

6-A

CITY OF MUSCATINE
REGULAR MONTHLY SESSION OF CITY COUNCIL
Council Chambers - June 5, 1986 - 7:30 p.m.

The meeting was called to order by Mayor Richard Waltman.

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

Ken Bell, pastor of the Wesley United Methodist Church, gave the opening prayer.

Public Hearing

Mayor Waltman stated the public hearing was being held on the request by Bethesda Care Center to rezone their property from R-1 to S-1 Special Development District - Mulberry Avenue.

Kevin Whittaker, Director of Planning and Community Development, reviewed the proposed site plan. He stated the request initially came to Planning and Zoning for review in February or March. He told Councilmembers that the Planning Commission spent several months reviewing the request. The proposed rezoning would allow the construction of eighteen rental apartment units. Mr. Whittaker presented a metric drawing of the site plan and the location of the proposed units. He stated that concerns voiced at the Planning and Zoning meeting held on May 13th included traffic changes, increased drainage problems, and adjacent structures. He noted that the two homes in question are located on the proposed site plan. Mr. Whittaker stated the traffic report included in the agenda packet was prepared by a registered engineer. He stated the report indicated there was not any need to construct an additional road or install traffic signals. Mr. Whittaker, speaking in reference to the drainage, also stated the sheet run-off goes towards Mulberry Avenue and into the drainage system.

Mr. Whittaker told the Council that the Planning and Zoning Commission recommended the property be rezoned to the S-1 District. He stated there is more protection under this type of rezoning, noting that all development must be in accordance with the site plan. Any additional changes would require approval of the Planning and Zoning Commission and City Council. He also noted there is a need in Muscatine for this type of housing.

Councilmember Kemp questioned if the S-1 zoning could allow for a buffer zone. Mr. Whittaker stated it could. Mr. Kemp then questioned if a buffer zone stipulation could be included as part of this rezoning ordinance before the east side of the care center is developed. Mr. Whittaker stated that decision must be made by the City Council.

Councilmember Harder questioned if the Fire Department had concerns regarding access to the property and the additional units. Mr. Whittaker stated they did not.

Joe Schulte, Administrator for the Bethesda Care Center, stated there are many elderly citizens in Muscatine who have applied for residency at the Clark House or Hershey Manor, but were denied due to financial eligibility. He told Councilmembers that the proposed units, fourteen one-bedroom and four two-bedroom, would be similar to those found at Hershey Manor. He stated that one meal a day would be provided, as well as housekeeping services and recreational areas. Each of the units would be

equipped with emergency call lights which would allow residents to contact the nursing home in case of an emergency. Mr. Schulte noted this request has received support from various agencies in Muscatine. He told Councilmembers there are residents of Muscatine living in nursing homes because they could not find or afford supervised living.

Councilmember Phillips questioned how Mr. Schulte felt about installation of a buffer zone. Mr. Schulte stated the property is being rezoned as a complete parcel, noting any future development would require the approval of the Planning and Zoning Commission and City Council. He stated he felt it would be premature to address this issue.

Councilmember Kemp questioned if the care center had always received the necessary permits for work performed in the past. Mr. Schulte stated it had.

Councilmember Phillips questioned if the traffic analysis had been approved. Mr. Schulte told her it had been.

John Middents, 311 Bartlett St., Executive Director for the Commission on Aging, stated he felt there is a need for this type of housing project in Muscatine. He told Councilmembers his social worker has encountered problems with persons unable to reside at the Clark House or Hershey Manor due to financial ineligibility, but who are also unable to live in their own homes. Mr. Middents stated he felt the construction of the eighteen units at the Bethesda Care Center would add to the quality of life in Muscatine.

Patricia Castle, 4117 Grandview Ave., Program Director for the Community Nursing Service, stated she felt there is a need by the elderly population in Muscatine for this type of housing. She noted this project addresses an area that HUD and the Housing Department of the City cannot address due to income ineligibility.

