

**MINUTES
FORT MADISON CITY COUNCIL
Tuesday, April 5, 2016**

The Fort Madison City Council met in regular session at 7:00 P.M. on Tuesday, April 5, 2016, at City Hall, 811 Avenue E. Mayor Pro Tem Chris Greenwald presided with Council Members Brian Wright, Kevin Rink, Rusty Andrews, Travis Seidel, Mark Lair and Chad Cangas present. Mayor Bradley A. Randolph was absent.

VISITORS AND APPEARANCE REQUESTS

Dan Manatt presented a preview of a documentary: "The Fort: Three Centuries of Crime and Punishment in the Iowa State Penitentiary"

PROCLAMATIONS

Mayor Pro Tem Greenwald presented a proclamation proclaiming City of Fort Madison Employee Appreciation Day to Dan Horn and Vicki Slater, members of the City's Safety Committee.

A proclamation for Junior Achievement Day was also read.

AGENDA

Wright MOVED and Seidel SECONDED to approve the agenda as written.

MOTION PASSED 7-0

CONSENT AGENDA

Rink MOVED and Cangas SECONDED to approve:

- ♦ Minutes of March 15, 2016, as written;
- ♦ Liquor License Renewal with conditions: Sidelines Sports Bar, LLC, 1128 Avenue I, effective May 1, 2016 – Class C Liquor with Sunday Sales and Outdoor Service;
- ♦ Liquor License Renewal: LULAC Club, 1424 – 36th Street, effective April 18, 2016 – Class C Liquor with Sunday Sales;
- ♦ Liquor License Renewal with conditions: Horan's Cabaret, 1337 Avenue G, effective May 7, 2016 – Class C Liquor with Outdoor Service;
- ♦ Liquor License Renewal: Walgreens, 2639 Avenue L, effective May 21, 2016 - Class E Liquor, Class B Wine and Class C Beer w/Sunday Sales; and
- ♦ Payment of Claims.

MOTION PASSED 7-0

PUBLIC HEARINGS

Concerning the Sale of City Property at 803 Avenue H

Mayor Pro Tem Greenwald opened the public hearing at 7:15 p.m. There were no oral or written comments.

Cangas MOVED and Wright SECONDED to close the public hearing.

MOTION PASSED 7-0

RESOLUTION NO. 2016-30, SELL PROPERTY: Seidel MOVED and Rink SECONDED to adopt a resolution selling and authorizing execution of a Quit Claim Deed for City Owned Property located at 803 Avenue H to Jacob Greenwald in the amount of \$2,000 plus administrative costs and legal fees.

ROLL CALL: AYES: Wright, Rink, Andrews, Seidel, Lair, Cangas
 NAYES: None

**MOTION PASSED 6-0
1 ABSTAIN (Greenwald)**

The Mayor then declared said Resolution ADOPTED and ENACTED this 5th day of April, 2016.

PUBLIC HEARINGS

Concerning the Sale of City Property at 1235 – 25th Street

Mayor Pro Tem Greenwald opened the public hearing at 7:20 p.m.

Richard Lurvey, 1239 – 25th Street, lives on the south side of the property. He said he has been having disputes with the property owner to the north of the property for sale. He has been having cookouts and neighborhood gatherings on the lot in question and has asked about buying the lot before. He has been mowing the property since 1998 but has been physically unable to continue maintaining it for several years. He was concerned about survey sticks recently set out on the property.

Mary Westfall, 2388 – 280th Street, Montrose, owns the property on the north side of the lot. She hired a private surveyor because she was curious where the property line was. She also owns a rental property across the street. At a question from Wright, Westfall said she hired Hoenig Lawn Service to take care of the property. Public Works Director Larry Driscoll said she asked if she could remove some trees in the right-of-way and then removed them at her own expense.

Greenwald said Council instructed city staff to sell these properties.

Cangas had concerns regarding some disputes about the property sales. He wanted to quiz the City Attorney regarding the procedure but the City Attorney was not present. Planning Director Doug Krogmeier said the City has had a protocol in place since 1997. The first step is to offer the property to adjoining neighbors and asked for sealed bids. If there are no bids from the neighboring property owners, then the property is put up for sale to the public. Two bids were received for this property, Westfall's was twice as much as the other.

Greenwald was uncomfortable with approving this without the City Attorney present. He suggested looking at the process used and getting the City Attorney's opinion. City Manager David Varley said the City Attorney said the City has followed policy in all three of these cases.

Kathy Skewes, 2644 Clearview Heights, offered her company's services for a fee to provide a report concerning previous property ownership.

Lair MOVED and Cangas SECONDED to close the public hearing.

