

CITY OF MUSCATINE
REGULAR MONTHLY SESSION OF CITY COUNCIL
Council Chambers - January 2, 1986 - 7:30 p.m.

The meeting was called to order by Mayor Richard Waltman.

Roll call: Councilmembers Harder, Sayles, Phillips, Amerine, Powell, and Kemp.

City Attorney Harvey Allbee, Jr., gave the opening prayer.

The Pledge of Allegiance was given.

As a result of the November election, it was necessary for City Attorney Allbee to swear in Mayor Waltman and Councilmembers Kemp, Sayles, Harder, Phillips, and Amerine.

City Attorney Allbee, speaking in reference to filling the position of the At-Large Councilmember, stated that the rules of Council do not have any specifications as to the procedures to follow when filling a vacancy. He told Councilmembers that since the rules of Council are silent, the City must rely on Robert's Rules of Order. Mr. Allbee stated that normally the Council will go through a process of nomination and voting when filling a vacancy or electing a Councilmember. He added that nominations can be made in several ways. In this case, Council has solicited written applications from citizens of Muscatine, and they could be considered as nominations. He noted that Council could determine the procedure to follow in making the appointment for this vacancy. He added that after passing the nomination stage, members of Council, and those nominated would have an opportunity to comment.

Mr. Allbee informed Councilmembers that the Iowa Open Meetings Law would require that the vote of each member present be made public, which would rule out any type of written ballot. He stated the Mayor could ask for the vote, there could be a voice vote, show of hands, or roll call vote.

Councilmember Sayles questioned if it would be acceptable if four of the Councilmembers voted for one particular person. City Attorney Allbee stated it would. He added it would be appropriate for the Mayor to ask if there are any additional nominations Council would like to make or if there is anyone present who would like to be considered. Mr. Allbee stated that the published notice indicated that 5 p.m. on December 31, 1985, was the deadline for submitting applications. He was not certain if Council would want to consider that as the closing date for accepting further nominations. He noted it would be necessary for a successful candidate to receive a majority vote. Councilmember Sayles felt that if a deadline was set then Council should abide by it.

Councilmember Amerine questioned the final date which Council could appoint someone to fill the position. City Attorney Allbee stated an appointment must be made by January 11th. Mr. Amerine stated he would like to see those persons interested in the vacancy come to the podium.

Councilmember Sayles noted that Councilmembers must first decide on the voting procedure. She suggested that the four candidates who submitted applications be considered for nomination, and that the Mayor have a roll call vote with each Councilmember naming his or her choice when called upon.

Councilmember Harder questioned if nominations could be accepted from the audience.

Councilmember Sayles felt that since a deadline for submitting letters was indicated in the published notice, no further nominations should be accepted from the audience. Soren Wolff, City Administrator, stated it was his understanding from Council that he include that date in the published notice in order to include any written applications with this agenda packet.

Councilmember Kemp stated he did not see a problem with accepting nominations from the audience.

Councilmembers agreed on having a roll call vote.

#9351. Councilmember Sayles moved to consider the four nominations for the position of At-Large Councilmember. Seconded by Councilmember Amerine.

Mayor Waltman read the names of those persons submitting a written application for the position. They were: Frank Anson, Paul Brewer, Don Brewer, and Clair York.

Councilmember Harder felt the Mayor should inquire whether anyone in the audience was interested in the position. City Attorney Allbee stated this would be out of order since a motion was on the floor.

Councilmember Kemp stated the motion indicated that only those four persons could be considered for the position. He added that the original motion would need to be voted down. City Attorney Allbee told Council that the original motion could be withdrawn.

Councilmember Sayles withdrew the motion, and Councilmember Amerine agreed.

Mayor Waltman questioned if there was anyone in the audience interested in applying for the position. There was no response.

#9352. Councilmember Sayles moved to consider the four people who submitted written applications as nominations for the position of At-Large Councilmember. Seconded by Councilmember Amerine. All ayes; motion carried.

