory Commission of 10/25; Library Board of Trustees of 9/27, and Council Update #164 of 10/19; Resilient Community Advisory Commission of 7/6, 7/25, 8/3, 9/7, 10/5; Zoning Advisory Commission of 11/1/17. Upon motion the documents were received and filed.

2. Notice of Claims and Suits: Angela Mangeno for vehicle damage and Frank Vans Evers 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: Angela Mangeno for vehicle damage and Frank Vans Evers for vehicle damage. Upon motion the documents were received, filed, and concurred.

4. Quarterly Investment Report for September 30, 2017: City Manager transmitting the September 30, 2017 Quarterly Investment Report. Upon motion the documents were received and filed.

5. Fiscal Year 2017 State of Iowa Annual Financial Report: City Manager recommending approval of the official document for the City of Dubuque's Fiscal Year 2017 Annual Financial Report. Upon motion the documents were received, filed and approved.

6. Fiscal Year 2017 Iowa Urban Renewal Annual Report: City Manager recommending adoption of a resolution approving the Fiscal Year 2017 Iowa Urban Renewal Annual Report for the City of Dubuque. Upon motion the documents were received and filed and Resolution No. 364-17 Approving the Fiscal Year 2017 Urban Renewal Report for the City of Dubuque was adopted.

7. Dubuque's Path Forward to Improved Air Quality 2017: City Manager recommending approval of the updated Path Forward to Improved Air Quality 2017 to be submitted to the Environmental Protection Agency PM Advance Program. Upon motion the documents were received, filed and approved.

8. Four Mounds Public Information Brochure: City Manager transmitting the Four Mounds 30th Anniversary public information brochure. Upon motion the document was received and filed.

9. Sustainable Dubuque Community Grant Approval: City Manager recommending approval of the Resilient Community Advisory Commission recommendations for funding eight projects from the Sustainable Dubuque Community Grant Program. Upon motion the documents were received, filed and approved.

10. Public, Educational, and Government (PEG) Capital Grant Expenditure Request: City Manager recommending approval of the Cable TV Commission's request for funding from the Public, Educational, and Government (PEG) Capital Grant for Access Equipment and Facilities for the Dubuque Community School District and Loras College to purchase equipment. Upon motion the documents were received, filed and approved.

11. REAP Grant Agreement for Eagle Point Park Environmental Restoration: City Manager recommending approval of a resolution and the FY 2018 REAP Grant Agreement for Phase 2 of the Eagle Point Park Environmental Restoration Project. Upon motion the documents were received and filed and Resolution No. 365-17 Authorizing REAP Grant Agreement with Iowa Department of Natural Resources for Phase 2 of Eagle Point Park Environmental Restoration Management Plan was adopted.

12. Dubuque Metropolitan Area Transit Study (DMATS) Transportation Alternatives Program (TAP) Grant Application for Bee Branch Creek Trail: City Manager recommending approval of a resolution authorizing submittal of the DMATS TAP Grant application for the Bee Branch Creek Trail – Phase 1 Project. Upon motion the documents were received and filed and Resolution No. 366-17 Authorizing DMATS TAP Grant application for Bee Branch Creek Trail Phase I was adopted.

13. Notice of Intent to Request Release of Funds for Fiscal Year 2018 CDBG Funded Programs: City Manager requesting the Mayor's signature as Certifying Officer on the Environmental Review Determination and Request for Release of Funds and Certification form for the Fiscal Year 2018 Community Development Block Grant (CDBG) funded programs. Upon motion the documents were received, filed and approved.

14. U.S. EPA Brownfields Cleanup Cooperative Grant Agreement for 411 E. 15th Street Site: City Manager recommending adoption of a resolution approving the terms of the Cooperative Agreement with the U.S. Environmental Protection Agency for the City to receive Brownfields Cleanup Grant funding for the cleanup of the Blum Brownfields site as part of the Bee Branch Watershed Flood Mitigation Project. Upon motion the documents were received and filed and Resolution No. 367-17 Approving the Brownfields Cleanup Cooperative Grant Agreement between the U.S. Environmental Protection Agency and the City of Dubuque, Iowa for the cleanup of the former Blum Scrap Yard and Recycling Facility at 411 E. 15th Street for the Bee Branch Watershed Flood Mitigation Project was adopted.

15. Plat of Survey - Cedar Ridge Farm Place No. 15: Zoning Advisory Commission recommending approval of the Plat of Survey for Lot L and Lot M Cedar Ridge Farm Place No. 15 as requested by Craig Geiser, IIW P.C. / Julian Nemmers. Upon motion the documents were received and filed and Resolution No. 368-17 Approving the Plat of Survey Lot L and Lot M Cedar Ridge Farm Place No. 15 in City of Dubuque, Iowa was adopted.

16. Grant of Easement Sanitary Sewer Utility for Marlene L. Brimeyer Property: City Manager recommending acceptance of the Grant of Easement for Sanitary Sewer Utility from Marlene L. Brimeyer through the adoption of a resolution as part of the Derby Grange Sanitary Sewer Extension project. Upon motion the documents were received and filed and Resolution No. 369-17 Accepting a Grant of Easement for Sanitary Sewer Utility through, over and across part of Lot 1 of the Southwest Quarter of the Southwest Quarter of Section 9, Township 89 North, Range 2 East of the 5th P.M., in the County of Dubuque, Iowa was adopted.

