

CITY OF MUSCATINE  
REGULAR CITY COUNCIL MINUTES  
Council Chambers – 7:00 p.m. – February 20, 2014

Mayor Pro Tem Phil Fitzgerald called the City Council meeting for Thursday, February 20, 2014 to order at 7:00 p.m. Councilmembers present were Rehwaladt, Fitzgerald, Natvig, Shihadeh, Bynum, Phillips, and Spread.

The meeting began with the Pledge of Allegiance.

Joni Axel, Community Program Manager for the Blue Zones Project, gave an update on activities to date. She stated the City of Muscatine has received its Blue Zones Worksite Designation and its Complete Streets Policy was named eighth in the nation. She stated there are three projects underway having to do with food that include community gardens, outdoor dining in the city this spring, and healthier food choices at the concession stands at Kent Stein, the Soccer Complex, and Aquatic Center. She stated there are currently ten designated Blue Zones Worksites, two designated restaurants, and two designated grocery stores in our community. She ended by stating Blue Zones currently has 3,232 people taking pledges and the goal is to have 3,564.

Councilmember Natvig stated it sounds like Blue Zones has a lot of momentum going, and Ms. Axel stated it does.

Ann Meeker, representing the Muscatine Downtown Investors, stated she was present to give a brief update on the proposed Hotel/Convention Center Project. She stated she wanted to make City Council aware of a new program passed by legislators last year. She stated she feels this program could help move this project forward.

Ms. Meeker stated there is a pre-application that must be signed by the city. She stated the submission date is March 1-15, 2014. She stated the final application will follow the pre-application. She stated there is a strong possibility the Iowa Economic Development Authority Board will award funds to those who submitted a complete pre-application.

Ms. Meeker then explained what the city's responsibility will be in this process. She stated that upon formal approval by the IEDA Board, a municipality may adopt an ordinance establishing a reinvestment district.

Ms. Meeker stated an eligible project is a vertical improvement constructed or substantially improved within a district. She stated the project is required to include tax revenues generated by retail establishments but they cannot exceed 50% of the total proposed capital investment. She stated that at least one of the new proposed projects within the district must reach a total capital investment of \$10 million to be eligible in this program. She stated the total amount of new tax revenues to be remitted to the city cannot exceed 35% of the total cost of all proposed projects in the district plan. She stated monies for the program come from a portion of sales tax and the hotel/motel tax generated by the project.

Ms. Meeker handed out the information for the pre-application. She stated she will be back at the March 6, 2014 City Council meeting to make a full presentation and to answer Council's questions. She stated a majority of the information in the pre-application will be provided by the Muscatine Downtown Investors.

#22773. Councilmember Shihadeh, seconded by Councilmember Bynum, moved the Consent Agenda be approved as follows:

- Approval of February 6, 2014 City Council minutes, February 13, 2014 In-Depth minutes, and Budget minutes for February 3, 5, 6, 8 & 11, 2014
- Renewal of a Special Class “C” Liquor License for Francesca Vitale’s, 128 East 2<sup>nd</sup> Street – The Sicilian Pizza and Subs, LLC (pending inspections) and renewal of a Class “B” Wine Permit, Class “C” Beer Permit, Class “E” Liquor License and Sunday Sales for Hy-Vee Food Store, 2400 – 2<sup>nd</sup> Avenue – Hy-Vee Inc. (pending inspections)
- Street closure approved between Pine and Chestnut streets on June 28, 2014 from 1 to 4 p.m. for the United Way “Pack the Bus” School Supplies Drive
- Use of city property approved for bicycling event for Pancreatic Cancer on June 28, 2014 from 6 a.m. to midnight which includes use of Pearl City Station and bike path going toward Highway 22
- Use of city property approved for 4<sup>th</sup> of July activities which includes 2<sup>nd</sup> Street (parade), riverfront, and Pearl City Station
- Request from Muscatine School District approved for temporary closure of E. 9<sup>th</sup> Street between Mulberry Avenue and Cedar Street beginning in mid-April 2014 through July 1, 2015
- Tax Abatement applications approved under the 2013 Tax Abatement Program
- Filing of Communications 12A-C
- Approval of Bills for Approval in the amount of \$7,443,767.54, which includes receipt summaries and journal entries for September through December 2013

Vote – All ayes; motion carried.