Candidates presenting their reasons for seeking the position were Frank Anson, Paul E. Brewer, and Clair York. Don Brewer was not present at the meeting.

Mayor Waltman stated that a roll call vote would be taken with Councilmembers naming their choices. Candidates were named as follows:

Councilmembers Amerine - Paul Brewer; Powell - Frank Anson; Kemp - Frank Anson; Harder - Clair York; Sayles - Clair York; and Phillips - Clair York.

Mayor Waltman stated another vote would be taken; Councilmembers voted as follows:

Councilmembers Kemp, Powell, and Amerine - Anson; and Councilmembers Phillips, Harder, and Sayles - York.

Councilmember Amerine stated that the vote could remain deadlocked at 3-3 the entire evening, and questioned the possibility of taking the final ballot at the

January 9th In-Depth meeting.

#9353. Councilmember Amerine moved that no more ballots be taken until the January 9th In-Depth meeting. Seconded by Councilmember Kemp.

Councilmember Kemp questioned the outcome if the vote remained the same at the In-Depth meeting. City Attorney Allbee stated that if the vote deadlocked at 3-3, then Council could call for a special election.

There was discussion on whether any further applications would be accepted.

Councilmember Sayles questioned if the outcome would be determined by a vote of the entire Council or by those present at the meeting. City Attorney Allbee stated that if only five members were present at the next meeting, it would be a simple majority of the quorum. She questioned the deadline for holding a special election. City Attorney Allbee stated the last day the special election could be held would be February 25th. He was not sure if there is sufficient time to hold a special election.

Vote - Five ayes, Councilmembers Harder, Sayles, Phillips, Amerine, and Kemp. One nay, Councilmember Powell.

#9354. Councilmember Kemp moved that the minutes of the December 19, 1985 Regular Council Meeting be approved. Seconded by Councilmember Amerine.

Mayor Waltman stated that on page two of the minutes, the appointment of Michael Derry to the Municipal Board of Water & Light Trustees should be corrected to read effective January 1, 1986 through December 31, 1991.

Vote - All ayes; motion carried.

#9355. Councilmember Powell moved that the minutes of the December 20, 1985 Special Council Meeting be approved. Seconded by Councilmember Harder. All ayes; motion carried.

#9356. Councilmember Powell moved the request for a renewal of a Class C Liquor License for the Loading Dock, 228 W. 2nd St. - DEJCO, Inc., be approved. Seconded by Councilmember Amerine. All ayes; motion carried.

City Administrator Wolff told Councilmembers that the state liquor application for the Sunday Sales Permit requires that 50% of the gross sales be made from non-alcoholic type sales. He stated that in the past, if Council had any questions regarding whether a business could meet this requirement, the permit was approved on the condition that verification of the sales be submitted within six months.

City Administrator Wolff stated there was some concern as to whether Gus Edgeston, owner of Mr. Lucky's Place, could meet the requirements due to the lack of a kitchen facility. He added that without the facility, he does not feel the requirements of the application can be met.

Doctor John Tillie, the City's Health Inspector, stated that he had visited the establishment twice within the last week, and was told both times there was not a kitchen facility.

City Administrator Wolff recommended the request be denied until the applicant

can prove the establishment has a kitchen.

#9357. Councilmember Harder moved the request for a Sunday Sales Permit for Mr. Lucky's Place, 202 W. 2nd St. - Gus S. Edgeston, Sr., be denied. Seconded by Councilmember Sayles. All ayes; motion carried.

#9358. Councilmember Powell moved the resolution be adopted granting approval of the security interests in the cable television franchise with Heritage Cablevision. Seconded by Councilmember Amerine.

Councilmember Kemp stated he felt the Cable Advisory Commission did an outstanding job in reviewing the request.

Vote - All ayes: Councilmembers Harder, Sayles, Phillips, Amerine, Powell, and Kemp. Motion carried and resolution duly adopted.