Chuck Coulter, an attorney representing the Bethesda Care Center, addressed the legal questions concerning the proposed rezoning. He stated the technical conditions required by the Planning and Zoning Commission have been complied with. He noted the proposed S-1 rezoning has been reviewed by the City staff, and its approval recommended. Mr. Coulter stated this type of rezoning would require the property owners to proceed through the entire review process before any future development could occur. He told Councilmembers the zoning ordinance is designed to allow neighbors to voice their concerns before a rezoning request is approved.

Mr. Coulter noted the primary objection to this proposed rezoning is from Art Quast, the neighbor on the east side of the Bethesda Care Center. He stated Mr. Quast would like a covenant stating there would not be any future development on the east side of the care center. He informed Councilmembers that Mr. Schulte had requested that the home office provide such a covenant, but they were not willing to do so. Mr. Coulter added that if covenants promising no future development were allowed, it would mean the City would not be allowed to develop and grow. He stated the request for such a covenant was not a reasonable one, but noted there is protection in the City ordinance. Mr. Coulter told Councilmembers of the existing constraints which provide additional protection to the neighbors. The first would be the fact that the care center does not plan to develop that portion of the property.

Other constraints include the existing utility lines and the limited amount of space on the east side of the care center. He noted the Planning and Zoning Commission's proposal provides additional protection for Mr. Quast. Mr. Coulter stated the debate concerning the development on the east side of the care center is premature and should have nothing to do with the site plan currently being submitted for approval.

Robert DeKock, the attorney representing Art Quast, 3430 Mulberry Ave., stated the key word regarding this rezoning issue was "buffer". He referred to minutes dated June 1, 1982, from the Zoning Board of Adjustment which stated that the addition was located nearer than twenty-five feet to the rear property line to which Mr. Schulte stated it would be altered to comply with the all zoning setbacks. Mr. DeKock noted that the building is currently not in compliance with the zoning setbacks. He stated Mr. Coulter had referred to a statement made by Mr. Schulte that he would provide a letter indicating the care center would not build on the east side. He requested City Council provide in the form of a buffer setback what Mr. Schulte had promised.

Mr. DeKock informed Councilmembers three wings have been added to the care center since the Quasts have resided on their property. He noted that the number of people turned away from the Clark House due to financial ineligibility would make it necessary for the care center to add additional units in the future. He asked that a buffer be imposed on the east side of the property. He stated that the Quast's lot line is seventy-eight feet away from the most easterly point of the structure. Mr. DeKock stated that his clients feel the parking is inadequate, noting that occasionally visitors to the care center park on their property.

Mr. DeKock noted that on the east side of the care center there are sewer, water and tile lines; the Quasts feel they will have drainage problems if they are tampered with. He stated that Mr. Quast, referring to the preliminary plan submitted to Planning and Zoning, felt it was illegal because the items being provided to Council were not discussed at that time. Mr. Quast felt that if the Planning and Zoning Commission acted illegally, then Council would be acting illegally by approving the request.

Mr. DeKock stated an aerial view of the Bethesda Care Center indicates the structure has been added to erratically, noting there is no basic architectural design. He noted the traffic report did not indicate how long traffic was observed in front of the care center. Mr. DeKock stated he felt the report was compiled in a short time period. He stated it would not be difficult to grant the request for a buffer, and requested City Council enforce the promise made by Mr. Schulte.

Councilmember Sayles questioned if the care center was at its present location before Mr. Quast built his home. Mr. Quast stated the care center was there first; however, it had been located in the county.

Councilmember Kemp questioned if Mr. DeKock was claiming the traffic study and other necessary items were done after the fact, and if the preliminary request should have been tabled until the information was received. Mr. DeKock stated he was, noting that no one had the power to waive the requirements. Councilmember Kemp questioned why this was not done. Kevin Whittaker, Director of Planning and Community Development, stated that the ordinance was adopted in 1973 with these stipulations because of the shortage of staff. He noted that staff has been increased which means the City has better knowledge of traffic and drainage situations in Muscatine. Councilmember Kemp felt that someone did not follow the proper procedure.

There was further discussion on the Planning and Zoning's recommendation to approve the proposed rezoning.