### **PUBLIC HEARING**

Mayor Pro Tem Fitzgerald stated a public hearing was being held concerning the proposed institution of proceedings to enter into a loan agreement and borrow money in an amount not to exceed \$2,600,000.

There were no oral or written petitions for or against this proposed action.

#22774. Councilmember Shihadeh moved the public hearing be closed. Seconded by Councilmember Natvig. All ayes; motion carried.

### **PUBLIC HEARING**

Mayor Pro Tem Fitzgerald stated a public hearing was being held concerning the proposed institution of proceedings to enter into a loan agreement and borrow money in an amount not to exceed \$40,000.

There were no oral or written petitions for or against this proposed action.

#22775. Councilmember Natvig moved the public hearing be closed. Seconded by Councilmember Spread. All ayes; motion carried.

### **PUBLIC HEARING**

Mayor Pro Tem Fitzgerald stated a public hearing was being held concerning the proposed amendment to the Consolidated Muscatine Urban Renewal Area.

There were no oral or written petitions for or against the proposed amendment.

#22776. Councilmember Spread moved the public hearing be closed. Seconded by Councilmember Phillips. All ayes; motion carried.

### **PUBLIC HEARING**

Mayor Pro Tem Fitzgerald stated a public hearing was being held concerning a proposed development agreement with the H.J. Heinz Company including annual appropriation tax increment payments.

There were no oral or written petitions for or against the proposed development agreement.

#22777. Councilmember Phillips moved the public hearing be closed. Seconded by Councilmember Bynum. All ayes; motion carried.

### **PUBLIC HEARING**

Mayor Pro Tem Fitzgerald stated this hearing concerns the proposed imposition of civil penalties for violation of the Tobacco Law.

City Administrator Gregg Mandsager stated if the city does not take the necessary steps to collect the civil penalty, it would be collected by the state.

City Prosecutor Jennifer Lerner stated the entity in violation of the Tobacco Law is Hy-Vee Gas which is owned by Hy-Vee Inc. She provided City Council with a copy of the license they currently have. She stated the city takes steps at least twice a year to enforce the Tobacco Law. She stated a high school student is used as a confidential informant. The student will visit businesses selling tobacco to see if they can purchase tobacco products. She stated the informant went to Hy-Vee Gas and was able to purchase cigarettes. She stated the employee selling the product is issued a citation and then the corporate entity is issued a civil penalty of \$300. She stated the entity has 30 days to pay the fine, and if it is not paid, their license is suspended for 14 days.

Ms. Lerner stated this process is automatic under state law. If stated that if the city doesn't do anything, the Attorney General's Office will.

Councilmember Rehwaldt stated it was his understanding this activity takes place twice a year.

Ms. Lerner stated it happens at least twice a year and is done at different times each year. She stated this was the only violation this time around.

Mayor Pro Tem Fitzgerald asked what happens now.

Ms. Lerner stated that if no action is taken, she would notify the Attorney General's Office and they would proceed.

City Administrator Mandsager asked what is required by City Council.

Ms. Lerner stated action by City Council is required.

Councilmember Shihadeh stated that what City Council is doing is keeping the \$300 in the city.

There were no oral or written petitions for or against the proposed civil penalty.

#22778. Councilmember Shihadeh moved the public hearing be closed. Seconded by Councilmember Spread. All ayes; motion carried.

#22779. Councilmember Spread moved the Mayor Pro Tem be authorized to sign the Order Assessing Penalty Under the First Violation. Seconded by Councilmember Natvig. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Shihadeh, Bynum, Phillips, and Spread. Motion carried.

#22780. Councilmember Bynum moved the resolution be adopted combining and authorizing loan agreements and future issuance of General Obligation Corporate Purpose Bonds and providing for levy of taxes to pay same. Seconded by Councilmember Phillips. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Shihadeh, Bynum, Phillips, and Spread. Motion carried.

#22781. Councilmember Natvig moved the resolution be adopted approving an Urban Renewal Plan Amendment for the Consolidated Muscatine Urban Renewal Area. Seconded by Councilmember Shihadeh. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Shihadeh, Bynum, Phillips, and Spread. Motion carried.

#22782. Councilmember Spread moved the resolution be adopted approving a development agreement with H.J. Heinz Company and authorizing annual appropriation tax increment payments and pledging certain tax increment revenues to the payment of the agreement. Seconded by Councilmember Bynum. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Shihadeh, Bynum, Phillips, and Spread. Motion carried.

