

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

The Dubuque City Council met in regular session at 6:00 p.m. on October 15, 2018 in the Historic Federal Building, 350 W. 6th Street.

Present: Mayor Buol; Council Members Del Tor, Jones, Larson, Resnick, Rios, Shaw; City Manager Van Milligen, City Attorney Brumwell

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)

1. Gentleman Day (October 17, 2018) was accepted by Alexis Chadwick and representatives of Waypoint Domestic Violence Victim Services Program.

CONSENT ITEMS

Motion by Resnick to receive and file the documents, adopt the resolutions, and dispose of as indicated. Seconded by Jones. Council Member Shaw requested Item #16 be held for separate discussion. Motion carried 7-0.

1. Minutes and Reports Submitted: City Council Proceedings of 10/1; Historic Preservation Commission of 9/20; Library Board of Trustees Minutes of 7/26, 8/23 and Council Update #175 of 7/26; Park and Recreation Advisory Commission of 9/26; Zoning Advisory Commission of 10/3; Zoning Board of Adjustment of 9/27; Proof of publication for City Council Proceedings of 9/17; Proof of Publication for List of Claims and Summary of Revenues for Month Ending 8/31/18. Upon motion the documents were received and filed.

2. Notice of Claims and Suits: Jeffrey Kostein for property damage, Lindsay Lannen for vehicle damage, and Andrew Topping for vehicle damage. Upon motion the documents were received, filed, and referred to the City Attorney.

3. Notice of Claims and Suits: 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: Jeffrey Kostein for property damage and Andrew Topping for vehicle damage. Upon motion the documents were received, filed, and concurred.

4. Letter of Support for Regional Transit Authority (RTA) Grant Application: City Manager providing a copy of a letter supporting the ICAAP grant application in support of

a van pool program submitted by Delaware, Dubuque and Jackson Counties to the Iowa Department of Transportation (IDOT). Upon motion the documents were received and filed.

5. Approval of City Expenditures: City Manager recommending City Council approval for payment of City expenditures. Upon motion the documents were received, filed and approved.

6. Federal Emergency Management Agency (FEMA) Flood Map Meeting Information: City Manager transmitting information that the Federal Emergency Management Agency (FEMA) and the Iowa Department of Natural Resources (IDNR) will be hosting two meetings on October 17 to share and discuss the preliminary floodplain maps with city and county officials and the public. Upon motion the documents were received and filed.

7. 2018 Justice Assistance (JAG) Grant: City Manager recommending approval to accept the 2018 Justice Assistance Grant (JAG). Upon motion the documents were received, filed and approved.

8. Iowa Clean Air Attainment (ICAAP) Grant Submission: City Manager recommending approval of the submission of an Iowa Clean Air Attainment Grant by DJMP Engine Solutions on behalf of Newt Marine Services. Upon motion the documents were received and filed, and Resolution No. 297-18 Authorizing the filing of an Iowa Clean Air Attainment Program application with the Iowa Department of Transportation (IDOT) with sponsorship provided by the City of Dubuque to assist with funding of EPA Certified Towboat Engines that will reduce carbon emission and improve regional air quality was adopted.

9. Pre-Annexation Agreement - William H. Richard, Jr. Living Trust: City Manager recommending approval of a Pre-Annexation Agreement with William H. Richard Jr. as Trustee of the William H. Richard, Jr. Living Trust for Richard 2nd Addition in Dubuque County. Upon motion the documents were received and filed, and Resolution No. 298-18 Approving a Pre-Annexation Agreement between the City of Dubuque, Iowa and William H. Richard, Jr. as Trustee of the William H. Richard, Jr. Living Trust was adopted.

10. Pre-Annexation Agreement - E. William and Margaret Walser: City Manager recommending approval of a Pre-Annexation Agreement with E. William Walser and Margaret Walser for property in Walser Addition in Dubuque County. Upon motion the documents were received and filed, and Resolution No. 299-18 Approving a Pre-Annexation Agreement between the City of Dubuque, Iowa and E. William and Margaret Walser was adopted.

11. Pre-Annexation Agreements - Roeder Realty LLLP: City Manager recommending approval of three Pre-Annexation Agreements with Roeder Realty, LLLP, property owners, for property located at 2550, 2554 and 2580 Rockdale Road, in conjunction with their request to connect to City water. Upon motion the documents were received and filed, and Resolution No. 300-18 Approving a Pre-Annexation Agreement between the City of Dubuque, Iowa and Roeder Realty, LLLP was adopted.

