

CITY OF MUSCATINE
REGULAR MONTHLY SESSION OF CITY COUNCIL
Council Chambers - January 16, 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.

The Rev. Emmanuel Dillard of the First Missionary Baptist Church gave the opening prayer.

The Pledge of Allegiance was given.

Harvey Allbee, Jr., City Attorney, swore in Clair York as Councilmember At-Large.

#9368. Councilmember Amerine moved to approve the minutes of the January 2, 1986 Regular Council Meeting. Seconded by Councilmember Sayles. All ayes; motion carried.

#9369. Councilmember Powell moved the minutes of the January 9, 1986 In-Depth Meeting be approved. Seconded by Councilmember Phillips. All ayes; motion carried.

Ida Forrester, 306 E. 4th St., stated she is the owner of a four-month-old raccoon, and that the City is trying to take it away from her. She stated the raccoon bit the Animal Control Officer; but after viewing the bite, she felt it was only a scratch. Ms. Forrester told Councilmembers the raccoon has been impounded, and questioned why the raccoon is considered a dangerous animal.

Councilmember Amerine questioned if she had any comments to make on the report received from the Police Department. He also questioned if her son had pink eye. Ms. Forrester stated her son did have pink eye, and that he told school officials the raccoon had scratched him on the eye. Mr. Amerine then inquired if the Animal Control Officer had been bitten. She stated it was only a scratch.

City Administrator Wolff, speaking in reference to the report on the Councilmembers' desk, told them the City became involved in this matter as the result of a request from the Department of Human Services. He added that the Animal Control Officer was scratched at the Forrester home.

Mr. Wolff stated that other cities in Iowa include raccoons in their Animal Control Ordinances. He added that the primary reason for this is due to the fact that raccoons are well-known carriers of rabies. Ms. Forrester stated that dogs and cats are also carriers of rabies. Mr. Wolff told her that the ordinance requires that they be vaccinated. City Administrator Wolff told Councilmembers that under the ordinance, Ms. Forrester is not allowed to have the raccoon in her home. She questioned what right the City has to determine what type of pets people can have in their homes. City Attorney Allbee stated that the City Council enacted legislation which considers the raccoon a dangerous animal, and that such an animal cannot be kept within the City. He told Ms. Forrester there is an appeal process. Mr. Allbee added that during the adoption of the Animal Control Ordinance, there was very little resistance from Muscatine residents. He stated the City has adopted this legislation, and noted this evening's meeting is not the appropriate time to file an appeal. Ms. Forrester questioned when she could file an appeal, and Mr. Allbee told her she would be notified.

Councilmember Kemp questioned who would be sending the notice to Ms. Forrester. City Attorney Allbee stated the notice would be sent by Police Chief Jerome Tesmond or his designee. Chief Tesmond stated that the original citation was given directly to Ms. Forrester. Mr. Kemp questioned if this evening would be the time to discuss this issue, or if Council should wait until the appeal process is started. City Attorney Allbee stated this evening was not the proper time to hear the appeal. City Administrator Wolff stated that the appeal process is explained in the Ordinance; adding that the issue will come back to Council when all the facts are received.

City Administrator Wolff questioned if Herb Jennings of the Iowa Conservation Office was present; he was not. Police Chief Tesmond stated that in accordance with the ordinance, Ms. Forrester may appeal the original citation within three days after receiving it. City Attorney Allbee was told that an appeal had been filed on January 14th. With this information, he stated he was in error and that the appeal could be discussed.

Councilmember Harder questioned if Ms. Forrester was aware of the fact that raccoons were included in the Animal Ordinance before it was approved on final reading. She stated she was not.

Councilmember Kemp stated that it is legal for legitimate game breeders to sell raccoons to people. Ms. Forrester agreed. Mr. Kemp questioned the possibility of innoculating raccoons against rabies. Doctor John Tillie stated there are not any approved inoculation agents for any wildlife species at this time. Councilmember Kemp then questioned if Ms. Forrester was concerned about the fact that her raccoon could contract rabies. She stated she was not concerned, since the raccoon is kept inside.

Councilmember Amerine stated it was his understanding that Cari Bribriesco, case worker with the Department of Human Services, had been bitten on the upper leg while in Ms. Forrester's home. She stated that the raccoon did not bite the case worker. He questioned if she was worried about the raccoon breaking the skin of family members, noting it cannot be immunized. Ms. Forrester stated that the raccoon could be immunized; it has not been done. She added that veterinarians are not allowed to treat wild animals. Doctor Tillie told Councilmembers that a veterinarian will treat any animal in need. He added that the cost of obtaining a vaccination for any wildlife species is immense. Ms. Forrester questioned if the raccoon is considered dangerous just because it cannot be immunized. Mr. Amerine felt she should be concerned since she has young children.

