

**MINUTES OF THE
FORT MADISON CITY COUNCIL**

Tuesday, September 2, 2008 at 7:00 P.M.
Municipal Building, 811 Avenue E, Fort Madison, Iowa

The Fort Madison City Council met in regular session on Tuesday, September 2, 2008, at 7:00 P.M., at the Municipal Building, 811 Avenue E, Fort Madison. Mayor Steven J. Ireland presided with Council Members Greenwald, Rink, Randolph, Chesnut, and Lair present. Council Members Fraise and Boeding were absent.

VISITORS AND APPEARANCE REQUESTS

Father Troy Richmond, 1013 Avenue E, was present on behalf of the Parish Council of St. Mary's Church regarding the sports bar across the street. He cited safety concerns including liability for intoxicated patrons, parking and noise.

AGENDA

With it so noted that a correction to the Consent Agenda should read approval of Minutes of August 26 instead of September 26, Rink MOVED and Randolph SECONDED to approve the agenda, as written.

Greenwald asked to discuss the reappointments of Humphrey and Block to the Board of Adjustment & Appeals. Mayor Ireland asked that this be discussed under the Consent Agenda.

MOTION PASSED 5 AYES

CONSENT AGENDA

Chesnut MOVED and Randolph SECONDED to approve:

- Minutes of August 19 and August 26, 2008, as written;
- Renewal of a Class "C" Liquor License to Vinnie's Santa Fe Avenue Tap, 2601 Avenue L, effective September 16, 2008;
- Renewal of a Class "C" Beer Permit to Garner Oil, 2236 Avenue L, effective September 13, 2008;
- Mayor's reappointments of Bryan Humphrey and Charles Block to the Board of Adjustment & Appeals, terms expiring September 11, 2011;
- Mayor's reappointments of Tara Gilman, Mary Hitchcock and Lillian Daniel to the Housing Authority, terms expiring June 3, 2009; and Mayor's reappointments of Rebecca Bowker and Jim Posz to the Housing Authority, terms expiring June 3, 2010; and
- Payment of Claims.

Greenwald questioned the reappointment of Humphrey and Block to the Board as he disagreed with the Board of Adjustment's decision, and in particular Humphrey, concerning the sports bar on Avenue E. He asked Robert Johnson exactly what this Board's function was. Mr. Johnson

responded that the Board of Adjustment hears appeals from the Planning & Zoning Commission in determining Special Uses and Variances to the zoning laws.

Greenwald MOVED to amend the Consent Agenda to delete Bryan Humphrey's reappointment to the Board of Adjustment. Motion died for lack of a second.

Chesnut spoke that he did not agree with the Board's decision either, but he did agree with the fundamental process of each Board member listening and making determinations. He continued that he did not always agree with Council's decision either, but he respected their positions on issues without fear of being removed. Individuals will have different points of views.

Greenwald reiterated that the Board decides Special Use Permits and they are in violation of our code. The current Board is not doing a proper job. Chesnut believed any board or commission member should be able to vote without fear of reprisal.

Randolph asked Doug Krogmeier, Planning & Zoning Director, what the rule was as to attendance. Krogmeier responded a member missing 3 out of 5 or 3 consecutive meetings, without being excused, could result in the member being removed. Another question brought up was a nepotism policy. It was noted there is no nepotism policy for boards/commissions, only employees of the City. Mayor Ireland added appointments are usually suggested by department heads, but he doesn't always appoint who is put in front of him. In a town of this size there is sometimes a connection between members.

Randolph asked why Planning & Zoning would vote this issue down and then the Board of Adjustment approves it. Krogmeier responded that Planning & Zoning makes recommendations to the Board of Adjustment. That Board took their recommendations into consideration. Chesnut continued that as Council liaison to both boards, he felt that Planning & Zoning will listen to neighbors' comments and take those comments into consideration. The Board of Adjustment tends to look at the issues in a more legal manner within the bounds of the law instead of emotionally.

Randolph said he and Greenwald had read the Special Use permit application and did not feel the business qualified and had been misused. Council has no way to over-turn this Board's decision, yet it is Council's phones that are ringing.

Krogmeier stated the Special Use application was for the liquor license only.