17. Renewal Rate for the Voluntary Dental Plan: City Manager recommending approval of the renewal rates for the Volunteer Dental Plan with Delta Dental beginning January 1, 2018 through December 31, 2018 and authorization for the City Manager to sign the Financial Exhibit. Upon motion the documents were received, filed and approved.

18. Total Administrative Services Corporation (TASC) Administrative Services Fee for the Flexible Spending Plan: City Manager recommending approval of the renewal rates from Total Administrative Services Corporation (TASC) for the City of Dubuque's flexible spending plan administrator for the period January 1, 2018 through December 31, 2018. Upon motion the documents were received, filed and approved.

19. Alternative Services Concepts (ASC) Worker's Compensation Claims Administrative Services Agreement: City Manager recommending approval of an

Agreement with Alternative Services Concepts for services related to the administration of the City's Worker's Compensation Program effective October 1, 2017. Upon motion the documents were received, filed and approved.

20. Workers' Compensation Settlement Agreements - Luke Duve: City Attorney recommending approval of two Compromise Settlement Agreements regarding Workers' Compensation claims filed against the City of Dubuque by Public Works Employee Luke Duve. Upon motion the documents were received, filed and approved.

21. Jessica West Claim Denial Appeal: Senior Counsel recommending denial of an appeal of a claim against the City filed by Jessica West for vehicle damage as determined by Public Entity Risk Services' (PERS), the claim agency for the Iowa Community Assurance Pool (ICAP). Motion by Lynch to receive and file the document and concur. Seconded by Resnick. Kate and Jessica West, spoke in support of approval of their appeal for vehicle damage resulting from a tree in Eagle Point Park falling on Jessica West's car. City Attorney Crenna Brumwell responded to questions from the City Council regarding Iowa case law as it relates to liability on the part of the City, citing absence of constructive notice of a defective tree. Motion carried 4-2 with Rios and Del Toro voting nay.

22. Skate Park Engineering, Design and Construction Management Services Consultant Selection: City Manager recommending approval for the selection of Pillar Design Studios and to negotiate a contract for the Skate Park Engineering, Design and Construction Management Services. Upon motion the documents were received, filed and approved.

23. KIDS in Dubuque Skate Sponsorship Opportunities: City Manager transmitting the sponsorship opportunities brochure and commitment form being distributed by KIDS in Dubuque Skate. Upon motion the documents were received and filed.

24. Hwy 20 Corridor Landscape Assessment and Plan Consultant Selection: City Manager recommending approval to negotiate a contract with RDG Planning and Design for the Hwy 20 Corridor Landscape Assessment and Plan. Upon motion the documents were received, filed and approved.

25. Design Mill, Inc. Contract Amendment with the Iowa Economic Development Authority (IEDA): City Manager recommending approval of a resolution authorizing a second amendment to a contract with the Iowa Economic Development Authority for Iowa Values Funds Financial Assistance benefits on behalf of Design Mill, Inc. Upon motion the documents were received and filed and Resolution No. 370-17 Approving a Second Amendment to the Economic Development Final Assistance Contract by and among Design Mill, Inc., the City of Dubuque, and the Iowa Economic Development Authority was adopted.

26. Acceptance of SRF Green Alley Project Bid Set 4 - Year 3: City Manager recommending approval of resolutions accepting the improvements, approving the Final

Schedule of Assessments, establishing the final contract amount for the payment of the contract amount to Portzen Construction for the SRF Green Alley – Bid Set 4 year 3 Project. Upon motion the documents were received and filed and Resolution No. 371-17 Accepting the SRF Green Alley Project Bid Set 4 - Year 3 and authorizing the payment of the contract amount to the contractor; and Resolution No. 371-17A Adopting the Final Assessment Schedule for the SRF Green Alley Project Bid Set 4 - Year 3 were adopted.

27. Iowa Mississippi River Parkway Commission Annual Report 2016-2017: Iowa Mississippi River Parkway Commission transmitting its 2016-2017 Annual Report. Upon motion the documents were received and filed.

28. Improvement Contracts / Performance, Payment and Maintenance Bonds: Temperley Excavating, Inc. for J.F. Kennedy Ditch Improvement Project; Utility Service Contractors, Inc. for Kerper Blvd. Fiber Project - Elm Street to 16th Street. Upon motion the documents were received, filed and approved.

29. Alcohol License Applications: City Manager recommending approval of annual beer, liquor and wine licenses as submitted. Upon motion the documents were received and filed and Resolution No. 372-17 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 was adopted.

ITEMS 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 6-0.

1. Metx, LLC Development Agreement and Intent to Dispose of 1690 Elm Street: City Manager recommending adoption of a resolution to set a public hearing for December 4, 2017, in order to approve tax increment financing obligations and the disposition of City-owned real estate at 1690 Elm Street. Upon motion the documents were received and filed and Resolution No. 373-17 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 disposition of City owned real estate relating to a previously approved Development Agreement with Metx, LLC, and providing for the publication of notice thereof was adopted setting a public hearing for a meeting to commence at 6:00 p.m. on December 4, 2017 in the Historic Federal Building.