Police Chief Tesmond stated it was his understanding that procurement of this raccoon from anyone other than a licensed breeder is in violation of state statutes. He added that retention of the raccoon beyond January 26th would also be in violation of state statutes since it is a fur-bearing animal. Mr. Tesmond stated that in addition to the City's ordinance, there are state statutes that cover this particular situation.

Councilmember Kemp stated that the raccoon cannot be returned to the wild. Chief Tesmond stated these animals should remain in the wild. Mr. Kemp stated that before the ordinance was passed, animals considered dangerous could be kept in the home. Chief Tesmond stated this was true in relationship to the ordinance; however, the state statutes have been in effect for a longer period of time.

City Attorney Allbee stated that Council has heard Ms. Forrester's appeal, and comments from the Police Department and Dr. Tillie. He told Councilmembers they will need to determine if the appeal should be denied and the animal destroyed, placed in a care facility, or if it should be affirmed and the family allowed to keep the raccoon. City Administrator Wolff questioned the time period Council has in which to make a decision. Mr. Allbee stated that a decision could be made tonight, or it could be deferred until the February 6th Council meeting.

Councilmember Kemp felt that since the report was received on such short notice, any decision should be deferred until the February 6th meeting. City Administrator Wolff reminded Councilmembers that the appeal was not received until January 14th.

#9370. Councilmember Powell moved that action on this appeal be deferred until the February 6th Council meeting. Seconded by Councilmember Kemp.

City Administrator Wolff stated the raccoon is currently under quarantine and will remain so until January 20th, at the minimum.

Councilmember Phillips questioned if Illinois laws are similar to Iowa laws, and if the raccoon could be kept at her father's home in Illinois. Ms. Forrester stated the animal could be taken to Illinois; however, she wants the animal to remain in her home.

Councilmember Kemp asked if Ms. Forrester was paying for the retention of the animal. She stated she was. Mr. Kemp was informed that she could probably have the animal returned to her on January 20th. Chief Tesmond thought the raccoon would need to be retained for a longer period of time due to state statutes.

Vote - All ayes; motion carried.

#9371. Councilmember Kemp moved the request for renewal of a Class C Liquor License for Ina Mae's, 403 W. Mississippi Drive - Robert C. and Gaylie V. Doerres, be approved. Seconded by Councilmember Amerine. All ayes; motion carried.

#9372. Councilmember Powell moved the request for renewal of a Class C Liquor License and Sunday Sales permit for Bob's 19th Hole, 3712 Park Ave. - Robert L. Griffith, be approved. Seconded by Councilmember Sayles.

Councilmember Amerine stated he would agree with the approval of the request, but felt that Mr. Griffith should contact the City regarding his intentions to pave his parking lot. City Administrator Wolff stated that correspondence has been sent to Mr. Griffith; however, there has been very little response.

Councilmember Powell felt that Mr. Griffith's license could be in jeopardy if the lot is not paved by January 17, 1987.

Councilmember Sayles noted that Mr. Griffith was given until January 17, 1987, to pave the parking lot.

Vote - All ayes; motion carried.

#9373. Councilmember Powell moved the request for a new Class E Beer and Sunday Sales permit for Petro-N-Provisions, 1010 Park Ave. - C.G.C. Stores, Inc., be tabled until the February 6th Council Meeting. Seconded by Councilmember York. All ayes; motion carried.

#9374. Councilmember Amerine moved the request for a Taxicab License for Smiley's Cab Service be approved. Seconded by Councilmember York. All ayes; motion carried.

City Attorney Allbee stated that after reviewing the state statutes, the City could either allow a twenty-five day minimum for filing petitions prior to the election, or it could allow not more than 65 days nor less than 40 days for filing petitions. He told Councilmembers that after talking with Marilyn Hansen, Commissioner of Elections, and the Secretary of State's Office, the conflict between the two statutes could not be resolved. The matter was then referred to the Attorney General's Office. Mr. Allbee stated that his interpretation of the Attorney General's response was to follow the 65 to 40 day requirement. He noted that the earliest the special election could be held, would be March 11, 1986. He told Councilmembers the deadline for filing nomination petitions would be January 30, 1986, at 5 p.m.; canvass of election by County Board of Supervisors on March 13, 1986, at 1 p.m.; a run-off election (if needed) would be held on April 1, 1986; and canvass of run-off election by County Board of Supervisors on April 7, 1986, at 9 a.m. He noted that Mrs. Hansen will publish the notice and ballot not earlier than February 17th, nor later than March 7th. City Attorney Allbee stated that Mrs. Hansen agreed to the March 11th election date.

