

**MINUTES
FORT MADISON CITY COUNCIL
Tuesday, February 17, 2015**

The Fort Madison City Council met in adjourned session at 7:00 P.M. on Tuesday, February 17, 2015, at City Hall, 811 Avenue E, Fort Madison. Mayor Randolph presided with Council Members Chris Greenwald, Kevin Rink, Rusty Andrews, Travis Seidel, Jason Huppert and Chad Cangas.

VISITORS AND APPEARANCE REQUESTS

Carol Foss, 412 Avenue F, said she has spoken with a building mover who will move the old Tourist Information Center from it's present site to the Battlefield she for \$2,800.

AGENDA

Seidel MOVED and Rink SECONDED to approve the agenda, as written.

MOTION PASSED 6-0

CONSENT AGENDA

Greenwald MOVED and Seidel SECONDED to approve:

- ♦ Minutes of February 3, 2015, as written;
- ♦ Resolution No. 2015-07, granting application for URTED to Charles J/Hitomi Wendorf for property located at 617-7th Street;
- ♦ New Liquor License: Atlas Steak and Smokehouse, 709 Avenue H, effective February 18, 2015 – Class C Liquor, Class B Wine & Sunday Sales;
- ♦ January 2015 Financial Report; and
- ♦ Payment of Claims.

MOTION PASSED 6-0

PUBLIC HEARING

Concerning Not to Exceed \$1,571,575 Sewer Revenue Capital Loan Notes, Series 2015

Mayor Randolph opened the public hearing at 7:04 p.m. There were no oral or written comments.

At 7:06 P.M., Cangas MOVED and Andrews SECONDED to close the public hearing.

MOTION PASSED 6-0

RESOLUTION NO. 2015-08, TAKE ADDITIONAL ACTION: Greenwald MOVED and Rink SECONDED to adopt a resolution instituting proceedings to take additional action for the Authorization of a Loan and Disbursement Agreement and the Issuance of Not to Exceed \$1,571,575 Sewer Revenue Capital Loan Notes.

ROLL CALL: AYES: Greenwald, Rink, Andrews, Seidel, Huppert, Cangas
 NAYES: None

MOTION PASSED 6-0

The Mayor then declared said Resolution ADOPTED AND ENACTED on this 17th day of February, 2015.

RESOLUTION NO. 2015-09, AUTHORIZE ENGAGEMENT AGREEMENT: Rink MOVED and Cangas SECONDED to adopt a resolution authorizing the Mayor's signature on an Engagement Agreement with Ahlers and Cooney, P.C., in connection with the issuance of bonds, notes, and other obligations.

ROLL CALL: AYES: Greenwald, Rink, Andrews, Seidel, Huppert, Cangas
 NAYES: None

MOTION PASSED 6-0

The Mayor then declared said Resolution ADOPTED AND ENACTED on this 17th day of February, 2015.

ORDINANCES AND RESOLUTIONS

3rd READING, REZONE 1311-18TH STREET: Seidel MOVED and Andrews SECONDED to approve the second reading of an ordinance rezoning property located at 1311- 18th Street from I-1, Limited Industrial District, to I-2, General Industrial District.

Randolph advised there were people here who wanted to speak on this matter. He cautioned them that the issue before us is the rezoning of property, not the owner, nor the business.

Harold Towery, 3605 Avenue Q, a former member of the Planning and Zoning Commission and City Council, said he objected to rezoning this property to I-2.

Bob Manka, 41 Alta Drive, has talked to many persons in this neighborhood and felt this rezoning was not in the best interest of Fort Madison. The intent of zoning is to protect the quality of life. This would be spot zoning and the Code doesn't allow spot zoning. The Comp Plan does not allow I-2 in that area.

Bob Morawitz, 1405 Avenue D, was also opposed. He felt that cushion was needed against a residential area. He said while DuPont is I-2 and next to residential, the residential neighborhood grew up around DuPont.

Doug Olson, 1705 Avenue N, said when he first heard of this his nightmare was the mountain of scrap metal that used to be there. He said a 12 foot privacy fence would look better than it does right now. He was unable to comment on the zoning issue. Olson heard there would be a bottleneck with the bus barn but he (Feinberg) assured him it would not happen.

Randolph asked Larry Wright to do a presentation concerning the City's Comprehensive Plan. Wright is a Planning and Zoning Commission member and was on the comp plan steering committee.

Wright said he was speaking as a citizen who helped develop the comprehensive plan. The State of Iowa requires Planning and Zoning Commissions and requires all regulations be made in accordance with a comprehensive plan. He cited State Code and City Code as it relates to the formation of the comp plan. The Comp Plan cannot be changed unless P & Z researches it and makes recommendations.

He said it is incumbent upon each member of the FM City Council to follow the recommendation of the plan, which is the legal voice of the people. Iowa Code requires these regulations to be used in conformance with the City's Comp Plan and provides a legal basis for the city's authority to regulate land use and development. He said conflicts which are already present may be changed over time as property turns over. The creation of new conflicts should be avoided. He showed a compatibility matrix which showed this proposed rezoning is incompatible with the surrounding area.

Wright added that this is spot zoning and creates another potential issue. He asked Council several questions, including if this rezoning is in the best interest of the people of Fort Madison. Will this spot zoning set a precedent for future such zones? Are you as an elected official willing to accept responsibility for placing the community in harm's way by supporting a rezone request that is not supported by required processes and procedures. Is this rezone in accordance with the Comp Plan?

Cangas asked if Wright was saying that legally the City can't do this. Wright said the Comp Plan clearly shows the worst scenario right there next to residential and that proposed uses with this level of conflict will not be permitted

Wright said he has established by State and City Code that the Comp Plan is a legal document and the city is required to follow it.

