

CITY OF MUSCATINE  
REGULAR MONTHLY SESSION OF CITY COUNCIL  
Council Chambers - January 21, 1988 - 7:30 p.m.

The meeting was called to order by Mayor Don LeMar.

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

The opening prayer was given by Pastor Ed Meyer, Mount Zion Church.

The Pledge of Allegiance was given.

PUBLIC HEARING

Mayor LeMar announced the hearing was being held to receive public comment on the City's Five (5) Year Capital Improvements Program.

There were no oral comments for or against the Program.

There were no written petitions for or against.

#10728. Councilmember Kemp moved to close the hearing. Seconded by Councilmember Amerine. All ayes; motion carried.

#10729. Councilmember York moved to approve the Minutes of the January 7, 1988, Regular City Council Meeting. Seconded by Councilmember Harder. All ayes; motion carried.

Councilmember Amerine asked City Attorney Harvey Allbee if Council action was required regarding the appointment of Larry Kemp as Mayor Pro Tem at the January 7 Council meeting.

City Attorney Allbee stated that no action from the Council was required.

#10730. Councilmember Phillips moved to approve the Minutes of the January 14, 1988, In-Depth City Council Meeting. Seconded by Councilmember Amerine. All ayes; motion carried.

#10731. Councilmember York moved to approve the request for renewal of Class "C" Liquor License for the Loading Dock, 228 West Second Street - Dejco, Inc., subject to final inspections. Seconded by Councilmember Amerine. All ayes; motion carried.

#10732. Councilmember Amerine moved to approve the request for renewal of Class "C" Liquor License for Ina Mae's, 403 West Mississippi Drive - Robert C. or Gaylie V. Doerres. Seconded by Councilmember York. All ayes; motion carried.

#10733. Councilmember Sayles moved to approve the request for renewal of Class "C" Beer Permit and Sunday Sales Permit for Petro-N-Provisions, 1010 Park Avenue - C.G.C. Stores, Inc. Seconded by Councilmember York. All ayes; motion carried.

Mayor LeMar announced the appointment of Councilmember Harder to the Flood Control Commission and Councilmember Phillips to the Plumbers Board of Examiners. He stated that he would serve on those Commissions and Boards assigned to Councilmember Powell until other appointments could be made.

Mayor LeMar read a statement concerning the requested resignation and subsequent firing of Police Chief Jerome Tesmond due to philosophical differences with regard to the operation and leadership of the Police Department. The Mayor stated that he had serious evidence to support his position that a change had to be made, and his decision was not a political move, but a necessity.

Councilmember Sayles asked if arrangements had been made for severance pay and insurance coverage for Chief Tesmond and if the Mayor was prepared to discuss his reasons for terminating the Chief.

Mayor LeMar stated that he would prefer to discuss his reasons with Council at a later meeting.

#10734. Councilmember Sayles moved to grant Chief Tesmond eight weeks of severance pay and ten weeks of insurance coverage. Seconded by Councilmember Harder. All ayes; motion carried.

Councilmember Harder asked Mayor LeMar to reconsider his position on the firing since the Mayor had not said anything to the Council, and explain his actions.

Mayor LeMar stated that he had written documentation of the evidence, but he did not feel it should be discussed in open forum.

Councilmember Sayles asked Mayor LeMar to enumerate the philisophical differences he had with the Chief.

Mayor LeMar stated that he did not agree with Chief Tesmond's goals for the Department, especially regarding traffic and that there was no drug enforcement.

Councilmember Sayles stated that she felt the statement regarding "no drug enforcement" could be challenged.

Councilmember Harder stated that he assumed that since the Mayor was withholding the information from everyone, would he be prosecuting or filing charges against the Chief in some matter.

Mayor LeMar stated that he will pass the information on to City Attorney Allbee.

Councilmember Harder asked the Mayor if he would be sharing the information with the Council.

Mayor LeMar stated that he would get advice from the City Attorney.

Councilmember Phillips stated that she felt the people of Muscatine want information on the firing and want it right away. Since she had received

numerous phone calls in support of the Chief, she felt the public really wanted to know why the action was taken.

The Mayor stated that he would meet with City Attorney Allbee the next day to discuss the evidence and consider further action.

#10735. Councilmember Amerine moved to adopt the Resolution setting a public hearing on February 4, 1988, on amending the Zoning Ordinance to establish a new S-3 Large Scale Mixed Use Development Zoning District. Seconded by Councilmember Phillips. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine and Kemp. Motion carried and Resolution duly adopted.