2. Steeple Square Development Agreement - 101 E. 15th Street: City Manager recommending adoption of a resolution to set a public hearing for December 4, 2017 in order to approve tax increment financing obligations at 101 E. 15th Street. Upon motion the documents were received and filed and Resolution No. 374-17 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 relating to a previously approved

Development Agreement with SS Event Center, LLC, and providing for the publication of notice thereof was adopted setting a public hearing for a meeting to commence at 6:00 p.m. on December 4, 2017 in the Historic Federal Building.

PUBLIC HEARINGS

1. Request to Rezone 3900 Block of Inwood Avenue: Proof of Publication for notice of public hearing to consider a request from Brandon Merrick to rezone the 3900 block of Inwood Avenue from R-1 Single-Family Residential to R-2 Two-Family Residential Zoning District and the Zoning Advisory Commission recommending approval. The City Clerk acknowledged receipt of the Citizen Petition in opposition to the request and additional documentation from the City Manager and Planning Services Department in response to the petition.

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. Motion failed for lack of a second.

Motion by Lynch to consider the first reading of a proposed ordinance amending Title 16 of the City of Dubuque Code of Ordinances, Unified Development Code, by reclassifying hereinafter described property located at the end of Inwood Avenue from R-1 Single-Family Residential District to R-2 Two-Family Residential District. Seconded by Resnick. Addressing the City Council, Developer Brandon Merrick, 8110 Southern Hills Circle, requested that the item be tabled to next month when the entire Council is present. The developer will inform staff on the date. No vote taken.

Motion by Lynch to table the item. Seconded by Resnick. Motion carried 6-0.

2. Derby Grange Sanitary Sewer Extension Project: Proof of publication on notice of public hearing to consider approval of plans, specifications, form of contract and estimated cost for the Derby Grange Sanitary Sewer Extension Project and the City Manager recommending approval. Motion by Lynch to receive and file the documents and adopt Resolution No. 375-17 Approval of plans, specifications, form of contract, and estimated cost for the Derby Grange Sanitary Sewer Extension Project. Seconded by Connors. Motion carried 6-0.

PUBLIC INPUT

Nino Erba, 672½ Central Avenue, addressed the City Council regarding his belief that it is in the best interests of the City to help Mercy Hospital secure funding for its planned Comprehensive Cancer Care Center.

ACTION ITEMS

1. Code of Ordinances Amendment Title 6-5-3 Exempt Noises: City Manager recommending an amendment to the noise ordinance related to the noise coming from school stadiums including, but not limited to, marching bands and athletic events, and would exempt events on campuses within a sports stadium during hours already

contained in the code restricting amplified music or noise consistent with the noise variance provisions of the Code. 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 Resnick. Motion failed 4-2 with Resnick and Del Toro voting nay.

Motion by Lynch to consider the first reading of a proposed ordinance Amending City of Dubuque Code of Ordinances Title 6 Health, Housing, Sanitation and Environment, Chapter 5 Noises, Section 6-5-3 Exempt Noises. Seconded by Connors. Motion carried 4-2 with Resnick and Del Toro voting nay.

During discussion, Police Chief Mark Dalsing addressed the City Council about the position faced by Police Officers with enforcing the current City Code regarding the noise and the need to resolve the issue. Council discussion included issues regarding music at sporting events versus amplified music for practices, the sources of music, citizens taking the issue directly to the institutions, and rights of adjacent property owners as well as students. The City Council inquired about text modifications to the amendment that might include time limitations to be included on the agenda with the second reading of the amendment.

Following Action Item No. 2, City Attorney Brumwell suggested that if modification of the amendment is requested by the City Council, a Motion to Reconsider would be in order to allow staff to draft additional language. Motion by Connors to Reconsider and refer to staff for modification. Seconded by Resnick. Motion carried 5-1 with Lynch voting nay.

2. 2018 State Legislative Priorities: City Manager submitting the 2018 State Legislative Priorities to be presented to legislators at the annual Legislative Dinner tentatively scheduled for December 6, 2017, at 5:30 p.m. at the Grand River Center. Motion by Connors to receive and file the documents and approve. Seconded by Del Toro. The City Manager stated that the final date of the legislative dinner will be determined following confirmation of schedules for attendees. Motion carried 6-0.

3. Rescheduling of January 2, 2018 City Council Meeting: Mayor Buol requesting that the Tuesday, January 2, 2018 City Council meeting be rescheduled to Wednesday, January 3, 2018 due to City Offices being closed for the New Year's Holiday. Motion by Connors to receive and file the document and concur. Seconded by Resnick. Motion carried 6-0.

COUNCIL MEMBER REPORTS

Mayor Buol recognized Boy Scouts from Troup #69 who were in attendance.

There being no further business, upon motion the City Council adjourned at 7:06 p.m.

/s/Kevin S. Firnstahl, CMC
City Clerk

1t 11/29