

MINUTES
FORT MADISON CITY COUNCIL
Tuesday, April 3, 2012 7:00 P.M.

The Fort Madison City Council met in regular session on Tuesday, April 3, 2012, at 7:00 P.M. at the Municipal Building, 811 Avenue E, Fort Madison. Presiding was Mayor Pro Tem Brad Randolph with Council Members Chris Greenwald, Brian Wright, Kevin Rink, Travis Seidel, Jason Huppert and Mark Lair present.

VISITORS AND APPEARANCE REQUESTS

Gary McVey, 1212 – 30th Street, presented a petition of persons opposed to rental inspections. He compared the number of signatures on the petition to the number of registered voters in Fort Madison and also to the number of voters who voted in the last election.

Leroy Krogmeier, 49 Florence Drive, asked Council to consider purchasing the Jefferson School property and leave it as an “open air” park.

AGENDA

Lair MOVED and Rink SECONDED a motion to approve the agenda, as written.

MOTION PASSED 7 AYES

CONSENT AGENDA

Seidel MOVED and Greenwald SECONDED to approve:

- Minutes of March 20, 2012, as written;
- Mayor’s reappointment of Leslie Bear and Bev Gobble to the Sister City Commission, terms expiring January 6, 2015;
- Mayor’s reappointment of Ron Welder to the Planning and Zoning Commission, term expiring March 18, 2017; and
- Payment of Claims.

MOTION PASSED 7 AYES

PUBLIC HEARING

Concerning the sale of 16th Street Right-of-Way North of Avenue B.

Mayor Pro Tem Randolph opened the public hearing at 7:06 P.M. There being no written or oral comments, Greenwald MOVED and Rink SECONDED to close the public hearing.

MOTION PASSED 7 AYES

ORDINANCE NO. C-514, VACATE PORTION OF 16TH ST ROW: Lair MOVED and Seidel SECONDED to approve the 3rd reading of an ordinance vacating a 10 foot by 100 foot portion of the 16th Street right-of-way north of Avenue B.

ROLL CALL: AYES: Greenwald, Wright, Rink, Randolph, Seidel, Huppert, Lair
 NAYS: None

MOTION PASSED 7 AYES

The Mayor Pro Tem then declared said Ordinance PASSED and APPROVED on its 3rd reading this 3rd day of April, 2012.

Published in the Daily Democrat
on April 9th, 2012.

RESOLUTION NO. 2012-11, SELL PORTION OF 16TH ST. ROW: Huppert MOVED and Randolph SECONDED to approve Resolution No. 2012-12 selling and authorizing execution of a Quit Claim Deed for a 10 foot by 100 foot portion of the 16th Street Right-of-Way North of Avenue B to Maxeen D. Otte in the amount of \$200.00, plus administrative fees.

ROLL CALL: AYES: Greenwald, Wright, Rink, Randolph, Seidel, Huppert, Lair
 NAYS: None

MOTION PASSED 7 AYES

The Mayor Pro Tem then declared said Resolution ADOPTED AND ENACTED this 3rd day of April, 2012.

ORDINANCE NO. C-515, AMEND TITLE 9, TRAFFIC: Greenwald MOVED and Wright SECONDED to approve the 3rd reading of an ordinance amending portions of Title 9, Traffic, to reflect changes in highway designations and speed limits.

ROLL CALL: AYES: Greenwald, Wright, Rink, Randolph, Seidel, Huppert, Lair
NAYS: None

MOTION PASSED 7 AYES

The Mayor Pro Tem then declared said Ordinance PASSED and APPROVED on its 3rd reading this 3rd day of April, 2012.

Published in the Daily Democrat
on April 9th, 2012.

ORDINANCE NO. C-516, REZONE SOUTH OF 1124 – 48th ST: Rink MOVED and Seidel SECONDED to approve the 3rd reading of an ordinance rezoning property south of 1125 – 48th Street from R-4, One-Family Dwelling District, to B-2, Business District General Retail.

ROLL CALL: AYES: Greenwald, Wright, Rink, Randolph, Seidel, Huppert, Lair
NAYS: None

MOTION PASSED 7 AYES

The Mayor Pro Tem then declared said Ordinance PASSED and APPROVED on its 3rd reading this 3rd day of April, 2012.