#10736. Councilmember York moved to adopt the Resolution setting a public hearing for February 4, 1988, on the request to rezone approximately 238 acres from various residential zoning districts to the S-3 Large Scale Mixed Use Development District. Seconded by Councilmember Harder. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine and Kemp. Motion carried and Resolution duly adopted.

#10737. Councilmember Amerine moved to adopt the Resolution setting a public hearing on February 4, 1988, on amending the Flood Plain Zoning District. Seconded by Councilmember Kemp.

Councilmember Harder stated that although the changes to the Flood Plain Zoning District are subtle, he would like staff to review the changes before the Public Hearing to make sure none of the changes conflict with any existing proposals the City may have for the former Timmons Building.

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

#10738. Councilmember York moved to approve the Ordinance on final reading to amend Title 9, Chapter 9, to establish new procedures for notifying private property owners for removal of noxious weeds, and the Ordinance be published in the Muscatine Journal as required. Seconded by Councilmember Kemp.

Councilmember Kemp reported that he has had calls regarding problems with the removal of snow on the sidewalks along Park Avenue due to snow plows pushing the snow onto the sidewalks after residents have cleaned them. He expressed his concern that residents in that area would be fined when they are required to clean their sidewalks several times due to snow removal on the street. He also noted that some businesses in that area place snow from their parking lots next to the sidewalks causing more problems with snow removal.

City Administrator Wolff stated that it is not the intent of the Ordinance to send notices within 24 hours of a snowfall, but to address the problems of residents who do not clean their sidewalks within three to four days after the snowfall. He noted that the Park Avenue area is a difficult area for snow removal due to the small area between the street and sidewalk, and that there are several areas in the City with that problem. He indicated that the staff would consider any suggestions to help alleviate the problem.

Vote - All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine, and Kemp. Motion carried and Ordinance adopted on third and final reading.

#10739. Councilmember Sayles moved to approve the Ordinance on final reading to amend Title 3, Chapter 8, to modify the notification procedures for snow and ice control on public sidewalks adjacent to private property and the Ordinance be published in the Muscatine Journal as required. Seconded by Councilmember York. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine and Kemp. Motion carried and Ordinance adopted on third and final reading.

#10740. Councilmember York moved to adopt the Ordinance on second reading to rezone approximately 32 acres located by Colorado Street from R-L Large Scale Residential to C-1 Commercial. Seconded by Councilmember Amerine.

Councilmember Harder requested clarification on the location of the tree line on the lot to be rezoned.

Kevin Whittaker, Director of Planning & Community Development, outlined the location of the tree line on a zoning map.

Vote - All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine and Kemp. Motion carried and Ordinance adopted on second reading.

#10741. Councilmember Amerine moved to adopt the Resolution approving the City's 1987-1992 Five Year Capital Improvements Program. Seconded by Councilmember Sayles. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine and Kemp. Motion carried and Resolution duly adopted.

#10742. Councilmember Amerine moved to adopt the Resolution authorizing the building official to proceed with the demolition of the property at 1548 Grant Street in an amount not to exceed \$3,000. Seconded by Councilmember Phillips.

Building and Zoning Administrator Steve Boka stated that there have been numerous complaints regarding weeds, rodents, appliances, and miscellaneous debris in the yard. He noted that the owner of the property is not a resident of the City, and that all notification procedures have been used to contact the owner.

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

Building and Zoning Administrator Steve Boka reported that his office has found an address in Arizona for the owner of the property at 608 Pine Street and will notify them regarding the demolition of the property.

#10743. Councilmember York moved to table the adoption of the Resolution authorizing the building official to proceed with the demolition of the property at 608 Pine Street until the next Regular Council meeting. Seconded by Councilmember Kemp. All ayes; motion carried.

Building and Zoning Administrator Steve Boka reported that the property located at 509 West 5th Street is currently occupied by children of the owner, who is currently serving a term in the penitentiary at Mitchellville. The

owner was constructing an addition to the building in 1982 and 1983 without permits or inspections. He further reported that the addition cannot be saved because it does not meet City Code requirements, so it must be removed and reconstructed. Mr. Boka also stated the main part of the dwelling is substandard. He noted that the owner was notified in October, 1987 to repair the property within thirty days, and received no response from the owner. Mr. Boka reported they were again notified for demolition of the property and an attorney contacted his office regarding an appeal of the decision. He further stated that no official action was taken by the attorney at this time.