#9375. Councilmember Powell moved the resolution calling for a Special Election for Councilmember At-Large and the attached schedule be adopted. Seconded by Councilmember Sayles. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine, Powell, and Kemp. Motion carried and resolution duly adopted.

Mayor Waltman recommended the appointment of James H. Kent to the Municipal Board of Water and Light Trustees.

#9376. Councilmember Powell moved the appointment be approved. Seconded by Councilmember Kemp. All ayes; motion carried.

Mr. Kent was sworn in by Mayor Waltman.

Mayor Waltman requested the list of nominations for appointments to various boards and commissions be approved with the additional appointment of Father Rudy to the Cable Television Advisory Commission.

#9377. Councilmember Amerine moved the list be approved. Seconded by Councilmember Powell. All ayes; motion carried.

Mayor Waltman read the list of appointments to Council Committees, and requested its approval.

#9378. Councilmember Amerine moved the list be approved. Seconded by Councilmember Kemp. All ayes; motion carried.

Mayor Waltman recommended the proclamation declaring the week of February 3-8 as "Boy Scout Week" be approved.

#9379. Councilmember Powell moved the proclamation be approved. Seconded by Councilmember Sayles. All ayes; motion carried.

Kevin Whittaker, Director of Planning and Community Development, reviewed the alignment of Phases I and II of the Industrial Connector Road Project. He stated that the southern point of the By-Pass intersects with the existing Highway 61; and that in Phase I of the project, it is proposed that a roadway be extended from that point in an easterly direction over to Stewart Road. The length is approximately one mile. He pointed out thirteen acres of land the City had acquired as part of a right-of-way settlement. Mr. Whittaker stated that Phase II would extend from Stewart Road, easterly, using the roadway presently serving as access to Muscatine Power & Water's generating facility. It would pass through property owned by Agri Industries, line up with Maple Grove Road, and proceed north on Maple Grove Road to the trucking entrance of Grain Processing Corporation. He then pointed out an area of platted right-of-way. He told Councilmembers that approximately 2,400 feet of property east of Stewart Road is owned by Muscatine Power & Water. In exchange for having the property dedicated as a public street, the City would consider vacating Maple Grove Road from the company's north property line to the south corporate limits. Mr. Whittaker added that in exchange for public right-of-way over property owned by Agri Industries, the City would consider vacating a portion of the Oregon Street right-of-way and deeding it to the company.

Mr. Whittaker stated that Walton Street down to Agri Industries does not serve a purpose and acts as a barrier to future industrial development on the site. He stated that in conjunction with Phase II of the proposal, the City would consider vacating the property and selling it to Grain Processing.

Mr. Whittaker stated that the existing street system of Kemper, Phillips, Latham, and Maple Grove Road not only serve as accesses to Grain Processing, but also to residences in the area. He told Councilmembers that when these accesses are no longer needed, the City should consider vacating the street network. He noted that as part of the vacation process, the proposal would first pass through the Planning Commission, and would then require public hearings to be held. City Administrator Wolff emphasized the fact that all exchanges or vacation of properties would be subject to public hearings.

City Administrator Wolff stated that Councilmembers had on their desks a copy of the application to be delivered to the IDOT on January 20th. He told Councilmembers that at this point, staff involved with compiling the application and representatives from Muscatine Power and Water, Agri Industries, and Grain Processing will meet with IDOT to outline the proposed program.

Mr. Wolff felt there are some misconceptions as to how the project will be funded. He stated the total cost for Phases I and II will be approximately \$2,780,000, with Phase I estimated at \$1,721,000. He stated that Phase I will primarily be funded by FAUS funds of \$871,000, no-interest loans totaling \$250,000, and \$250,000 which would come from proceeds received after the sale of right-of-way (13 acres) for industrial development and other right-of-ways to be vacated. Mr. Wolff noted that the City may have to issue short-term General Obligation Bonds which would be repaid after the property is sold. He added that the only other source of funding for Phase I would come from \$300,000 of RISE monies included in the application. He stated that if the application is approved, local dollars will not be used to fund the project. Mr. Wolff stated that Phase II will be funded primarily with private monies and RISE funding; City tax dollars or grant monies would not be involved. He told Councilmembers that if the RISE funding is not

approved for Phase II, the City will need to determine how the cost would be allocated to the private sector. Mr. Wolff stated that if everything goes according to schedule, Phase I should be ready to bid on May 13, 1986.