Published in the Daily Democrat
on April 10th, 2012.

2ND READING VACATE 16TH ST. ROW SOUTH OF AVE. A: Randolph MOVED and Lair SECONDED to approve the 2nd reading of an ordinance vacating a portion of the 16th Street right-of-way south of Avenue A right-of-way.

ROLL CALL: AYES: Greenwald, Wright, Rink, Randolph, Seidel, Huppert, Lair
NAYS: None

MOTION PASSED 7 AYES

The Mayor Pro Tem then declared said Ordinance PASSED and APPROVED on its 2nd reading this 3rd day of April, 2012.

RESOLUTION NO. 2012-12, SET P.H. RE: SALE OF 16TH ST. ROW: Randolph MOVED and Greenwald SECONDED to adopt a resolution setting public hearing for April 17, 2012, at 7:00 P.M. on the sale of the 16th Street right-of-way south of Avenue A right-of-way.

ROLL CALL: AYES: Greenwald, Wright, Rink, Randolph, Seidel, Huppert, Lair
NAYS: None

MOTION PASSED 7 AYES

The Mayor Pro Tem then declared said Resolution ADOPTED AND ENACTED this 3rd day of April, 2012.

RESOLUTION NO. 2012-13, FILL MAYORAL VACANCY: Rink MOVED and Seidel SECONDED to adopt a resolution directing the City Clerk to publish notice of the City Council's intent to fill the vacancy created by the death of Steven J. Ireland.

Smith said the Council can either appoint a new Mayor or to elect a new Mayor. If Council chooses to appoint, the appointment must be made within 40 days of the date of the Mayor's death. Under current law, the appointment would last until the November 2012 election, however legislation has been proposed which would extend the appointment until the next city election in November 2013. If Council chooses appointment, the citizens can petition within 14 days of the appointment for a special election, however, a special election would cost \$6,000.00. He noted there is no specific outline on how Council must appoint.

Randolph advised that if the position were to be filled by appointment, he intended to seek the position.

Greenwald MOVED and Rink SECONDED to amend the motion by adding "by appointment."

ROLL CALL: AYES: Greenwald, Wright, Rink, Seidel, Huppert, Lair
NAYS: None
ABSTAIN: Randolph

**MOTION PASSED 6 AYES
1 ABSTAIN**

Council then voted on the amended motion.

ROLL CALL: AYES: Greenwald, Wright, Rink, Seidel, Huppert, Lair
NAYS: None
ABSTAIN: Randolph

**MOTION PASSED 6 AYES
1 ABSTAIN**

The Mayor Pro Tem then declared said Resolution ADOPTED AND ENACTED this 3rd day of April, 2012.

RESOLUTION NO. 2012-14, IMPLEMENT EARLY RETIREMENT PLAN: Rink MOVED and Huppert SECONDED to adopt a resolution authorizing the City Manager to implement an Early Retirement Incentive Plan.

Smith reported this incentive is part of a plan approved by Council previously to reorganize departments. Six employees over the age of 55 with 33 years of service are eligible. The plan will pay 70% of the employee's salary either in a lump sum, three equal installments or it can be used to purchase health insurance until such time as they are 65. This plan is comparable to plans offered by other cities, school districts and the State of Iowa. Employees will be given until June 29 to notify the City of their intent and must retire by the end of 2012.

ROLL CALL: AYES: Greenwald, Wright, Rink, Randolph, Seidel, Huppert, Lair
 NAYS: None

MOTION PASSED 7 AYES

The Mayor Pro Tem then declared said Resolution ADOPTED AND ENACTED this 3rd day of April, 2012.

OTHER

BMI LEASE AGREEMENT: Rink MOVED and Lair SECONDED to approve the Mayor's signature on a three-year land lease agreement with Building Materials, Inc., for property located at 619 – 1st Street.

MOTION PASSED 7 AYES

NEGOTIATE WITH NLCHS: Greenwald MOVED and Randolph SECONDED to authorize the condemnation of the lease with the North Lee County Historical Society and to authorize the City Manager and City Attorney to negotiate a settlement, if possible.