12. Thomas Place Retaining Wall Repair Project Acceptance: City Manager recommending acceptance of the construction contract for the Thomas Place Retaining Wall Repair Project, as completed by Drew Cook & Sons Excavating, Co, Inc. Upon motion the documents were received and filed, and Resolution No. 301-18 Accepting the Thomas Place Retaining Wall Repair Project and authorizing the payment to the contractor was adopted.

13. Cedar Lake East 13th Addition - Acceptance of Water Main Improvements: City Manager recommending acceptance of the public improvements that the developers, Hansel Properties, LLC, have recently completed in Cedar Lake East 13th Addition. Upon motion the documents were received and filed, and Resolution No. 302-18 Accepting public improvements on Windmill Lane in Cedar Lake East 13th Addition in the City of Dubuque, Iowa was adopted.

14. Acceptance of Grant of Easement for Water Main and Fiber Optics - Jon D. Luckstead Property: City Manager recommending acceptance of a Grant of Easement for Water Main and Fiber Optics Utility across Jon D. Luckstead property, being part of Lots D, 3, and 4 of Tamarack S.E. Fourth Subdivision, in Dubuque County, as part of the Tamarack Park Water Main Extension Project 2018. Upon motion the documents were received and filed, and Resolution No. 303-18 Accepting a Grant of Easement for water main and fiber optics utility through, over and across part of Lots D, 3, and 4 of Tamarack S.E. Fourth Subdivision, in the City of Dubuque, Iowa was adopted.

15. Eagle Point Park Indian Room Roof Replacement Project Acceptance: City Manager recommending acceptance of the Eagle Point Park Indian Room Roof Replacement Project, as completed by Gronen Restoration, Inc. Upon motion the documents were received and filed, and Resolution No.304-18 Accepting the Eagle Point Park Indian Room Roof Replacement Project and authorizing the payment of the contract amount to the contractor was adopted,

16. John Deere Dubuque Works 28E Agreement: City Manager recommending approval for the Mayor to execute a 28E Agreement between Dubuque County, the City of Dubuque and John Deere Dubuque Works for a Traffic Improvement Study along John Deere Road. Motion by Resnick to receive and file the documents and adopt Resolution No. 305-18 Approving a 28E Funding Agreement between Dubuque County, the City of Dubuque and John Deere Dubuque Works for a Traffic Improvement Study along John Deere Road. Seconded by Jones. Motion carried 6-0 with Shaw abstaining for conflict of interest because he is an employee of John Deere.

17. U.S. EPA Semi Annual Consent Decree: City Manager transmitting the September 30, 2018 Semi Annual Consent Decree Report that has been submitted to the United States Environmental Protection Agency as required by the Consent Decree. Upon motion the documents were received and filed.

18. Upper Bee Branch Railroad Culvert Crossing Project, Property Acquisition (Easement) from Robert F. Klauer (430 Garfield Ave.): City Manager is recommending approval of the acquisition of a temporary easement from Robert F. Klauer, owner of 430 Garfield Avenue, as required for the Upper Bee Branch Railroad Culverts Project. Upon motion the documents were received and filed, and Resolution No. 306-18 Approving a purchase agreement between the City of Dubuque and Robert F. Klauer was adopted.

19. Upper Bee Branch Railroad Culvert Crossing Project Property Acquisition from HWY 151 & 61 Development, LLC: City Manager recommending approval of the acquisition of a permanent easement and a temporary easement (the Easements) at the E. 16th Street property legally described as Lot 2 Riverview Plaza No. 3, owned by HWY 151 & 61 Development, LLC, for the construction and maintenance of the Upper Bee Branch Railroad Culverts Project. Upon motion the documents were received and filed, and Resolution No. 307-18 Approving the acquisition of easements through certain real property owned by HWY 151 & 61 Development, LLC in the City of Dubuque, Iowa was adopted.

20. Upper Bee Branch Creek Railroad Culverts Project Property Acquisition (easements) from B&M Properties and Storage, LLC: City Manager recommending approval to make the final offer for permanent and temporary easements through certain real property owned by B&M Properties & Storage, LAG, at 525 E. 19th Street, for the purpose of constructing, operating, and maintaining the Upper Bee Branch Creek Railroad Culverts, a stormwater management project. Upon motion the documents were received and filed, and Resolution No. 308-18 Authorizing the City Manager to make the final offer for the acquisition of easements through certain real property owned by B&M Properties & Storage, LLC in the City of Dubuque, Iowa was adopted.

