

RECORD OF PROCEEDINGS

- CALL TO ORDER** A regular meeting of the Council Bluffs City Council was called to order by Mayor Thomas P. Hanafan, on Monday, July 26, 2010 at 7:00 p.m.
- ATTENDANCE** Council Members present: Scott Belt, Lynne Branigan, Melissa Head, Matt Schultz and Matt Walsh. Staff present: Richard Wade, City Attorney and Marcia Worden, City Clerk.
- CONSENT AGENDA** Walsh and Branigan moved and seconded the approval of the consent agenda. Unanimous.
- PUBLIC HEARINGS**
Resolution 10-214 Held Public Hearing, approving the Plans, Specifications and Form of Contract for the River's Edge Park Project – Phase I. Branigan and Head moved and seconded approval. Unanimous.
- ORDINANCE ON THIRD READING**
Ordinance 6091 Branigan and Head moved and seconded approval, amending the zoning map as adopted by reference in Section 15.02.040, by changing the district designation of a strip (approximately one-half block wide) east of South 15th Street between 23rd and 28th Avenues (including any abutting vacated right-of-way), from R-2/Two Family Residential District to A-2/Parks, Estates and Agricultural District, as set forth and defined in Chapters 15.09, 15.15, 15.21 and 15.05. Unanimous. Ordinance 6091 passes into law.
- Ordinance 6092 Branigan and Walsh moved and seconded approval, amending Chapter 15.14 – “C-1 Commercial District” by amending Chapter 15.14.020 “Principal Uses” to remove “Funeral Service”, “Hotel/Motel”, “Private Parking Lot” and “Public Parking Lot”, and by amending Section 15.14.030 “Conditional Uses” to update the reference from Chapter 15.27 to Chapter 15.02. Unanimous. Ordinance 6092 passes into law.
- Ordinances 6093 Walsh and Branigan moved and seconded approval, amending Chapter 3.62 “Transient merchants”, by amending Sections 3.62.130 “Charitable or religious organizations” and 3.62.135 “School fundraising activities” to prohibit unwanted sales at residences where signs are posted as set forth in Section 3.62.100(h). Walsh indicated he spoke with a citizen concerned with the passage of this ordinance. Walsh mentioned this ordinance allows control of door-to-door sales at residences where a previous ordinance passed allowed sales. Voice Vote: 4 Ayes; 1 Nay (MS). Ordinance 6093 passes into law.
- RESOLUTIONS**
Resolution 10-225 Walsh and Head moved and seconded approval, authorizing the Mayor to execute an Order Accepting the Acknowledgement/Settlement Agreement from NF Foods, LLC, d/b/a No Frills Supermarket, 1801 Valley View Drive, for a violation of Iowa Code Section 453A.2(1). Unanimous.
- Resolution 10-226 Head and Walsh moved and seconded approval, appointing Bankers Trust Company of Des Moines, Iowa, to serve as paying agent, bond registrar, and transfer agent, approving the paying agent and bond registrar and transfer agent agreement and authorizing execution of the agreement. Unanimous.
- Resolution 10-227 Branigan and Head moved and seconded approval, authorizing and providing for the issuance of \$7,300,000 General Obligation Bonds, Series 2010C, and levying a tax to pay said bonds. Unanimous.
- Resolution 10-228 Schultz and Head moved and seconded approval, accepting the work of Dostals Construction Co., Inc., on improvements to the Big Lake Improvement Project and authorizing the Finance Director to issue the retainage amount of \$25,726.31 in 30 days. Unanimous.