Councilmember Kemp noted that he has received numerous complaints from neighbors stating that the property is not safe and is unsightly.

Tomas Rodriguez, 319 East Second Street, stated that he is an attorney and even though he is not directly representing Pauline Martinez, who owns the property, he felt it was his duty to appear before the Council to prevent the demolition of the property until Mrs. Martinez has been made aware of the situation. He noted that Mrs. Martinez has not received notification because of her incarceration, and demolition of the building would deprive a family of their homestead, which is not vacant. He suggested two possible alternatives to the demolition: 1) the residents agree not to use the addition and block it off so it cannot be used until it is brought up to Code or 2) that no one reside in the building until it is brought up to Code.

Councilmember Sayles stated that the property has been a problem for five years and asked Mr. Rodriguez if he has been inside the property.

Mr. Rodriguez stated that he had driven by the house, but has not been inside. He noted that the Mrs. Martinez has made attempts to improve the property but is not in a position now to take care of the problem.

City Administrator Wolff stated that the City has housing programs available to help people who are living in substandard housing units.

Councilmember York asked Mr. Rodriguez if two weeks would be enough time for him to contact the Martinez family regarding relocation.

Mr. Rodriguez responded affirmatively.

#10744. Councilmember York moved to table until the next Council meeting the adoption of the Resolution authorizing the building official to proceed with the demolition of the property at 509 West 5th Street. Seconded by Councilmember Harder. All ayes; motion carried.

#10745. Councilmember Sayles moved to adopt the Resolution authorizing the City to proceed with the heat conversion project at the Clark House as part of the Comprehensive Improvement Assistance Program previously approved by the City Council. Seconded by Councilmember Harder.

Mary Gaeta, 1807 Cedar Street, stated that she was glad that the In-Depth Council Meetings will be televised in the future, so that the public can see the discussion that goes into the decisions made at the Regular Council Meetings. Mrs. Gaeta noted that she was present to ask some questions for the Clark House residents, and stated her concern with taking away revenue from Muscatine Power & Water by converting the heating system to gas. She stated

that the current heating system is only seven years old and should have five to ten years left in the life of the system. She asked if there had been an in-depth study into the condition of the units to determine what modifications could be made to make them last as long as possible and then replace them at that time. She also noted that natural gas rates will be increasing in the future, so the City will not always save as much as they are currently anticipating. Mrs. Gaeta further stated that she felt that taking away the current electric heat and installing new units would be a nuisance for Clark House residents and that the Council should be looking at repairing the current heating system.

Councilmember Amerine stated that if the hot water heating system had been installed first and if the Council was considering a change to an electric system, the Clark House residents would probably be upset with that disruption as well. He noted that he understood Mrs. Gaeta's concern with the income loss to Muscatine Power & Water.

Councilmember Harder reported that he had called the housing administrator of another facility that had converted to the hot water heating system, and they had realized a greater savings because their electricity rates are higher in that area. He noted that the housing administrator had indicated that the residents of the facility liked the new system after it was installed.

Councilmember Kemp reported that he had talked to quite a few Clark House residents regarding the conversion. He stated that if funding from HUD for this project was rejected, the monies would go to someone else and that it might affect future funding. He further stated that once the system no longer functions in seven to ten years, the citizens of Muscatine might have to fund the entire bill for the replacement of the system. He also noted that he could appreciate the Clark House residents not wanting the disruption.

Councilmember York stated that the air conditioning units will still remain and, due to the conversion, will last longer. He noted that the residents would be more comfortable in their apartments because they could regulate the temperature in both the living and bedroom areas after the conversion.

Councilmembers Sayles expressed her appreciation to Mrs. Gaeta and the residents of the Clark House for their interest in the issue by attending the Council meetings.

Councilmember Harder stated that neither the representatives of HUD nor the engineering firm had forecasted the increased cost of natural gas in the future. He also stated he felt that the gap between electricity and gas costs will narrow in the future, and thereby cause the actual savings to be less than anticipated.

Vote - Five Ayes: Councilmembers York, Sayles, Phillips, Amerine and Kemp. One Nay: Councilmember Harder. Motion carried and Resolution duly adopted.

The Council held a ten minute recess.

#10746. Councilmember Amerine moved to adopt the Resolution approving

the three employee insurance programs for 1988 and authorizing the Library and Confidential employees be included in the dental insurance plan effective January 1, 1988. Seconded by Councilmember York. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine and Kemp. Motion carried and Resolution duly adopted.