Mike Vaupel, 3480 Mulberry Ave., stated he felt the ordinance should be adhered to. He added there is a need for this type of housing in Muscatine; however, he felt the care center should be required to pay taxes.

Cliff Ballard, 3323 Mulberry Ave., stated that everyone on Mulberry Avenue is opposed to the proposed expansion. He added that he disagreed with the traffic study; there are no shoulders on Mulberry Avenue, and many children ride bicycles on the street. He stated there had been a traffic fatality at the curve near Houser Street.

Mr. Quast stated that the zoning laws and ordinances guarantee each property owner a free right to his property. He questioned why the City would allow the expansion of the care center. Mr. Quast felt the additional units would not solve the problems in Muscatine.

Mr. Coulter stated that in 1976 the City granted a variance for the rear point of the property. He noted that Mr. Schulte indicated he would get a commitment from the corporation, and added that he immediately contacted the Quasts when he found the corporation would not agree to the commitment. Mr. Coulter stated that the Planning and Zoning Commission had recommended the proposed rezoning be approved with the knowledge the covenant could not be provided. He noted that the care center expects to pay taxes on a portion of the development. He added that the impact of this project would not make a significant difference in the traffic pattern.

Mr. Quast stated he felt the traffic count should be taken into consideration. He also felt the City should purchase a section of land and build one hundred units in addition to recreational facilities.

There were no written petitions for or against the proposed rezoning.

#9685. Councilmember York moved the public hearing be closed. Seconded by Councilmember Sayles. All ayes; motion carried.

#9686. Councilmember Amerine moved the minutes of the May 15, 1986 Regular Council meeting be approved. Seconded by Councilmember Phillips.

It was noted that on page five of the minutes the name Jim Bell should be changed to Jim Villhauer. Councilmember Harder stated motion #9673 concerning the electrical ordinance should read that Councilmember Phillips voted against it. It was also noted the last paragraph on page nine of the minutes should read Mayor Waltman.

Vote - All ayes; motion carried.

Bill Rueckert, 705 Woodlawn Ave., president of the Muscatine Jaycees, stated he had attended the Iowa State Jaycee Convention in May, noting Muscatine was well received across the state. He told Councilmembers that the necessary forms for the July 4th parade and fireworks would be available for approval in June.

Councilmember Amerine questioned when the parade was being held. Mr. Rueckert stated the parade would be held on Saturday, July 5, noting the date change would avoid interference with other July 4th activities.

Mayor Waltman recommended that Jeff Meyers, also a member of the Jaycees, contact the Finance Department to check on insurance requirements and necessary parade permits.

Councilmember Kemp stated he would like to see the Jaycees and the Great River Days Association combine their efforts for one large fireworks display.

#9687. Councilmember Powell moved the following requests be approved: 1) New Class E Beer and Sunday Sales Permit for Petro-N-Provisions, 2206 Lucas St. - C.G.C. Stores, Inc.; 2) new Class E Beer and Sunday Sales Permit for Walgreen Co., Muscatine Mall - Walgreen Co.; 3) renewal of Class A Liquor License for Elks Lodge, 413 E. Mississippi Drive - Elks Lodge #304. Seconded by Councilmember Kemp. All ayes; motion carried.

#9688. Councilmember York moved the request for a new Class C Liquor and Sunday Sales Permit for McDuff's (formerly Bob's 19th Hole), 3712 Park Ave. - McDuff's Corp. be tabled until until the June 19th Council meeting. Seconded by Councilmember Amerine.

Councilmember Kemp questioned if additional information regarding paving of the parking lot would be provided at the June 19th meeting. City Administrator Wolff stated it would.

Vote - All ayes; motion carried.

City Administrator Wolff stated a request had been received from the Vendor's Choice, 1502 Park Ave., for a new Class E beer permit. He recommended it be tabled until the next Council meeting.

#9689. Councilmember Powell moved the request be tabled until the June 19th Council meeting. Seconded by Councilmember Sayles. All ayes; motion carried.

