

Council Proceedings
November 23, 2009

The Marshalltown City Council met in regular session on November 23, 2009, at 5:30 PM in the Council Chambers at City Hall. Mayor Protempore Wirin called the meeting to order and led the Pledge of Allegiance. ROLL CALL: Present – Backoff, Grabenbauer, Hoop, Maxwell, Schubert, Wenner and Wirin. Absent: Mayor Beach. City Administrator Dick Hierstein invited the public to attend the Carnegie Rehabilitation Project groundbreaking ceremony at 1 pm on Wednesday, December 2, with special guest Lt. Governor Judge.

Schubert moved to approve the amended agenda, removing the TIF funding resolution from consent to be addressed separately, second by Maxwell. Motion approved 7-0.

Grabenbauer moved to approve the consent agenda items, as amended: Approve Council Minutes of November 9, 2009; Approve Bill List in the amount of \$1,373,025.14; Resolution 2009-175 Approving Agreement with Clapsaddle Garber Associates, Inc., for Engineering Services for the Airport Hanger Apron Rehabilitation Project No. 77009014A; Resolution 2009-176 Approving Use of Tax Increment Financing Funds to Purchase 35 N 1st Street Pursuant to the RDG Study up to a maximum of \$91,000 and Authorizing Internal Tax increment Revenue Fund Loan; Resolution 2009-178 Approving the Use of Tax Increment Financing Funds to Assist MEDIC and The Marshalltown Central Business District / Main Street Program with Economic Development Activities; MEDIC: \$50,000 for each of next five fiscal years, through June 30, 2015; Main Street: \$24,000 for each of next three fiscal years, through June 30, 2013; Resolution 2009-179 Approving 28E Agreement with Marshall County, Iowa, Regarding Parking Enforcement; Resolution 2009-180 Approving Fee Schedule of Services for Dog Park; Resolution 2009-181 Accepting Bid and Authorizing Award of Contract for the Center Street Improvements from State Street to Linn Street, Project 76009006A, with Brycon, LLC, in the amount of \$479,971.00; Resolution 2009-182 Approving Contract and Bond for Construction of the Center Street Improvements from State Street to Linn Street, Project 76009006A, with Brycon, LLC, in the amount of \$479,971.00; Resolution 2009-183 Approving Amendment Number Nine to the Employment Agreement with Richard Hierstein, City Administrator; second by Wenner. Motion approved 7-0.

Wenner moved to adopt Resolution 2009-177 Authorizing Internal Tax Increment Revenue Fund Loan to Accomplish 2009-2011 Projects and Ordering Certification of Same to County Auditor, second by Grabenbauer. Wenner moved to amend the resolution, reducing the certification to \$1,415,000, second by Grabenbauer. Finance Director Kendall informed the council additional information was received allowing the reduction of the certification amount due to a change in the Fisher Development Project assessment valuation. Motion on the amendment passed 7-0. Resolution passed 7-0.

REPORTS:

Maxwell moved to approve the September 2009 Financial Report, second by Backoff. The financials reflect the amendment due to the \$5M state and federal grants. Motion approved 7-0.

Backoff moved to approve Resolution 2009-185 Accepting Bid and Authorizing Award of Contracts for the Carnegie Building Rehabilitation Project 22007001A, second by Wenner. CPPI Contract Manager Randy Sharp was present to answer questions. Bids were favorable, being \$300,000 below the engineer's estimate, due to an aggressive bid climate. The project remodels the Carnegie building for city office use, including HVAC, insulation, windows, interior remodeling, and a connection to City Hall. Funding options and project expansion due to the low cost will be discussed after the Prairie Meadow Grant announcement. Resolution passed 6-1, with Schubert dissenting.

ORDINANCES

PUBLIC HEARING

Mayor Protempore Wirin declared the public hearing open regarding the rezoning of property known as French Park. City Planner Troskey presented a map of the area. JBS USA LLC representative Tony Harris was present to answer questions, and indicated the proposed improvement would not be used by

other entities. There were no comments from the public, nor written comments received by the clerk. Mayor Protempore Wirin declared the public hearing closed.

Schubert moved to adopt the third reading of Ordinance 14864 Amending the Marshalltown Zoning Ordinance Rezoning Property Located at What is Commonly Known as French Park from R3 Medium Density Residential to M2 Heavy Industry (PIN 07-25-377-004), second by Grabenbauer. Ordinance adopted 6-1, with Backoff dissenting.

PUBLIC HEARING

Mayor Protempore Wirin declared the public hearing open regarding the vacation of property known as French Park, including alleys, a portion of Woodbury Street and 9th Avenue adjacent to the park. Hierstein informed the public this action is required prior to the conveyance of the property and associated with the Purchase Contract with JBS USA LLC for the area described. There were no comments from the public, nor written comments received by the clerk. Mayor Protempore Wirin declared the public hearing closed.

Grabenbauer moved to adopt the third reading of Ordinance 14865 An Ordinance To Vacate The North-South And East-West Alleys And That Portion Of Woodbury Street Abutting The Parcel As Described To Terminate The Right Of Public Use Therein Vacating Alleys, Streets Relating To French Park, second by Wenner. Ordinance adopted 6-1, with Backoff dissenting.

RESOLUTIONS

Wenner moved to adopt Resolution 2009-173 Approving Contract with JBS, USA, LLC. (Regarding Contract for Sale of Property, known as French Park), second by Grabenbauer. Hierstein informed the public the terms of the agreement include reversionary interest should JBS USA not be able to perform the contract as of December 31, 2011, and included replacement of similar park facilities in existing parks. Hierstein emphasized the agreement is conditional upon JBS USA LLC receiving other approvals. The council will likely see a change to the zoning regulations addressing the height of a building in a M2 Heavy Industry District. Real Estate Closing will occur after substantial performance and the public will receive notice in advance of the park's closing to the public. Tony Harris indicated JBS USA LLC desires to work closely with the city to effectuate a successful project. Resolution passed 6-1, with Backoff dissenting.

PUBLIC HEARING

Mayor Protempore Wirin declared the public hearing open regarding conveyance of the property to JBS USA, LLC, regarding the area known as French Park and adjacent portions of Woodbury Street and 9th Avenue. Consideration is as stated in the Contract approved by Resolution 2009-173, with reversionary interest, should the performance of the contract fail. There were no comments from the public, nor written comments received by the clerk. Mayor Protempore Wirin declared the public hearing closed.

Wirin moved to adopt Resolution 2009-184 Adopting Tentative Resolution Providing for the Vacation of Public Use and Conveyance and Transfer of Title to French Park and the Transfer and Conveyance of Alleys, Herein Described from the City of Marshalltown, Iowa, to the Abutting Property Owner and Upon the Terms and Conditions Therein Described and Authorizing Execution and Delivery of Quit Claim Deed (PIN 07-25-377-004), second by Maxwell. Resolution adopted 6-1, with Backoff dissenting.

PUBLIC COMMENTS:

Finance Director Cindy Kendall announced her resignation effective 12/31/2009, in order to be an instructor at Iowa State University and thanked the city for the opportunities provided. Finance Director recruitment activities include a search committee, with Wenner volunteering assistance. City Administrator Dick Hierstein thanked Kendall for her years of service.

ADJOURNMENT:

The council promptly adjourned at 6:08 PM.

CITY OF MARSHALLTOWN

ATTEST:

Gene L. Beach, Mayor

Shari L. Coughenour, CMC, City Clerk