The Mayor believed a huge problem existed. At the Planning & Zoning meeting a bar was discussed. At the Board of Adjustment meeting it was a restaurant/bar. Krogmeier continued and explained the Variance and Special Use process. This instance appears to be two different presentations but was not. It was one presentation with two separate actions. Michele Young spoke out from the audience that she did not have the same recollection as Krogmeier of those meetings. Sharon Scholl-Nabulsi stated she had also attended both Planning & Zoning and Board of Adjustment meetings and was shocked that the Board of Adjustment would over-turn Planning & Zoning's decision.

MOTION TO APPROVE CONSENT AGENDA PASSED 4 AYES
1 NAY (Greenwald)

PUBLIC HEARING

Concerning conveying a portion of road easement rights south of Siemens Plant, 2597 Highway 61:

Mayor Ireland opened the public hearing at 7:27 P.M. concerning conveying a portion of road easement rights south of Siemens Plant, 2597 Highway 61. There being no written or oral comments, Greenwald MOVED and Rink SECONDED to close the public hearing.

MOTION PASSED 5 AYES

RESOLUTION NO. 2008-47, CONVEYING EASEMENT: Lair MOVED and Rink SECONDED to approve a resolution authorizing the Mayor and Clerk's signatures on a Quit Claim Deed conveying road easement rights south of the Siemens Plant, 2597 to Siemens.

MOTION PASSED 5 AYES

ORDINANCES AND RESOLUTIONS

1ST READING, PROHIBITED PARKING: Chesnut MOVED to approve the 1st reading of an ordinance amending Title 9, Chapter 7, Section 6 entitled "Prohibited Parking" to prohibit parking on the south side of Avenue E in an area measured from the center line of 11th Street to a point 75 feet east, as requested by the owners of a new business at 1034 Avenue E.

MOTION DIED FOR LACK OF SECOND

RESOLUTION NO. 2008-48, STREET FINANCE REPORT: Rink MOVED and Lair SECONDED to adopt a resolution approving the 2007/08 Fiscal Year Street Finance Report.

MOTION PASSED 5 AYES

RESOLUTION NO. 2008-49, PIP 2008-6, SACRED HEART CEMETERY ROAD REPLACEMENT: Rink MOVED and Greenwald SECONDED to approve a resolution ordering construction, setting public hearing and bid letting for Public Improvement Project 2008-#6, Sacred Heart Cemetery Road Replacement.

MOTION PASSED 5 AYES

OTHER

CATFISH BEND LEASE AGREEMENT: Chesnut MOVED and Rink SECONDED to approve a Lease Agreement with Catfish Bend, term expiring March 31, 2016.

Lair questioned if they were still renting the pavilion. No, the building was vacated by them as of June 15th.

MOTION PASSED 5 AYES

DISCUSSION AND POSSIBLE ACTION ON A HOTEL/MOTEL GRANT FUND REQUEST IN THE AMOUNT OF \$1,000 FROM THE CVB FOR THE FALL FESTIVAL:

Sandy Brown, Director of the CVB, said that last year the Chamber, Art Center and Fort went together for the festival and received \$1,500. This year she was asking for the 2nd installment or \$1,000. Randolph asked if the CVB Board had met since Council's last meeting. They had not. He continued that he didn't understand why the CVB could not use some of the fishing money that had not been used. Brown explained that the CVB has allotted money for certain projects and the Fall Festival is not one of them. Chesnut continued to question the budget figures. Randolph asked why they had all these fishing tournaments; maybe people would rather see something other than fishing tournaments. Brown advised the tournaments were big events bringing a lot of people to the community for several days at a time using our hotels, restaurants and purchasing gas. Randolph said he would still like to see a return on our investment.

Chesnut MOVED and Randolph SECONDED to recommend that the Fall Festival receive 50% of the Hotel/Motel taxes when the payment arrives, but the amount should not exceed the \$1,000 asked for.

MOTION FAILED 2 AYES
3 NAYS
(Greenwald, Rink, Lair)

DISCUSSION AND POSSIBLE ACTION ON A HOTEL/MOTEL GRANT FUND REQUEST IN THE AMOUNT OF \$1,500 FROM THE CHAMBER OF COMMERCE FOR THE USS LST-325 SHIP VISIT:

Tracy Vance, representing the Chamber, stated the money would be used to help with marketing. He was willing to wait until the money came in as the advertising bills wouldn't arrive that soon.

Chesnut MOVED and Randolph SECONDED to approve a request for \$1,500 from Hotel/Motel Taxes for the LST-325 ship visit.