#9690. Councilmember York moved the resolution be adopted approving cigarette permits for Howard Music Company d/b/a business as Dussie's Good Times, 2417 Grandview Ave., and D.C. Arnold Co., 214 Iowa Ave. Seconded by Councilmember Kemp. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine, Powell, and Kemp. Motion carried and resolution duly adopted.

#9691. Councilmember York moved the resolution be adopted approving cigarette permits for the following:

B.P.O. Elks Lodge #304, 413 E. Mississippi Drive; Pester Marketing Co. #65, Clay & Gobble Streets; Muscatine Properties d/b/a Plamor Lanes, 1411 Grandview Ave.; Cedar Falls Oil Co. d/b/a Holiday Stationstore, 502 Grandview Ave.; Shirley Hubble d/b/a Hubbles, 214 E. 2nd St.; Loos, Inc., 711 Park Ave.; Hy-Vee Food Store, 1903 Park Ave.; Scott's Bait & Tackle Shop, 2017 1/2 Stewart Road; Gary Kopf d/b/a Maid-Rite Sandwich Shop #1, 100 E. 2nd St., and Maid-Rite Sandwich Shop #2, 1033 Hershey Ave.; Curtis & Coletta Logel d/b/a Pete's Tap, 1820 Angle St.; VFW Post #1565 Canteen, 421 Mulberry Ave.; Helen Nichols d/b/a Nichols Grocery, 1509 Stewart Road; Muscatine Labor Activities, 222 W. 2nd St.; Nash Finch Co. d/b/a Warehouse Market #24, 1708 Park Ave.; Muscatine County Community Workshop, d/b/a Workshop General Store, 112 E. 2nd St.; Mardell & Thomas Pettitt d/b/a Pettitt's Restaurant, 1403 Oregon St. Seconded by Councilmember Harder. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine, Powell, and Kemp. Motion carried and resolution duly adopted.

#9692. Councilmember Sayles moved the request to use the public right-of-way on August 16, 1986, for the Watermelon Stampede be approved with the condition traffic control be coordinated with the Police Department. Seconded by Councilmember Phillips. All ayes; motion carried.

#9693. Councilmember Amerine moved the petition for improvements to 51st Street South be referred to the June 12th In-Depth Council meeting. Seconded by Councilmember Powell. All ayes; motion carried.

#9694. Councilmember Amerine moved the petition opposing drainage improvements on 65th Avenue West be received and filed. Seconded by Councilmember York. All ayes; motion carried.

#9695. Councilmember Phillips moved the lawsuit filed against the City by Steven Barnes be referred to the City Attorney and the City's insurance company. Seconded by Councilmember Amerine. All ayes; motion carried.

Mayor Waltman recommended the appointments of Councilmember Sayles and Norma Todd to the School District Economy Task Force.

#9696. Councilmember Powell moved the appointments be approved. Seconded by Councilmember York. All ayes; motion carried.

#9697. Councilmember York moved that resolution #82585 approving the North Park Subdivision be rescinded. Seconded by Councilmember Amerine. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine, Powell, and Kemp. Motion carried and resolution rescinded.

#9698. Councilmember York moved the resolution be adopted approving the North Park II Subdivision. Seconded by Councilmember Amerine.

Councilmember Harder questioned if all the utility easements would be reduced to six feet. Kevin Whittaker, Director of Planning and Community Development, stated that the easements would be reduced along the south side only.

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

#9699. Councilmember Powell moved the ordinance be adopted on final reading to increase the Water Pollution Control rates effective July 1, 1986, and that it be published in the Muscatine Journal as required. Seconded by Councilmember Amerine. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine, Powell, and Kemp. Motion carried and ordinance adopted on final reading.

#9700. Councilmember York moved the ordinance to adopt the Electrical Ordinance and Licensing Procedures be approved on second reading. Seconded by Councilmember Sayles. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine, Powell, and Kemp. Motion carried and ordinance approved on second reading.

#9701. Councilmember Kemp moved the ordinance to amend the regulations of liquor on City property be denied on the second reading. Seconded by Councilmember York.