#9380. Councilmember Amerine moved the resolution to authorize the submittal of an application for RISE Funding in the amount of \$912,240 be approved. Seconded by Councilmember Sayles. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine, Powell, and Kemp. Motion carried and resolution duly adopted.

#9381. Councilmember York moved the agreement with the IDOT to remove the abandoned railroad track at Oak and 3rd Streets be approved. Seconded by Councilmember Amerine. All ayes; motion carried.

#9382. Councilmember Powell moved that the request be approved to have the Engineering Department and Muscatine Power and Water develop plans and cost estimates for possible installation of a traffic signal at U.S. 61 and Hershey Avenue.

Councilmember Amerine told the audience this request is only for the development of plans and cost estimates for the possible installation of a traffic signal. He added that of the seven calls he received concerning the installation of a traffic signal, six were opposed.

Councilmember Kemp felt that during bad weather, southbound traffic would not be able to stop. He questioned the possibility of slowing the traffic down in a progressive manner as opposed to installing a traffic signal.

Councilmember Harder agreed with the original motion to proceed with the development of plans and cost estimates.

Vote - All ayes; motion carried.

#9383. Councilmember Amerine moved the Civil Service Certification List for Recreation Supervisor be approved. Seconded by Councilmember Phillips. All ayes; motion carried.

#9384. Councilmember Amerine moved the resolution be adopted setting a public hearing for February 6, 1986, for the purchase of three new Public Transit Vehicles. Seconded by Councilmember York. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine, Powell, and Kemp. Motion carried and resolution duly adopted.

City Administrator Wolff stated that bids had been solicited from five manufacturers for hand rails at the Water Pollution Control Plant; however, only two responded. He told Councilmembers that the high bid came from Brewer Metal Craftsmen of Beaverdam, Wisconsin, in the amount of \$10,622, and the low bid from Bert Gerney & Associates of Omaha, Nebraska, in the amount of \$8,927.65. He recommended that the low bid be approved.

#9385. Councilmember York moved the low bid of \$8,927.65 be approved. Seconded by Councilmember Sayles. All ayes; motion carried.

#9386. Councilmember Sayles moved that items A-G be received and filed. Seconded by Councilmember Phillips. All ayes; motion carried.

#9387. Councilmember Kemp moved that bills totaling \$425,743.36 be approved and that the Mayor and City Clerk be authorized to issue warrants for the same. Seconded by Councilmember Powell. All ayes; motion carried.

City Attorney Allbee stated a memo had been received from Roger Caudron concerning a mortgage subordination agreement for a rehab applicant. He stated the applicant had been given forgivable and non-interest loans a few years ago. The home is being purchased on installment contract. Mr. Allbee told Councilmembers that the contract seller and applicant wish to refinance the loan and generate extra dollars for further repairs. He stated that the provisions of the mortgage and the loan provide that if the property is sold within a prescribed period of time, the loan must be repaid. He noted this is technically not a sale of the property. Mr. Allbee stated there will be a new contract seller, and a new Deed of Trust will be issued to First National Bank; however, in order for the bank to have first position it is necessary to have the City subordinate its status. He recommended the Mayor and City Clerk be authorized to execute the agreement for this financing.

#9388. Councilmember Sayles moved to approve the subordination agreement. Seconded by Councilmember Amerine. All ayes; motion carried.

Councilmember Harder questioned how work on the Washington Street Bridge was progressing. Ray Childs, City Engineer, stated that the form work is coming along nicely, adding that the decking has been installed. He told Mr. Harder there is still quite a bit of work that must be done before the bridge will support the finishing machine. Mr. Childs stated that if the weather will allow, the company should be ready to pour the concrete in about one and a half weeks. Mr. Harder questioned if the company had worked on Saturday, January 11th; and Councilmember Phillips stated she had seen men working on the bridge. Mr. Childs stated the company is not required to work on Saturdays; however, if meaningful work is performed, it would be considered a work day.

There was discussion on the penalty the company is being charged.

Councilmember Powell stated he had received a report on the request he made several months ago concerning the intersection at Clay Street and Park Avenue. The report indicated it would be necessary to acquire property from the adjacent property owners before the intersection could be redesigned. He stated the amount of land needed would be just a small pie-shaped area which would allow the installation of a wide radius curve to accommodate trucks turning south on Park Avenue from Clay Street.