21. Signed Contract(s): Blackstone Environmental, Inc., contracts (3) for West Blum Site environmental cleanup; Four Mounds Usage Agreement for use of 1101 Central for the 2018-2019 Winter Farmer's Market; Hillcrest Family Services Usage Agreement for use of Murphy Park for 2018 Reflections in the Park event. Upon motion the documents were received and filed.

22. Alcohol Compliance Civil Penalty for Alcohol License Holder – Beecher Liquor: City Manager recommending approval of the Acknowledgment/Settlement Agreement for an alcohol compliance violation for Beecher Liquor, 1695 Asbury Road. Upon motion the documents were received, filed and approved.

23. 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. 309-18 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 Resnick 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 Shaw. Motion carried 7-0.

1. Kerper Blvd. Sanitary Sewer Reconstruction Project Initiate: City Manager recommending preliminary approval of the construction plans and specifications and authorize the public bidding procedure for the Kerper Blvd. Sanitary Sewer Reconstruction Project. It is further recommended that a public hearing be set for November 5, 2018. Upon motion the documents were received and filed, and Resolution No. 310-18 Kerper Blvd. Sanitary Sewer Reconstruction was adopted setting a public hearing for a meeting to commence at 6:00 p.m. on November 5, 2018 in the Historic Federal Building.

2. Residential Parking Permit District H Amendment: City Manager recommending that a public hearing be set for November 5, 2018, to increase the existing Residential Parking Permit District H to include both sides of Phyllrich Drive between Keymont Drive and Keystone Drive. Upon motion the documents were received and filed, and Resolution No. 311-18 Setting a public hearing on amending Residential Parking Permit District H to include both sides of Phyllrich Drive between Keystone Drive and Keymont Drive was adopted setting a public hearing for a meeting to commence at 6:00 p.m. on November 5, 2018 in the Historic Federal Building.

3. State Revolving Fund (SRF) Sanitary Sewer Capital Loan Notes Series 2018C: City Manager recommending that a public hearing be set for November 5, 2018, on the proposition of selling not to exceed \$4,900,000 in Sewer Revenue Capital Loan Notes (State Revolving Loan Fund Program), the proceeds of which will be used to pay costs for Kerper Boulevard Sanitary Sewer Reconstruction and the Eagle Point Park Environmental Restoration Sponsorship project. Upon motion the documents were received and filed, and Resolution No. 312-18 Fixing Date for a meeting on the authorization of a Loan and Disbursement Agreement and the issuance of not to exceed \$4,900,000 Sewer Revenue Capital Loan Notes of the City of Dubuque, Iowa, and providing for publication of notice thereof was adopted setting a public hearing for a meeting to commence at 6:00 p.m. on November 5, 2018 in the Historic Federal Building.

BOARDS/COMMISSIONS

Appointments were made to the following commissions.

1. Airport Commission: One, 4-year term through July 1, 2022 (Vacant term of Chambers). Applicant: Michael Phillips, 1029 Dunham Dr. Motion by Jones to appoint Ms. Phillips to the 4-year term. Seconded by Resnick. Motion carried 7-0.

2. Housing Commission: One, 3-year term through August 17, 2021 (Vacant term of Hoeper). Applicants: Michelle Becwar, 2115 Coates St.; Antonino T. Erba, 1505 Fairview

Pl. Upon roll-call vote: (Becwar = 4, Jones, Resnick, Buol, Del Toro; Erba =3, Larson, Shaw Rios), Ms. Becwar was appointed to the 3-year term.

3. Human Rights Commission: One, 3-year term through January 1, 2020 (Vacant term of Perry). Applicants: Jason Keeler, 3259 Arrowwood Ln. (Additional Application); Erin Muenster, 2030 Embassy West Dr.; David Olson, 909 Spires Dr.; Samuel Wright, 508 West Locust St. Upon roll-call vote (Keeler = -0-; Muenster = 4, Resnick, Larson, Shaw Rios; Olson =3, Jones, Buol, Del Toro; Wright = -0-), Ms. Muenster was appointed to the 3-year term.

4. Resilient Community Advisory Commission: One, 3-year term through July 1, 2020 (Vacant term of Hoeper). Applicants: Lalith Jayawickrama, 2360 Cherry St.; Laura Loucks, 444 ½ 5th St., (application pulled by applicant). Motion by Larson to appoint Mr. Jayawickrama to the 3-year term. Seconded by Del Toro. Motion carried 7-0.