MOTION FAILED 2 AYES
3 NAYS
(Greenwald, Rink, Lair)

DISCUSSION AND POSSIBLE ACTION ON A HOTEL/MOTEL GRANT FUND REQUEST IN THE AMOUNT OF \$1,500 FROM THE MEXICAN FIESTA COMMITTEE FOR THE ANNUAL FIESTA.

Lair questioned the fact that the Fiesta even qualified under the guidelines. He didn't see it as a new, creative event. Chesnut said he liked the Fiesta but agreed it did not qualify. If the Fiesta is granted funds, the Rodeo should ask also. The money needs to be used for new events. Randolph concurred as the Fiesta has been on their

own for quite some time. He continued that this fund was set up to make things happen, but he almost felt sorry it was in place as there are so many hands out.

PRESENTATION BY JAY BRADY OF STANLEY COSULTANTS ON AN UPDATE OF THE COMBINED SEWER OVERLFLOW PROJECT. Jay Brady of Stanley Consultants presented an update on the Combined Sewer Overflow status. Approximately one year ago Council approved a long-term control plan to the EPA. At that time the City opted to do a disinfection process for the 8 overflow cites. This August a Draft Order was received. They now want the City to separate the 13th Street basin from the study and they want it done by 2011. The monitoring plan is required to be done by January, 2009. He was concerned about the pilot study outfall being completed by June 30, 2009. If that pilot study works out, they want the other outfalls completed by 2012. If the disinfection process doesn't work, the City has to be in compliance by 2019 which isn't much time. The Order is a legal document and he recommended the City retain legal counsel for discussion with the regulatory agency as the EPA wants the Order finalized within 30 days. This is not realistic. They consider this a voluntary consent action. Stanley Consultants will work with the chosen attorney and City staff to get this resolved.

Mayor Ireland confirmed that we are trying the cheaper option. We are. If we don't at least try an alternative, to separate the sewers is approximately \$20 million. The alternative is significantly less though still costly. The long-term plan eventually needs to be in place sometime to take care of the separation problem in the east end.

CONTRACT FOR SERVICES FROM THE AHLERS FIRM FOR THE COMBINED SEWER OVERFLOW: Lair MOVED and Chesnut SECONDED to approve a contract for services for Jane B. McAllister of the Ahlers Law Firm of Des Moines for environmental and legal services in connection with an Administrative Order from the EPA for a long-term control plan on the Combined Sewer Overflow Project.

Larry Dinwiddie advised Ms. McAllister has the environmental experience to do this. She will get the correct legal language in place to protect future Councils and to deal with this administrative order.

MOTION PASSED 5 AYES

RE-SEED WASTEWATER TREATMENT PLANT: Chesnut MOVED and Randolph SECONDED to approve the bid of Hoenig Lawn Services in the amount of \$3,966.55 for re-seeding the Wastewater Treatment Plant due to the flood.

Chesnut inquired if this would qualify for reimbursement under FEMA? There is a possibility.

MOTION PASSED 5 AYES

RE-SEED WESTERLY PUMP STATION: Chesnut MOVED and Rink SECONDED to approve the bid of Hoenig Lawn Services in the amount of \$1,968.44 for re-seeding the westerly pump station due to the flood.

MOTION PASSED 5 AYES

PRESENTATIONS BY LIAISONS TO BOARDS AND COMMISSION

Randolph reported the GRRWA is working on asphaltting the entrance to the landfill which will also include where the recycling containers sit. Lair reported on the Airport Commission. They have hired Dave Woodley as the new manager.

ADJOURNMENT

At 8:27 P.M., Rink MOVED and Lair SECONDED to adjourn until Tuesday, September 16, 2008, at 7:00 P.M

VOICE VOTE APPROVAL

MANUAL CLAIMS AND WARRANTS: See Manual Claims dated April 30, 2008, in the amount of \$245,915.08; and Claims dated May 1, 2008, in the amount of \$243,647.23.

Payroll – April 25, 2008

General	126,208.04
RSVP	1,205.87
Old Fort	1,341.65
Insurance	22.00
Road Use	21,122.26
Drug Task Force	2,931.60
Water	35,458.23
Sewer	29,252.90
Solid Waste	13,216.73
Storm Water	<u>2,999.91</u>
	233,739.19

Steve J. Ireland, Mayor
City of Fort Madison

ATTEST:

Suellen M. Mead, City Clerk