Councilmember Kemp stated his objection was based on his feelings regarding allowing the consumption of alcoholic beverages on public property.

Councilmember York stated that Council is not consistent, noting it will not approve the local tavern owners request but will approve the one from RAGBRAI.

Mayor Waltman stated the tavern owners had requested the beer tent be held at Kent Stein Park. Councilmember York stated Kent Stein is also a public park. Mayor Waltman stated the organization could have the beer tent on the Riverfront.

Councilmember Harder stated he felt "on the Riverfront" should be deleted from the ordinance. Soren Wolff, City Administrator, stated Council could delete the phrase. He noted the ordinance allows the issuance of licenses on any public property other than the City's parks.

Vote - Two ayes: Councilmembers Kemp and York. Five nays: Councilmembers Powell, Amerine, Phillips, Sayles, and Harder. Motion defeated.

#9702. Councilmember Sayles moved the ordinance to amend the regulations on allowing liquor on City property be approved on second reading. Seconded by Councilmember Powell. Five ayes: Councilmembers Harder, Sayles, Phillips, Amerine, and Powell. Two nays: Councilmembers York and Kemp. Motion carried and ordinance approved on second reading.

Jim Villhauer, representing the Muscatine Quarterback Club, stated that National Geographics publishes a magazine for travelers. He told Councilmembers a recent article on RAGBRAI had mentioned Muscatine several times. He noted that RAGBRAI is a million dollar windfall to Iowa each year, and is a worldwide special event. Mr. Villhauer noted the Quarterback Club appreciates the passing of the ordinance.

Councilmember Kemp stated he was not opposed to the Quarterback Club; however, he was against the issue of allowing alcoholic beverages on public property.

Councilmember Powell requested a five-minute recess at 9:10 p.m.

#9703. Councilmember Sayles moved the ordinance to rezone approximately 4.8 acres from R-1 residential to S-1 special development district be approved on first reading. Seconded by Councilmember Kemp.

Councilmember Kemp stated he felt the ordinance should be approved on first reading to allow further input from the public.

Councilmember Sayles stated approval on first reading would also allow the ordinance to be amended.

Vote - Six ayes: Councilmembers York, Harder, Sayles, Phillips, Powell, and Kemp. One nay: Councilmember Amerine. Motion carried and ordinance approved on first reading.

#9704. Councilmember Amerine moved the resolution be adopted awarding the bid to Flynn Company in the amount of \$836,843.25 for the construction of Phase I of the Industrial Connector Project. Seconded by Councilmember Powell. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine, Powell, and Kemp. Motion carried and resolution duly adopted.

#9705. Councilmember Powell moved the resolution be adopted approving the contract and documents with Flynn Company for construction of Phase I of the Industrial Connector Project. Seconded by Councilmember Amerine. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine, Powell, and Kemp. Motion carried and resolution duly adopted.

City Administrator Wolff informed Councilmembers the contract from the Iowa Department of Transportation for the RISE funding had not been received. Action was not taken on the request for approval of the RISE application for Phases I and II of the Industrial Connector Project.

#9706. Councilmember York moved a public hearing be set for June 19, 1986, on the Fiscal Year 1986 Budget Amendments and Federal Revenue Sharing appropriations. Seconded by Councilmember Amerine. All ayes; motion carried.

#9707. Councilmember Powell moved the contract with the Office of Planning and Programming for \$375,000 in Community Development Block Grant Funds and \$363,150 in local funds for the Madison School Target Area be approved. Seconded by Councilmember York.

Councilmember Harder questioned if all the money would be received. City Administrator Wolff stated it would. He noted a contract amendment for the remaining \$225,000 would be submitted as soon as the revised schedule is submitted to the Office of Planning and Programming. He informed Councilmembers that the City would solicit bids during January and February of 1987, and construction would begin in the summer.

Mayor Waltman noted the contract is for nineteen months.

Councilmember Harder stated he did not remember approving the City's portion of \$363,150. City Administrator Wolff stated a formal vote was not taken on that amount. He noted that the local portion on Phase II will be approximately \$29,000.