Johnson said it appears clear that the reading of matrix shows that it is in conflict with the Comp Plan. It does say in general, which is a limiting factor which makes it not quite so specific, as to this particular instance. I think the point is made when you compare the proposed use to the city comp plan it is not recommended. Johnson said the spot zoning was just as much concern to him as the comprehensive plan was.

Marty Feinberg said there is only residential person in his area, he owns the rest. He did not see how the City's matrix and spot zoning affected him. He questioned if this was done for every rezoning and asked if you go to a hanging for every rezoning that the City does? He continued by making personal comments regarding some audience members. Randolph said he would not let Feinberg comment about other people. Feinberg felt he was showing what kind of people they are. He said he owns all the ground around this property, he felt this matrix thing was a little blown out of proportion.

Wright said his concern is not necessarily what that is there today but what it will be 5-10 years down the road.

Huppert asked if the City was legally able to rezone that property without being legally wrong. Johnson said his opinion is if the property is rezoned then the City is put at a much higher risk of liability on a spot zoning compliant.

ROLL CALL: AYES: Andrews, Seidel
 NAYES: Rink, Huppert, Cangas, Greenwald

MOTION FAILED 2-4

RESOLUTION NO. 2015-10, APPROVE PRE-DISASTER MITIGATION PLAN:
Greenwald MOVED and Cangas SECONDED to approve a resolution Adopting a Pre-Disaster Mitigation Plan.

Fire Chief Herren said the Disaster Plan has to be updated every 10 years. This is one comprehensive plan for the entire county covering each city.

ROLL CALL: AYES: Greenwald, Rink, Andrews, Seidel, Huppert, Cangas
 NAYES: None

MOTION PASSED 6-0

The Mayor then declared said Resolution ADOPTED AND ENACTED on this 17th day of February, 2015.

OTHER

APPROVE FY 2015-16 BUDGET: Cangas MOVED and Greenwald SECONDED to approve the Fiscal Year 2015-16 Budget and setting Tuesday, March 3, 2015, at 7:00 P.M. as date and time for hearing.

MOTION PASSED 6-0

DISCUSSION ITEMS

SCHNEIDER SOLAR PROJECT: Randolph reported Todd Schneider is interested in continuing his solar project at the old middle school by installing solar panels fixed to top of carports. Schneider has asked for a letter of support for the project. Randolph said there is a potential issue with Historic Preservation.

Bob Morawitz, Historic Preservation Chair, said HPC is required to give their opinion on this. The project has to conform to National Registry standards as it is a National Registry property. He does not believe the project follows those standards. However, if the state or federal preservation authorities approve the project they will support it. National Park standards require solar panels not to be in view from a parking lot or streets. The entire property is surrounded by streets and these cannot be hid from the street. HPC is deferring their approval on it based on the state or federal recommendations. It was unknown how long it would take for state or federal approval.

Randolph asked if the project can go forward without the letter of support. Greenwald thought it could. Morawitz said he can still put the panels up but if he violated the standards he would not be able to get historic tax credits.

Greenwald MOVED and Huppert SECONDED to provide a letter of support for Todd Schneider's solar project.

MOTION PASSED 6-0

VIKING CRUISE LINES: Randolph reported Viking Cruise Lines will be entering the U.S. market and hopes to have 6-10, boats with 19 cruises coming up the Mississippi. Cruises will run from mid-July to mid-October. They would like to make Fort Madison one of their stops. Each boat will hold 350 people and 90 crew members. The cruise line will work with the City and area attractions to plan events and tours. They would begin with one or two boats and if sales call for it they would increase the number of boats and number of stops here. They would like exclusive use of the old Catfish Bend boat dock.

The barge the casino boat is attached to, employee entrance ramp and dock on the opposite side will leave with the casino boat. Some upgrades would be required, including a new dock and barge. Viking is willing to partner with us in some of the costs. They would like a letter of understanding giving exclusive use of that facility. They would pay a nominal fee. When a contract is ready, the contract would come before Council.

Randolph said there are quite a few things to work through. Cangas assumed there would be safeguards if the cruise line does not have the number of dockings they expect.

Seidel MOVED and Andrews SECONDED to move forward with an exclusive agreement with Viking Cruise Lines for the use of the old Catfish Bend Boat Dock.

MOTION PASSED 6-0

PRESENTATIONS BY LIAISONS TO BOARDS AND COMMISSIONS

Randolph said GRRWA is undergoing their yearly state audit.

CLOSED SESSION

ENTER CLOSED SESSION: At 8:04 P.M., Cangas MOVED AND Seidel SECONDED to go into Closed Session to evaluate an employee pursuant to Iowa Code Section 21.5(1)(i).

MOTION PASSED 6-0

Mayor Randolph called for a five minute recess for the public to vacate the room.

EXIT CLOSED SESSION: At 8:25 P.M., with no action taken, Cangas MOVED and Seidel SECONDED to come out of Closed Session.

MOTION PASSED 6-0

ADJOURNMENT

At 8:26 P.M., Rink MOVED and Cangas SECONDED to adjourn until Tuesday, March 3, 2015 at 7:00 P.M.

VOICE VOTE APPROVAL

MANUAL CLAIMS AND WARRANTS: See Claims dated February 12, 2015, in the amount of 50,183.04 and Manuals dated February 2, 2015 in the amount of \$909,547.77.

<u>PAYROLL</u>	<u>2/6/2015</u>
General	\$158,765.34
RSVP	837.33
Old Fort	2,428.51
Road Use	23,206.92
Hotel/Motel	1,344.87
Water	25,548.99
Sewer	33,072.82
Solid Waste	19,496.00
Storm Water	689.76
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	\$265,390.54

Mayor Bradley A. Randolph
City of Fort Madison

ATTEST:

Melinda L. Blind, City Clerk