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- Resolution 10-229 Branigan and Walsh moved and seconded approval, accepting the completion of Bahnsen Park Improvements Phase I, Fencing Project and authorizing the Finance Director to issue the retainage amount of \$4,064.06 in 30 days. Unanimous.
- Resolution 10-230 Walsh and Branigan moved and seconded approval, in support of I-JOBS II Grant Application. Voice Vote: 4 Ayes; 1 Nay (MS).
- Resolution 10-231 Branigan and Head moved and seconded approval, accepting the work of Eriksen Construction Co., Inc., in connection with the 29th Avenue Storm Sewer Water Pump Station Rehab. and authorizing the Finance Director to issue a City check in the amount of \$20,248.05. Belt asked if the City was consistent when paying the hold back amount. Wade indicated yes and added the retainage payments are held for 30 days to verify if any liens were filed against the contractor. Unanimous.
- Resolution 10-232 Walsh and Schultz moved and seconded approval, accepting the work of Leazenby Construction, Inc., in connection with the 31st Street Improvements – Phase III, Avenue A to Avenue D and authorizing the Finance Director to issue a City check in the amount of \$32,050.75. Unanimous.
- Resolution 10-233 Walsh and Branigan moved and seconded approval, authorizing the Mayor and City Clerk to execute an agreement with L.G. Roloff Construction Co., Inc., for the Playland Sanitary Sewer Rehab. Heard from Michael Rossbund, 6 Cottner Drive, Project Engineer for Leazenby Construction, referencing an email sent to Council on July 26, 2010. Motion by Walsh, second by Branigan, to receive and file a copy of the email sent by Mr. Rossbund. Unanimous. Heard from Gene Tietsort, 3217 6th Avenue, concerned with the project cost. Mayor Hanafan indicated the recommendation of staff and City Attorney was to award the contract to the second lowest bidder. Walsh noted there is potential litigation but Council has hopes of mediation and at this time Leazenby is not considered a responsible bidder. Schultz agreed with Walsh's statements and added a good relationship between the City and all contractors' is important but some things still need to be resolved. Belt mentioned he'd be in favor of the contract if the second lowest bidder matched the apparent low bid; Belt added he can't justify spending \$100,000 not knowing if Leazenby is a non-responsible bidder. Head mentioned it was the first time for this issue and feels guidelines should be set regarding nonresponsive bidders. Voice Vote: 3 Ayes; 2 Nays (SB/MH).
- Resolution 10-234 Head and Walsh moved and seconded, making a Find of Necessity and authorizing the emergency repair of a sanitary sewer at South 17th Street and 28th Avenue. Unanimous.
- RECEIVE & FILE ITEMS** Walsh and Branigan moved and seconded approval of Receive and File Items 7A – 7D: 7A. Cash Balance Statement – June 30, 2010; 7B. List of Bills – June 30, 2010; 7C. Notice of Claim (1); 7D. Notice of Right of Redemption (1). Unanimous.
- APPLICATIONS FOR PERMITS & CANCELLATIONS** Walsh and Branigan moved and seconded approval of Renewal Applications for Beer/Wine/Liquor & Outdoor Permits regarding Items 8A(1-9): 8A1. Godfather's Pizza, 3020 West Broadway; 8A2. La Mesa Mexican Restaurant, 3036 South Expressway; 8A3. Larosita, 2040 West Broadway; 8A4. Madison Avenue Ampride, 1836 Madison Avenue; 8A5. Quaker Steak and Lube, 3320 Mid America Drive; 8A6. Scott Street Pub, 25 Scott Street; 8A7. Tobacco Hut #6, 3134 Manawa Centre Drive; 8A8. Uncle Mike & Maggie's Irish Pub, 315 – 319 16th Avenue; 8A9. Wal-Mart #1965, 3200 Manawa Drive. Unanimous.

Walsh and Schultz moved and seconded, denial of the Liquor License Extension Application for Outdoor Dining regarding Kitchen Emporium & Wine Shop, 805 South Main Street. Walsh noted his concern was that any liquor establishment could apply for a permit if additional parking was accessible and is against the extension permit. Voice Vote: 2 Ayes: (LB/MW) 3 Nays: (SB/LMH/MS), motion failed. Schultz and Belt moved, amending the application conditions by striking the following sentence from paragraph three: plus an additional eight (8) days per month at the applicant's discretion. Belt and Head moved, amending the application conditions by added the following restrictions: if two violations of State law or the Council Bluffs Municipal Code occur in this additional outdoor area within a twelve month period that result in the conviction of the owner and/or his/her employees or agents, the use of the additional outdoor area as part of the liquor license premises will cease for a period of twelve months, starting on the date of second conviction. The same penalty will occur if four different incidents occur in the additional outdoor area within a twelve month period that result in at least one conviction of persons other than the owner or his/her employees or agents. Wade added if this year is successful and the owner's choose to continue with the extended outdoor dining area a new application would be required for next year. Voice Vote: 3 Ayes; 2 Nays (MH/MW). Vote on original motion as amended. Voice Vote: 3 Ayes; 2 Nays (MW/LB). Wade noted the outdoor dining permit passed with the following conditions: 1. The additional eight (8) days per month at the owner's discretion was deleted; 2. The extended outdoor dining area will not exceed five (5) times per month and must be utilized in conjunction with a certified farmers market; 3. Must comply with violation restrictions (as noted above) and 4. The extended outdoor dining permit expires October 30, 2010.

Heard from Joanne Carrithers, 426 Delong Avenue, concerned with the site and odor coming from the new pump station. Walsh took the position that having the sanitary sewer connected to Delong as a positive thing. Both Belt and Walsh indicated the matter would be reviewed by City staff.

Mayor Hanafan noted four units from the National Guard leave on Sunday morning at 10:00 a.m., the largest group from Iowa since WWII. Hanafan encouraged citizens to line the streets to show support for the troops.

ADJOURNMENT

Schultz and Head moved and seconded adjournment at 7:38 p.m.

The tape recording of this proceeding, though not transcribed, is part of the record of each respective action of the City Council. The tape recording of this proceeding is incorporated into these official minutes of this Council meeting as if they were transcribed herein.

Thomas P. Hanafan, Mayor

ATTEST:

Marcia L. Worden, City Clerk