

Council Proceedings
March 22, 2010

The Marshalltown City Council met in regular session on March 22, 2010, at 5:30 PM in the Council Chambers at City Hall. Mayor Beach called the meeting to order and led the Pledge of Allegiance. ROLL CALL: Present – Backoff, Grabenbauer, Hoop, Maxwell, Schubert, Wenner and Wirin.

Schubert moved to approve the agenda, second by Maxwell. Motion approved 7-0.

Wenner moved to approve the consent agenda items: Approve Council Minutes of March 8, 2010; Approve Bill List in the amount of \$915,050.37; Resolution 2010-034 Approving Contract and Bond for Construction of the 2010 Water Pollution Control Plant Painting Project with Mongan Painting Co., Inc., of \$73,969.00; Resolution 2010-035 Approving Change Orders totaling \$8,943.00 for Carnegie Building Rehabilitation project 22007001A: Garling Construction CP-01.1 and CP-01.2 \$5326.00; Artisan Ceiling Systems CP-04.1 \$1570.00; Wes Jarnagin, Inc., CP-06.1 \$731.00; Nikkel & Associates, Inc., CP-08.2 \$1316.00; Resolution 2010-036 Accepting Quit Claim Deed Regarding South Pointe 2nd Addition Streets, Jackie Terrace and Carson Drive; Street Light Resolutions 2010-037A and 2010-037B approving elimination of illuminations at the SW corner of 9th Avenue and Woodbury Street; 10 block N Center Street, 10 block of S Center Street and 100 block of S Center Street; Liquor Licenses: New: Kruse Motor Sports, Central Iowa Fairgrounds; Renewals: Fareway; Vaughn's Pub; Jiffy; Elmwood Country Club; Brewster's; Tremont; second by Wirin. Motion approved 7-0.

REPORTS:

An Appliance and Scrap Metal Cleanup is scheduled for April 3 at the Compost Facility.

Hoop directed staff to draft an ordinance to amend the provision prohibiting exposed fasteners on metal roofs, second by Schubert. City Planner Troskey presented language on the overhead revising the prohibition and the council will discuss the proposed ordinance at the next Committee of the Whole meeting. Jon Boston, member of the Plan Zoning commission and Housing and Community Development Director Michelle Spohnheimer reviewed the history behind the metal roof issue when first allowed in commercial districts in 2003. Boston suggested metal roofs with exposed metal fasteners fail earlier due to the shrink and expansion of metal in Iowa's climate. Wirin agreed with the recommendation made by Plan Zoning regarding aesthetics and possible property maintenance issues. Schubert and Maxwell disagreed with Wirin. Hoop and Wenner encouraged the change to improve the perception that it is difficult to do business in Marshalltown. The council agreed that corrugated galvanized "agricultural style" roofing products are not acceptable roof coverings in residential areas. Spohnheimer explained the Site Plan Review Board reviews exceptions. The motion was approved 6-1, with Wirin dissenting.

Backoff moved to approve the Class C Liquor License for Rushton & Sons, LLC, pending dram certification, second by Schubert. Merrill Swartz, attorney representing Ricky Rushton, was present to answer questions regarding a new liquor license for Memories, 1010 W Lincoln Way, and the applicant being Rushton & Sons LLC. Swartz explained he assisted Rushton with the on-line State Alcohol application and due to failure to proofread the application, the application mistakenly noted he had not been convicted of a felony, although the criminal history was complete and included the 1991 felony conviction and the 2001 failure to register as a sex offender conviction. Felons are barred from having an interest in a state liquor license. The application included a copy of Governor Vilsack's Executive Order restoring the citizenship and voting rights of the applicant, as the applicant was discharged from probation on the felony charge; however, the Executive Order is not a pardon or forgiveness of guilt. As the convictions are nearing 20 and 10 years old, the council discussed the propensity of the applicant, Ricky Rushton, to follow rules and regulations should a liquor license be issued, referred to as "good moral character" in Chapter 123 of the State of Iowa Code. The letter from Rushton, dated March 17, 2010, and made a part of the application for the council to consider, included the following statement "I understand that a good faith mistake of fact as to the victim's age is not a defense to the crime nor should it be." Chief of Police Jack McAllister noted that statement conflicted with facts of the officers' report from 1991, as the perpetrator did know the victim's age and the Police Chief stated concern with the applicant's ability to follow rules. City Attorney Nowadzky instructed the council to consider only whether the applicant will comply with the law in the future. Motion carried 5-2, with Grabenbauer and Wirin dissenting.

RESOLUTIONS:

PUBLIC HEARING

Mayor Beach declared the public hearing open for the Budget and Tax Levy Amendment for FYE 6/30/2010. City Finance Director Stansberry informed the council the amendment was due to the Lead Abatement program. There were no questions, or any written comments either for or against the budget amendment. Mayor Beach declared the public hearing closed. Wenner moved to adopt Resolution 2010-038 adopting the Amendment for the FY 2009-2010 Budget and Tax Levy, second by Backoff. Resolution adopted 7-0.

ORDINANCES:

Wenner moved to adopt the second reading of Ordinance 14871 Creating the Zoning Ordinance of 2010 and Repealing the Zoning Ordinance of 1998, second by Wirin. Second reading adopted 7-0.

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Maxwell moved to adopt the first reading of Ordinance 14872 Relating to Dogs in a City Dog Park, second by Wenner. First reading adopted 7-0.

PUBLIC COMMENTS:

An unidentified citizen had several questions of Public Works Director Lynn Couch regarding street maintenance, with the median along South Center Street being State of Iowa responsibility, and street sweeping activities will begin as pothole filling subsides. Several streets are deteriorated and will result in a diminished overlay project.

ADJOURNMENT:

The council promptly adjourned at 6:26 PM.

Respectfully submitted,

Shari L. Coughenour, CMC, City Clerk

CITY OF MARSHALLTOWN

ATTEST:

Gene L. Beach, Mayor

Shari L. Coughenour, CMC, City Clerk