PUBLIC HEARINGS

1. John F. Kennedy Road Sidewalk Installation Project: Proof of publication on notice of public hearing to consider approval of the plans, specifications, form of contract and the estimated cost for the John F. Kennedy Road Sidewalk Installation Project, and the City Manager recommending approval. Motion by Jones to receive and file the documents and adopt the proposed resolutions. Motion failed 5-2 with Del Toro and Rios voting nay. [unanimous vote required due to percentage of opposition]. City Council listened to public input, engaged in a lengthy discussion and reviewed options before voting.

Residents who spoke in opposition to the project: Victoria Nauman, 2571 JFK Rd.; Jolene Rettenberger, 2291 Gordon Dr.; Tina Medley, 2690 Marywood Dr.; Kathy Spear, 2531 JFK. Rd. and father, 2639 JFK Rd.; Sheri Clancy, 2691 Marywood Dr.; Carol Meyer, 2644, JFK Rd.; Dave Unsen, 3078 JFK Rd.

Residents who spoke in favor of the project: Dr. Sara Jacobite-Kizzier, 2491 Millstone Dr.; Daughter of Steve Moline, 3285 Spring Valley Rd.; Bill Stoffel, 2905 Fox Hollow Dr.; Nathan Gilmore, 3240 Spring Valley Rd.; Charles Winterwood, 1555 Montrose Tr.; Ron Tallman, 3135 Castlewood Ln.; Drew Kluesner, 3070 Spring Valley Rd.

2. Miracle League of Dubuque Lease Agreement - Veterans' Memorial Park: Proof of publication on notice of public hearing to consider approval of a Lease Agreement between the City of Dubuque, Iowa, and the Miracle League of Dubuque for a portion of Veterans' Memorial Park, and the City Manager recommending approval. Merlin Santjer, 2955 Arbor Hills Dr., spoke in favor of this agreement. Motion by Jones to receive and file the documents and adopt Resolution No. 316-18 Approving the disposal of an interest in real property owned by the City of Dubuque by Lease between the City of Dubuque, Iowa and the Miracle League of Dubuque. Seconded by Larson. Motion carried 7-0.

3. Planned Unit Development (PUD) Amendment for South Pointe Subdivision: Proof of publication on notice of public hearing to consider approval of a request from Dubuque South Pointe, LLC to amend the South Pointe PUD to revise townhouse setback requirements in the South Pointe Subdivision, and the Zoning Advisory Commission

recommending approval subject to decks having a rear-yard setback of two feet. Planning Services Manager Laura Carstens provided a staff report. 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. Motion carried 7-0.

Motion by Jones for final consideration and passage of Ordinance No. 39-18 Amending Title 16 of the City of Dubuque Code of Ordinances Unified Development Code by rescinding Ordinance 14-18 which provides regulations for the South Pointe PUD Planned Unit Development District with a Planned Residential Designation and now being amended to modify setback requirements for Townhouse Dwellings. Seconded by Resnick. Motion carried 7-0.

4. Request to Rezone - 701 Bluff Street: Proof of publication on notice of public hearing to consider approval of a request from K&L Leasing, LLC to rezone property at 701 Bluff Street from OR Office Residential to C-4 Downtown Commercial Zoning District, and the Zoning Advisory Commission recommending approval. Applicant Ken Lin was present to answer questions. Planning Services Manager Laura Carstens provided a staff report. Motion by Shaw 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 7-0.

Motion by Shaw for final consideration and passage of Ordinance No. 40-18 Amending Title 16 of the City of Dubuque Code of Ordinances Unified Development Code by rescinding Ordinance 14-18 which provides regulations for the South Pointe PUD Planned Unit Development District with a planned Residential Designation and now being amended to modify setback requirements for Townhouse Dwellings. Seconded by Jones. Motion carried 7-0.

PUBLIC INPUT

Residents who spoke in opposition to the 5G small cell tower installations: Bryan Blair 3895 Creston St.; Karin Harbin, 1805 Rosemont St.; Jim Earles, 2811 Buena Vista St.; Cynthia Cachota, Lindberg Tr.

Daniel Scott, 611 University Avenue, expressed his concerns with drug abuse in Dubuque and provided a resume.

ACTION ITEMS

1. Water Main Extension to Tamarack Park Project Award: City Manager recommending award of the Tamarack Park Water Main Extension Project 2018 contract to the low bidder Top Grade Excavating, Inc. Motion by Resnick to receive and file the documents and adopt Resolution No. 317-18 Awarding Water Main Extension to Tamarack Park Project. Seconded by Del Toro. Motion carried 7-0.