#10747. Councilmember York moved to approve the amendment to the industrial wastewater agreement with Heinz, U.S.A. effective January 1, 1988. Seconded by Councilmember Phillips. Five Ayes (York Abstained); motion carried.

#10748. Councilmember Amerine moved to declare the two residential houses located at Greenwood Cemetery as surplus property and the City Staff be authorized to proceed with disposing of the properties and/or using one or both for fire exercises by the Fire Department. Seconded by Councilmember Sayles. All ayes; motion carried.

#10749. Councilmember York moved to receive and file the letter from Christina Byrd, 318 Green Street, objecting to the removal of the houses on Greenwood Cemetery property. Seconded by Councilmember Kemp. All ayes; motion carried.

#10750. Councilmember Phillips moved to approve the Right-Of-Way Assurance Statement for all highway projects which include Federal aid and submit it to the Iowa Department of Transportation. Seconded by Councilmember Amerine. All ayes; motion carried.

#10751. Councilmember Amerine moved to approve the Certified List from the Civil Service Commission of applicants for the positions of Equipment Operator I and Equipment Operator II. Seconded by Councilmember Sayles. All ayes; motion carried.

#10752. Councilmember Amerine moved to receive and file Communication Items A through N. Seconded by Councilmember Phillips. All ayes; motion carried.

#10753. Councilmember Kemp moved to approve bills totaling \$446,347.91 and authorize the Mayor and City Clerk to issue warrant for the same. Seconded by Councilmember Amerine. All ayes; motion carried.

#10754. Councilmember Amerine moved to approve the Rules of City Council. Seconded by Councilmember Kemp. All ayes; motion carried.

City Administrator Soren Wolff directed Councilmembers to a memo and other information given to Councilmembers prior to the meeting regarding a Special Election to fill the vacancy in the office of Fifth Ward Councilmember, and stated that the issue of holding an election has been resolved due to two petitions that had been received from residents in the Fifth Ward. He noted that there are some deadlines regarding the election, and asked City Attorney Allbee to discuss the dates which need to be set by the Council.

City Attorney Allbee stated that according to the memo, the latest date to hold the Special Election and still meet the ninety day deadline according to State Code would be April 5th. He reported that by fixing the election on

that date, the last date for filing petitions for nominations would be February 18th. He further stated that petitions could be filed in the City Clerk's office starting January 25th, thereby allowing interested people ample time to obtain the required number of signatures and file their petitions.

#10755. Councilmember York moved to receive and file two petitions from 5th Ward residents requesting a special election be held to fill the vacancy on the City Council from the 5th Ward. Seconded by Councilmember Sayles. All ayes; motion carried.

City Administrator Wolff reported that the estimated cost to the City for the Special Election would be approximately \$800, because a polling place in both precincts in the Fifth Ward would have to be open and each polling place would require five election workers.

#10756. Councilmember York moved to adopt the Resolution calling a Special Election to fill the vacancy of Fifth Ward Councilmember, setting the date of the Special Election on April 5, 1988, and authorizing and directing the City Clerk to file a copy of the Resolution with the Commissioner of Elections as provided by law. Seconded by Councilmember Sayles. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine and Kemp. Motion carried and Resolution duly adopted.

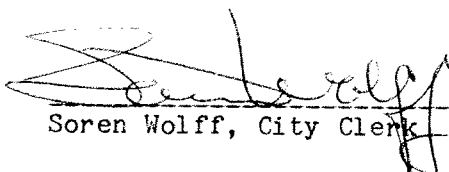
#10757. Councilmember Harder moved to direct the City Attorney to draft four Ordinance amendments to be considered by the Council at the next Regular Council Meeting scheduled on February 4 to amend Title 1, Chapter 9, Section 2 of the City Code with the following options: 1) the Police Chief and Fire Chief shall be appointed and removed by the Mayor, subject to City Council approval; 2) the Police Chief and Fire Chief shall be appointed and removed by the City Administrator, subject to City Council approval; 3) the Police Chief and Fire Chief shall be appointed and removed by the City Administrator; 4) the Police Chief and Fire Chief shall be appointed and removed by the City Council. Seconded by Councilmember Sayles. All ayes; motion carried.

#10758. Councilmember Kemp moved to adjourn the meeting. Seconded by Councilmember Amerine. All ayes; motion carried.

The meeting adjourned at 9:30 p.m.

  
Don LeMar, Mayor

ATTEST:

  
Soren Wolff, City Clerk