Andy Andrews, chairman of the North Lee County Historical Society, said the group has acted as caretaker of the depot since 1972. They have erected a fence, taken care of the City's steam engine, replaced the roof, HVAC, storm windows and spent \$900,000 in utilities since that time. The group also maintains Brush College and has a lease with Lee County for the Old Lee County Jail. He felt the City did not try to renegotiate the lease.

Steve Rippeteau, 1108 Avenue G, has been hearing negative feedback behind the scenes about this and did not believe the City was negotiating in good faith.

Merlin Hellman, #1 Blackhawk Heights, said he had heard at "coffee" that there are rooms for crew change and crew offices and said Amtrak doesn't do that. He noted there were a lot rumors going around.

Tom Schulz, 723 ½ Avenue G, felt this action was extreme. Prescott Smith, 435 Avenue E, felt this was a radical step to take.

Smith said Andy Andrews and Rusty Andrews have been part of meetings with the architects and changes have been made to the plans at NLCHS' request. The Amtrak portion of the depot, including crew change and offices, is what Amtrak has requested.

Randolph explained the City does not intend to dissolve the partnership with the NLCHS but the sticking point is the 28 year remainder to the original lease. The lease NLCHS has with Lee County for the jail is not a long term lease but a 10 year lease. He said the City was left with no alternative but to consider the condemnation as a last resort. He pointed out the article in the newspaper where the NLCHS was "surprised" by how much space Amtrak needed. Randolph asked Andy Andrews during a phone conversation what the majority of the NLCHS wanted the building to be used for – an office or a museum. Randolph said Andy Andrews replied "museum".

Andy Andrews disputed that he made the comment.

Rippeteau said Council has overlooked that the NLCHS voted at their last meeting to negotiate. He said they did not realize how much space was being lost and asked why there wasn't something from the City in writing. NLCHS needs a long term lease in order to get donations and grants. He accused the City of having no vision.

Lair said the City plans to negotiate but the condemnation is there as a last step.

Don Lucas, 3005 Avenue H, said there are many persons and families in Fort Madison that have been involved with the museum for several generations. He questioned if this was a personality conflict between Andy Andrews and someone and then asked Council members to think for themselves.

Jan Garza, 2023 Avenue H, said she has never seen any negativity from members about Amtrak coming in.

Lair questioned if the motion should be amended to read "that the City will negotiate in good faith for 90 days".

Dan Reppert, 513 Avenue G, questioned by what authority the City can condemn a lease. City Attorney Robert Johnson noted Chapter 6A in the Iowa Code which sets out the City's powers and procedures in the case of eminent domain. Reppert asked if the Council may be acting without proper authority. Johnson replied independent counsel has stated the City has the power to condemn the lease.

Rink questioned if it was just a wording issue. He referenced an article in the newspaper wherein the City Council was called "idiots" at a NLCHS meeting.

Bob Foss, 412 Avenue F, felt removing the word condemnation would work. He felt without that word there is no threat.

Huppert stated he was initially against the depot but now that the changes are happening, everyone needs to jump on board. Prescott Smith said no one has justified why Amtrak needs the extra space. Huppert replied that they (Amtrak) want the space.

Dan Reppert stepped up to the podium and read a section from Iowa Code 6A and 6B from his cell phone. He emphasized that a "good faith effort" is required before filing application for condemnation.

B. Smith and Johnson explained this motion gives the City general authorization if they cannot negotiate. In order to begin condemnation, a written application must be filed and that is the first step in a very lengthy legal process.

Lyle Brown, 1008 Denmark Hilltop, suggested turning the motion around and negotiating for 90-100 days.

Randolph said the City has every intention of negotiating in good faith.

Lair MOVED and Rink SECONDED to amend the motion to add "the City will enter into negotiations with the NLCHS for 90 days".

Greenwald noted there were several persons who voiced "no" to this proposed amendment. He felt the Board needs to form some kind of unity. Rippeteau said the Board was in agreement and has voted to share the depot with Amtrak. He felt the word "condemnation" needs to be removed from the motion.

Elaine Eschman, attorney representing NLCHS, said she has clear direction from the Board. She pointed out Council can move forward in good faith and at any time during the next five or six Council meetings can put condemnation back on the agenda.