#22783. Councilmember Phillips moved the resolution be adopted authorizing the internal advance of funds for the Weed Park Project. Seconded by Councilmember Natvig. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Shihadeh, Bynum, Phillips, and Spread. Motion carried.

#22784. Councilmember Shihadeh moved the resolution be adopted setting a public hearing on the annual application for state and federal transit funds for Thursday, March 20, 2014, at 7:00 p.m. Seconded by Councilmember Spread. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Shihadeh, Bynum, Phillips, and Spread. Motion carried.

#22785. Councilmember Spread moved the resolution be adopted awarding and approving the contract and bond from Sulzberger Excavating in the amount of \$69,587 for the Cedar Street Water Adjustments Project. Seconded by Councilmember Natvig. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Shihadeh, Bynum, Phillips, and Spread. Motion carried.

#22786. Councilmember Spread moved the resolution be adopted approving the contract and bond from All American Concrete in the amount of \$3,501,154.97 for the Cedar Street Reconstruction Project. Seconded by Councilmember Bynum.

Councilmember Shihadeh asked if All American had done the work for the Clay Street Improvement Project.

City Engineer Jon Lutz stated the contract was actually awarded to Vieth Construction but 60% of the work was done by All American Concrete who was the subcontractor. He stated there were some issues getting them on site but once there, they worked hard to catch up. He stated the problem with the Clay Street project was the bridge was badly deteriorated and the project was stopped until the bridge was replaced.

City Administrator Mandsager stated All American Concrete did the Dawson Street Project without any issues.

Mayor Pro Tem Fitzgerald asked Mr. Lutz if he was satisfied with the award of the bid.

Mr. Lutz answered yes stating it was reviewed and approved by the Iowa Department of Transportation.

Vote – All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Shihadeh, Bynum, Phillips, and Spread. Motion carried.

#22782. Councilmember Natvig moved to approve Spring Cleanup Week for April 21-25, 2014. Seconded by Councilmember Bynum. All ayes; motion carried.

#22783. Councilmember Phillips moved to approve the use of Taylor Park for the Community Garden Program. Seconded by Councilmember Shihadeh.

Councilmember Rehwaldt asked how Hy-Vee would be thanked for their generosity.

Planning and Community Development Coordinator Adam Thompson stated Hy-Vee is going to be part of the program. They will be providing a banner of recognition that will be displayed at the community garden location.

Councilmember Rehwaldt stated he feels the Mayor and City Council should thank Hy-Vee personally.

There was discussion on allocating the \$300 civil penalty the city will be receiving from the Hy-Vee Corporation's violation of the Tobacco Law to the Community Garden Program.

#22784. Councilmember Natvig moved the \$300 civil penalty fine be allocated to the Community Garden Program. Seconded by Councilmember Bynum. All ayes; motion carried.

Vote on original motion – All ayes; motion carried.

#22785. Councilmember Spread moved to approve a postage equipment lease with Pitney Bowes for a 60-month lease totaling \$8,509.80. Seconded by Councilmember Natvig. All ayes; motion carried.

Under comments, City Administrator Mandsager stated a motion was required to go into Closed Session to discuss potential litigation and property acquisition.

#22786. Councilmember Shihadeh moved to go into Closed Session at 7:44 p.m. Seconded by Councilmember Natvig. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Shihadeh, Bynum, Phillips, and Spread. Motion carried.

Mayor Pro Tem Fitzgerald called the Closed Session to order at 7:51 p.m. Councilmembers present were Rehwaldt, Fitzgerald, Natvig, Shihadeh, Bynum, Phillips, and Spread. Also present were

City Administrator Gregg Mandsager, Public Works Director Randy, and Community Development Director Steve Boka.

There was discussion concerning potential litigation and property acquisition.

#22787. Councilmember Shihadeh moved to leave Closed Session at 8:25 p.m. Seconded by Councilmember Spread. All ayes: Councilmembers Rehwaldt, Fitzgerald, Natvig, Shihadeh, Bynum, Phillips, and Spread. Motion carried.

#22788. Councilmember Shihadeh moved the meeting be adjourned at 8:27 p.m. Seconded by Councilmember Bynum. All ayes; motion carried.

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Philip Fitzgerald, Mayor Pro Tem

ATTEST:

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Gregg Mandsager, City Administrator