Vote - All ayes; motion carried.

#9708. Councilmember Amerine moved the contract with Eastern Iowa Community College District for twenty-five J.T.P.A. positions be approved. Seconded by Councilmember Sayles. All ayes; motion carried.

Larry Wolf, Director of Parks and Recreation, speaking in regards to a memo in the Council agenda about cemetery fees, stated single county grave spaces were being referred to as opposed to burials. He noted that an additional change in the memo dealt with the foundations. He told Councilmembers the price of the foundations are based on the concrete price and the various sizes. Mr. Wolf stated the normal foundation size is 8" x 22" and costs \$15. He requested that the price be increased to \$25. He informed Councilmembers that the foundation fees and all other fees are based on time and materials. He noted the cemetery has not been breaking even.

Councilmember Kemp questioned how long it would be before fees are increased again. Lamoyne Jacobs, Supervisor at Greenwood Cemetery, stated the fees would probably change in two to three years.

Mr. Wolff added that the fees at Greenwood Cemetery are lower than most other communities in Iowa. He told Councilmembers that grave spaces and burials are the backbone of the cemetery's charges. He noted more and more people are being buried after 4 p.m.

Councilmember York questioned if work schedules could be adjusted when there is overtime involved. Mr. Wolff stated this possibility has been discussed.

#9709. Councilmember Amerine moved the Greenwood Cemetery fees as proposed be adopted and become effective July 1, 1986. Seconded by Councilmember Harder. All ayes; motion carried.

City Administrator Wolff, speaking in reference to the resolution to amend City Employee Pay Plans for 1986/87, stated that on Pay Plan 3 the Library Page should be placed on Pay Plan 1 and the Library Aide removed.

#9710. Councilmember Powell moved the resolution to amend the City Employee Pay Plans be approved. Seconded by Councilmember Phillips. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine, Powell, and Kemp. Motion carried and resolution duly adopted.

#9711. Councilmember Amerine moved the agreement with Hackett Construction for the Houser Street Sanitary Sewer be approved. Seconded by Councilmember York. All ayes; motion carried.

#9712. Councilmember Sayles moved a public hearing be held on July 3, 1986, to consider submitting an application for additional Section 8 subsidy units. Seconded by Councilmember Amerine.

City Administrator Wolff stated setting the public hearing would need to be approved b resolution.

Councilmember Harder questioned if the units would require additional personnel. City Administrator Wolff stated he thought the units could be handled by the existing staff. He noted if additional personnel time is required, it should only be a few hours a week.

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

#9713. Councilmember York moved that items A-P be received and filed. Seconded by Councilmember Sayles. All ayes; motion carried.

#9714. Councilmember Kemp moved that bills totaling \$1,622,727.78 be approved and the Mayor and City Clerk be authorized to issue warrants for the same. Seconded by Councilmember Powell.

Councilmember Harder, speaking in reference to the bill for L&M Waste on Page 11, questioned where the company's services are utilized. City Administrator Wolff stated the dumpsters at the Public Works Facility and the airport cannot be handled by the City's equipment. Larry Wolf, Director of Parks and Recreation, stated the company also empties the dumpster at Weed Park.


Vote - All ayes; motion carried.

Councilmember Harder, speaking in reference to the liquor license approved at the May 15th Council meeting for the Hotel Muscatine, questioned if the five items to be corrected had been done. City Administrator Wolff stated the items had to have been corrected before the license was issued.


Mayor Waltman, speaking in reference to the fence ordinance, stated property owners can construct fences out to the property line. He noted some of the fences block the motorist's view. He informed Councilmembers that other communities require the fences be no higher than thirty-six inches. Mayor Waltman stated he felt the ordinance should be investigated. City Administrator Wolff stated that if Council would like to change the fence requirements, it should be referred to the Planning and Zoning Commission.

#9715. Councilmember Amerine moved the meeting be adjourned. Seconded by Councilmember Powell. All ayes; motion carried.

The meeting adjourned at 10 p.m.


Richard Waltman, Mayor

ATTEST:


Soren Wolff, City Clerk