2. Request to Reconsider - Southwestco Wireless, LLC Lease Supplements (October 1, 2018): Correspondence from Council Member Jake Rios requesting reconsideration of

the October 1, 2018 Public Hearing Item: Intent to Dispose of an Interest in Real Property Owned by the City of Dubuque by Lease Supplements Between the City of Dubuque, Iowa and Southwestco Wireless, Inc. D/B/A Verizon Wireless. Motion by Rios to Receive and file and reconsider the vote previously taken regarding Lease Supplement DBQ Asbury SC7—Lease Supplement known as the Creston Street tower location. Seconded by Larson. City Attorney Crenna Brumwell supplied the City Council with documentation citing the potential legal ramifications for breaking a fully executed lease agreement. Public Health Specialist Mary Rose Corrigan responded to questions regarding health risks to low-frequency towers at this time. Motion carried 4-3 with Jones, Resnick and Buol voting nay.

Motion by Larson to receive and file the document and direct staff to request a change in the location of the Creston Street tower with the understanding that if Southwestco Wireless denies the request, the license agreement stands as is. Seconded by Del Toro, Motion carried 4-3 with Jones, Resnick and Buol voting nay.

3. Replace Part-Time with Full-Time Bus Operator Positions: City Manager recommending that three part-time positions be eliminated December 1, 2018 and replaced with three full-time positions effective that same date. Personnel Manager Randy Peck provided a staff report. Motion by Jones to receive and file the documents and approve the recommendation. Seconded by Del Toro. Motion carried 7-0.

4. Code of Ordinances Amendment - Title 10 Use of Personal Cooking Devices in Parks, Parkways, Trails or Open Spaces: City Manager recommending approval of an amendment to Section 10-5B-17 of the Code of Ordinances to add language that allows the use of personal cooking devices in parks, parkways, trails or open spaces. This amendment will allow the use of portable charcoal and gas grills. 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 Del Toro. Motion carried 6-0 with Jones having momentarily left the chambers.

Motion by Resnick for final consideration and passage of Ordinance No. 41-18 Amending the City of Dubuque Code of Ordinances Title 10 Public Ways and Property, Chapter 5 Parks and Recreation, Article B Use Regulations, Section 10-5B-17 Fires. Seconded by Del Toro. Motion carried 6-0 with Jones having momentarily left the chambers.

5. Iowa Department of Transportation Iowa Clean Air Attainment Program (ICAAP) Federal Fiscal Year 2020 Grant Funding for Smart Traffic Routing with Efficient and Effective Traffic Signals (STREETS) Improvements: City Manager recommending approval to submit an application in partnership with Dubuque Metropolitan Area Transportation Study (DMATS) for an Iowa Department of Transportation Iowa Clean Air Attainment Program (ICAAP) application to assist with funding Smart Traffic Routing with Efficient and Effective Traffic Signals (STREETS) improvements. Chandra Ravada of East Central Intergovernmental Association gave a brief description of the Dubuque Metropolitan Area Transportation Study (DMATS). Motion by Del Toro to receive and file the documents and adopt Resolution No. 317-18 Authorizing the filing of an Iowa Clean

Air Attainment Program Application with the Iowa Department of Transportation (IADOT) in partnership with Dubuque Metropolitan Area Transportation Study (DMATS) to assist with the funding of Smart Traffic Routing with Efficient and Effective Traffic Signals (Streets) Improvements. Seconded by Jones. Motion carried 7-0.

6. Additional General Fund Reserve Contribution and Frozen Positions: City Manager recommending approval of an additional contribution to the general fund reserve in Fiscal Year 2019 and funding all frozen positions effective January 1, 2019, with exception of the Parks Division maintenance worker which will be funded March 1, 2019. Motion by Larson to receive and file the documents and approve the recommendation. Seconded by Jones. Motion carried 7-0.

7. Request for Work Session - Travel Dubuque Quarterly Work Session: Travel Dubuque President & CEO Keith Rahe requests the City Council schedule a work session for November 5, 2018 at 5:30 p.m. in the Council Chambers for the Travel Dubuque quarterly update. Motion by Jones to receive and file the documents and set the work session as recommended. Seconded by Resnick. Motion carried 7-0.

8. Request for Work Session - Sustainable Dubuque Quarterly Work Session: City Manager requesting that the City Council schedule the Sustainable Dubuque quarterly work session for Monday, November 26, 2018 at 6:00 p.m. in City Council Chambers. Motion by Jones to receive and file the documents and set the work session as recommended. Seconded by Rios. Motion carried 7-0.

There being no further business, upon motion the City Council adjourned at 10:26 p.m.

/s/Trish L. Gleason, CMC
Assistant City Clerk

1t 10/26