#9359. Councilmember Sayles moved the Right-of-Way Statement for the Iowa Department of Transportation be approved. Seconded by Councilmember Harder. All ayes; motion carried.

#9360. Councilmember Powell moved that the following bids be approved: 1) 3/4 ton truck in the amount of \$9,527.58 from the state bid (Ron Wiley Ford); 2) 1/2 ton pickup in the amount of \$7,246.29 from the state bid (Benson Motors); 3) one ton truck in the amount of \$10,965.28 from Cedar Rapids Truck Center; and 4) body and hoist in the amount of \$2,629.90 from Hawkeye Truck Equipment. Seconded by Councilmember Phillips.

Councilmember Amerine pointed out that the state bid for the 1/2 ton pickup was lower than the bid received from the local bidder, Doug Bemis Chevrolet.

Councilmember Harder questioned if the trucks are American models, and was informed they were.

Vote - All ayes; motion carried.

Councilmember Kemp stated that Nancy Renfro would not be able to attend the meeting, but that her viewpoints remain the same concerning the removal of parking on the south side of Reed Street between Evans Street and Grandview Avenue.

#9361. Councilmember Harder moved that parking be eliminated on the south side of Reed Street between Grandview Avenue and Liberty Street. Seconded by Councilmember Amerine.

Councilmember Kemp stated he felt there was sufficient parking on Reed Street, as well as on Evans Street and alleys in the area. He questioned if it was illegal to stop on a street that has no parking in order to drop a person off. City Attorney Allbee stated a person could stop momentarily.

Councilmember Harder stated it was his understanding that the request originated from Central State Bank, and that the Renfro's were innocent bystanders. He felt that eliminating parking between Grandview Avenue and Liberty Street would satisfy the bank's request. He felt there was no reason why parking between Liberty and Evans Streets should be eliminated now.

Councilmember Kemp questioned the traffic committee's response. City

Administrator Wolff stated he could not give any more information than was provided in the agenda packet.

Vote - Three ayes, Councilmembers Harder, Amerine, and Powell; three nays: Councilmembers Kemp, Sayles, and Phillips. Motion defeated.

#9362. Councilmember Sayles moved that no parking be installed on the south side of Reed Street from Grandview Avenue to Evans Street. Seconded by Councilmember Phillips. Four ayes, Councilmembers Powell, Kemp, Sayles, and Phillips; two nays, Councilmembers Amerine and Harder. Motion carried.

#9363. Councilmember Amerine moved that items A-E be received and filed. Seconded by Councilmember Powell. All ayes; motion carried.

#9364. Councilmember Powell moved that bills totaling \$569,401.91 be approved and that the Mayor and City Clerk be authorized to issue warrants for the same. Seconded by Councilmember Sayles.

Councilmember Harder questioned the \$15 paid for removal of handcuffs. City Administrator Wolff stated that a prisoner had become unruly in the process of removing the handcuffs and the key broke.

City Administrator Wolff stated that the bill for the Greater Downtown Association for reimbursement of Christmas decorations would be transferred from the General Fund to the Parking Fund in the Enterprise System. He added that the total amount of the bills would not be affected.

Vote - All ayes; motion carried.

Councilmember Kemp stated that Clark Pantel requested that the Engineering Department look at 2509 Hershey Ave., noting there is a large amount of ice built up along Hershey Avenue. He questioned if something could be done regarding the removal of ice. Ray Childs, City Engineer, stated he was aware of the problem.

Councilmember Kemp questioned the possibility of publishing some type of notice informing tenants, and owners of apartments or unoccupied homes, that they are responsible for keeping sidewalks shoveled.


Mayor Waltman reminded Councilmembers of the Mayor's Prayer Breakfast to be held at 7 a.m. on Friday at the First Baptist Church.

#9365. Councilmember Kemp moved the meeting be adjourned. Seconded by Councilmember Amerine. All ayes; motion carried.

The meeting adjourned at 8:25 p.m.


Richard Waltman, Mayor

ATTEST:


Soren Wolff, City Clerk