#9389. Councilmember Powell moved to undertake the purchase of the property by City staff. Seconded by Councilmember Kemp.

Councilmember Sayles questioned if there had been a traffic study done on this request, and Councilmember Powell told her there had been.

City Administrator Wolff stated that this intersection is one of five intersections to be improved under the U-Step program. He told Councilmembers that intersections from Clay Street and Park Avenue north to the By-Pass are part of the five-year Capital Improvement program to renovate all signals in the area and to improve the approaches to the intersections. Mr. Wolff thought the design work to determine the exact amount of right-of-way needed was not complete. He added that once this is done, Council will obtain a cost estimate.

Councilmember Powell felt that Council should see a cost estimate. The report indicated acquisition of land should precede the design stage.

Councilmember Powell amended the motion to submit a cost estimate based on the study.

City Administrator Wolff stated the City could not purchase the property until the design is completed.

Councilmember Powell amended the motion to compile a design and cost estimate.

Councilmember Sayles questioned how much of the design plan has been completed, and if each intersection will be done as a separate project. City Administrator Wolff stated that all five intersections will be submitted as one project and as one contract. Mrs. Sayles then questioned if approving Councilmember Powell's motion would mean that Council is singling out this intersection. City Administrator Wolff stated it was his understanding that the motion is for obtaining cost estimates for improvement to the intersection. She questioned if the cost estimates were for the Clay Street and Park Avenue intersection only, or all five intersections.

Ray Childs, City Engineer, stated that plans are currently in sketch form. He added that they must now be submitted to Muscatine Power and Water in order for them to plan where electrical poles and conduits will be placed when the City moves corners. He noted that the plans should be completed in early spring. He stated that real estate, in the approximate form of a 20 x 20 foot triangle, near the C&K Sports Shoppe would need to be acquired. He added that profiling work must be completed for the gutter line. Mr. Childs told Councilmembers there is some question as to whether Council would want to acquire property on the opposite side of the street in order to widen its curve.

Councilmember Sayles questioned if a motion was being made on something City staff was already doing. Mr. Childs stated that the process of requesting the acquisition of real estate would be part of the wrap-up for the design phase.

Mr. Childs stated that in addition to the Clay Street and Park Avenue intersection, the City would also be looking at the modernization of control devices at the Harrison and Lake Park Boulevard intersections, and refurbishing of intersection areas along the mall.

There was further discussion on other improvements to be made at the intersections.

Councilmember Harder stated it was his understanding that Councilmember Powell's request would take place during the design phase.

Councilmember Powell felt the Clay Street and Park Avenue intersection should be given priority over the others.

City Administrator Wolff stated there are some accident problems at the other intersections, and that improvements are not just for cosmetic reasons. He noted that the whole concept would be submitted as one package.

Councilmember Powell withdrew his motion, and Councilmember Kemp his second.

Councilmember Kemp stated that he had seconded Councilmember Powell's motion because he felt there are problems in that area.

He added that complaints are still received concerning the Heinz Warehouse at the corner of Clay Street and Isett Avenue. He questioned if Heinz had responded to the design plan he had submitted. Randy Hill, Administrative Assistant, told Mr. Kemp that Heinz had responded. City Administrator Wolff stated that Heinz had indicated nothing could be done regarding the truck traffic. Mr. Kemp felt the company could do a better job of scheduling the time for trucks to be at the warehouse. He questioned why the loading docks could not be moved to face Isett Avenue. City Administrator Wolff stated the response from Heinz indicated this could not be done.

There was further discussion on traffic problems in that area.

City Administrator Wolff told Councilmembers that a letter had been received from the Liquor Control Commission concerning the denial of the Sunday Sales Permit for Mr. Lucky's Place. He stated that Gus Edgeston, Sr., was given the opportunity to appeal the City's decision to deny the permit.

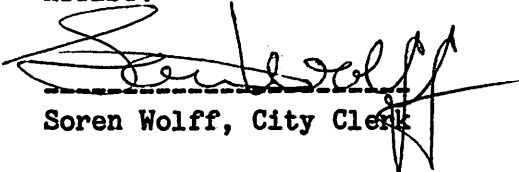
#9390. Councilmember Kemp moved the meeting be adjourned. Seconded by Councilmember Amerine. All ayes; motion carried.

The meeting adjourned at 9:07 p.m.



Richard Waltman, Mayor

ATTEST:



Soren Wolff, City Clerk