MOTION PASSED 7-0

SELL PROPERTY: Cangas MOVED and Wright SECONDED to adopt a resolution selling and authorizing execution of a Quit Claim Deed for City Owned Property located at 1235 - 25th Street to Mary Westfall in the amount of \$5,000 plus administrative costs and legal fees.

ROLL CALL: AYES: Lair,
 NAYES: Greenwald, Wright, Rink, Andrews, Cangas, Seidel

MOTION FAILED 6-1

Concerning the Sale of Public Property: Approximately 316 foot by 66 foot section of the platted "Avenue A" located west of the east line of 13th Street

Mayor Pro Tem Greenwald opened the public hearing.

Tom Skewes, an attorney representing Dave and Sandy Holtkamp who own land adjacent to the strip of land vacated. He said the sale of this right-of-way is governed by Iowa Code Section 306 and he did not believe the procedure being followed was being done properly. He argued the Holtkamps own more of the "adjacent property" as they own a rental property and a home that adjoins the land in question.

Skewes believed according Iowa Code Section 306 the City should provide what the fair market value is.

City Manager David Varley said the Iowa League of Cities was contacted and they were of the opinion Code Section 306 that refers to state highways and provides direction to the IDOT for selling related right-of-way. Property for sale by municipalities is covered under Section 354.

Kim Auge, an attorney representing the Barr family, disagreed with Skewes as far as the Iowa Code section to be followed. She said the Barr family wishes to extend their land ownership. They don't want disagreements with neighbors. Each potential property owner was given the option to diagram or identify to the city which, if any, portions they wanted to purchase. Their belief was that fair market value was what someone wanted to bid for it. The Barrs' bid far surpassed any other landowner. She said there is an extreme watershed and ground water problem south of the land in question. Her clients wanted to make sure the trees and undergrowth remain so it can minimize the impact to Avenue B as well. She requested Council honor her clients' bid and approve the sale of this property.

At a question from Council, Auge had proof from the County Assessor's office that there was a shed on Holtkamps' property when they purchased it but it was not on the property in question. After Holtkamps purchased the property they constructed the current shed on the City property in question as well as a patio. She added the Barr family, knowing they don't own the property, did not expend any significant sums on the property.

Rink suggested negotiating with the Holtkamps. Auge said the Barrs would not have the authority to do so until the property was sold to them.

Greenwald suggested that if the concern is for conservation then the sale can be contingent upon conservation of the property. Auge said there was a problem with standing ground water in 1993. Her clients have concerns the Skyline Drive neighbors may be tempted to remove some trees to see the river. Seidel said he did not believe there would be much of an issue with the trees growing too high but felt it would be in the best interest of both the Barrs and the Holtkamps to leave every tree.

Skewes said a letter was sent to the Barrs regarding the Holtkamps' interest in the property but so far there has been no response.

Carolyn Barr, daughter of Charlotte Barr, said when her mother bid on the property she thought the Holtkamps had installed something electrical or gas on the property. Her mother did not want to negotiate with the Holtkamps or Grabers until she owned the property. She said the Holtkamps want the chunk in the middle, Graber wants a piece off to the side and her mother wants it all. She added that Holtkamps have installed more than just a patio and a 12' x 12' shed on the city property in question. Greenwald asked if the Barrs would be willing to sit down and broker a deal. Carolyn Barr said yes.

Tom Barr, 1323 Avenue B, said all the adjacent property owners received a letter offering the land for sale. Before Holtkamps purchased their home, the previous owner was cutting down trees on that city land. Tom Barr obtained an aerial photograph of that area a few days later. The aerial shows a small shed right on the boundary line and nothing else. He said there are lots of trees and underbrush on the hillside, it is steep and what can be done with this property is limited.

Martin Graber, 2163 North Fork Drive, wanted to purchase the property to build something that will hold the hill up as there is some erosion on upper portion. He would eventually like to build a house on his lot. He has talked to Tom Barr and reached out to Carolyn Barr but had not received a response. He believed the whole process was messed up.

Cangas MOVED and Andrews SECONDED to close the public hearing.

MOTION PASSED 7-0

ORDINANCE D-29, VACATE 1300 BLOCK AVENUE A: Cangas MOVED and Seidel SECONDED to approve the third reading of an ordinance vacating the platted "Avenue A" between the east line of 13th Street to a point approximately 316 feet west.

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

MOTION PASSED 7-0

The Mayor then declared this Ordinance PASSED and APPROVED on it's third reading this 5th day of April, 2016.