Wright asked how long of a lease term is needed for grants. Rippeteau said they have heard 10 years.

Mayor Pro Tem Randolph called the question on the amendment to the motion on the floor.

ROLL CALL: AYES: Rink, Randolph, Huppert
 NAYS: Greenwald, Wright, Seidel, Lair

MOTION FAILED 3-4

Lucas wanted an answer from Huppert regarding why the length of contract was an issue. Huppert responded there have been problems with negotiations and with the term of the lease and space. He said the City needs control of the space.

Lair MOVED and Rink SECONDED to amend the original motion to read “authorize the City Attorney and City Manager to continue negotiations with the North Lee County Historical Society and report back to the Council in 90 days”.

ROLL CALL: AYES: Greenwald, Wright, Rink, Seidel, Huppert, Lair
NAYS: Randolph

MOTION PASSED 6-1

Mayor Pro Tem Randolph called the question on the amended motion.

ROLL CALL: AYES: Greenwald, Wright, Rink, Seidel, Huppert, Lair
NAYS: Randolph

MOTION PASSED 6-1

Randolph suggested the group’s leadership and membership get “on the same page”.

DOWNTOWN DESIGN GUIDELINES GRANT: Lair MOVED and Seidel SECONDED to approve the Mayor’s signature on a Grant-in-Aid Agreement with the Iowa Department of Cultural Affairs for the Downtown Design Guidelines Grant.

MOTION PASSED 7 AYES

CONTRACT TO REWRITE COMP PLAN: Randolph MOVED and Lair SECONDED to approve the Mayor’s signature on a contract with RDg – Planning and Design of Des Moines, Iowa, in the amount of \$74,500.00 for services to rewrite City’s Comprehensive Plan.

Smith said the City’s comprehensive plan was last updated in 2001 and a new one is needed. One of the grants received for the new Water Treatment plant required an update of the City’s comprehensive plan within three years. Five responses were received and the City interviewed three firms. RDg – Planning and Design submitted the middle price quote.

Greenwald asked why this firm? Smith said SEIRPC, the lowest price quote of the three firms, wrote the City’s current plan in 2001. The 2001 plan was a bare bones plan. RDg has experience with writing comp plans and the City will end up with a more useable plan. RDg’s fee will be paid over two years and be paid out of the Planning

Department in the General Fund. This plan will work for grants and also gives the City a chance to state their vision for Fort Madison.

MOTION PASSED 7 AYES

SW SEWER GRANT ADMINISTRATION: Rink MOVED and Lair SECONDED to approve the Mayor's signature on a contract with Southeast Iowa Regional Planning to administer a grant from the Economic Development Administration Program to construct a sewer line southwest of Fort Madison.

Smith the City has received a \$1.5 million grant to construct the sewer and the administration fees are included in that grant. The estimated cost of the sewer is \$3 million. The City procured for administration for this project. Southeast Iowa Regional Planning was the only agency sending in a proposal.

MOTION PASSED 7 AYES

PRESENTATIONS BY LIAISONS TO BOARDS AND COMMISSIONS

GRWWA has a new website. Construction at the airport is underway and should be completed in 45-50 days.

REPORTS BY DEPARTMENT HEADS

The Narcotics Task Force shut down an operation selling "bath salts" north of Fort Madison this afternoon. The contractor for the 20" Water Main Project will be finishing up within the next two weeks. Demolition of the old water plant started this week. The new City website went online Friday, March 30. Next week is National Library Week.

ADJOURNMENT

Wright MOVED and Lair SECONDED to adjourn until Tuesday, April 17, 2012 at 7:00 P.M.

VOICE VOTE APPROVAL

MANUAL CLAIMS AND WARRANTS: See Claims dated March 29, 2012 in the amount of \$143,318.68.

<u>PAYROLL</u>	<u>March 23, 2012</u>
General	\$147,348.04
Library	2.47
RSVP	1,290.00
Old Fort	2,022.00
Road Use	23,996.77
Water	39,263.28
Sewer	35,749.72
Solid Waste	18,006.77
Storm Water	<u>2,739.40</u>
	\$270,418.45

Brad Randolph, Mayor Pro Tem
City of Fort Madison

ATTEST:

Melinda L. Blind, City Clerk