RESOLUTION NO. 2016-21, SELL PROPERTY: Seidel MOVED and Lair SECONDED to adopt a resolution selling and authorizing execution of a Quit Claim Deed for a 316 foot by 66 foot section of the platted "Avenue A" located west of the east line of 13th Street to Charlotte Barr in the amount of \$5,150 plus administrative costs and legal fees.

ROLL CALL: AYES: None
 NAYES: Greenwald, Wright, Rink, Andrews, Seidel, Lair
 ABSTAIN: Cangas

**MOTION FAILED 6-0
 1 ABSTAIN**

ORDINANCES AND RESOLUTIONS

Lair exited the room.

ORDINANCE D-30, AMEND 10-12-10 SIDEWALK CAFES: Seidel MOVED and Andrews SECONDED to approve the third reading of an ordinance amending Title 10, Zoning, Chapter 12, B-1 Limited Retail, by adding a new Section 10, "Sidewalk Cafes".

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

MOTION PASSED 6-0

The Mayor then declared this Ordinance PASSED and APPROVED on it's third reading this 5th day of April, 2016.

Lair returned to Council Chambers.

ORDINANCE D-31, AMEND WATER RATES: Seidel MOVED and Cangas SECONDED to approve the third reading of an ordinance amending Title 6, Chapter 5, Section 66 and 68 of the City Code by adopting new Water Basic Monthly Service Charges and Monthly Rates and amending Title 6, Chapter 5, Section 69, Annual Adjustment of Base Charges.

John McLane, 3065 Westwood Drive, read a four page letter listing concerns he had with the increases.

Erica Diehl, HR Green, was present for questions from Council. Driscoll said a lot of time has been spent getting to this point. The Water Department has been running at a deficit for some time and \$1.7 million worth of rehabilitation is needed for the City's reservoirs. A city this size should be spending \$350,000 a year in improvements. These increases are needed to do so.

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

MOTION PASSED 7-0

The Mayor then declared this Ordinance PASSED and APPROVED on it's third reading this 5th day of April, 2016.

RESOLUTION NO. 2016-24, ORDER CONSTRUCTION, SET P.H. & BID LETTING PIP 2016-04, PORT TRAIL: Cangas MOVED and Wright SECONDED to adopt a resolution ordering construction, setting public hearing and bid letting for Public Improvement Project 2016-04, PORT Trail Phase 1, Ivanhoe Park to Bluff Road.

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

MOTION PASSED 7-0

The Mayor then declared said Resolution ADOPTED and ENACTED this 5th day of April, 2016.

OTHER

TERMINATE KLINGNER CONTRACT: Cangas MOVED and Rink SECONDED to terminate the 2007 Professional Services Agreement with Klingner and Associates related to the design of the platform at the former Santa Fe Railroad Depot.

Varley explained this agreement started in 2007. The Iowa Department of Transportation wanted the old agreement cancelled and for the City to bring back a new one for the final design of the platform.

MOTION PASSED 7-0

HIRE FIRE FIGHTER: Lair MOVED and Wright SECONDED to approve hiring a Fire Fighter.

MOTION PASSED 7-0

REPAIR 13TH ST. AVE. H TO AVE. E: Wright MOVED and Seidel SECONDED to approve the hiring of W. L. Miller Company to repair 13th Street from Avenue H to the alley south of Avenue E at a cost of no more than \$60,500.

**MOTION PASSED 6-0
Greenwald Abstained**

DISCUSSION ITEMS

There were none.

DEPARTMENT HEAD REPORTS

Police Department had 1,112 calls in March, 36 accidents, 65 arrests and 32 citations. A mobile home caught fire at Aztec Trailer Park and was a total loss. National Library Week begins next week.

PRESENTATIONS BY LIAISONS TO BOARDS AND COMMISSIONS

PSAP Control Board meets Thursday.

ADJOURNMENT

At 9:02 P.M., Cangas MOVED and Wright SECONDED to adjourn until Tuesday, April 19, 2016, at 7:00 P.M.

VOICE VOTE APPROVAL

MANUAL CLAIMS AND WARRANTS: See Manual Claims dated March 31, 2016, in the amount of \$281,701.33, Claims dated April 1, 2016, in the amount of \$279,014.98 and Library Claims dated March 16, 2016, in the amount of \$25,085.42.

PAYROLL	3/18/2016
General	\$168,455.75
Special Revenue	10,293.22
Road Use	20,238.35
Water	26,389.28
Sewer	33,587.05
Solid Waste	14,749.17
Storm Water	2,667.23
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	\$276,380.05

Mayor Pro Tem Chris Greenwald
City of Fort Madison

ATTEST:

Melinda L. Blind, City Clerk