

6-A

CITY OF MUSCATINE
REGULAR MONTHLY SESSION OF CITY COUNCIL
Council Chambers - February 4, 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 Reverend Edward Meyers, Mount Zion Church.

The Pledge of Allegiance was given.

PUBLIC HEARING

Mayor LeMar announced the hearing was being held to receive public comment on amending the Zoning Ordinance to establish a new S-3 Large Scale Mixed Use Development District.

There were no oral comments for or against the zoning amendment.

There were no written petitions for or against.

#10759. Councilmember Kemp moved to close the hearing. Seconded by Councilmember York. All ayes; motion carried.

PUBLIC HEARING

Mayor LeMar announced the hearing was being held to receive public comment on rezoning approximately 238 acres of University of Iowa Foundation property between U.S. 61 and Colorado Street from various residential zoning districts to the S-3 Large Scale Mixed Use Development District.

Kevin Whittaker, Director of Planning and Community Development, described the location of the property.

Bob Logel, E1 Heather Lynn Drive, who lives adjacent to the property stated his opposition to the rezoning because he felt the parcel is a prime location for residential development, and that land for industrial development is still available in Progress Park. He indicated that there are no examples of the type of zoning requested, and expressed his concern about the types of development that could be built on the property.

Dick Halpin, 2611 Termini Drive, who will be marketing the property on behalf of the University of Iowa Foundation, stated that he had never had more support for a project with less people being impacted by the development. He read letters of support for the project from Dick Kautz, Chairman of the Board of Grain Processing Corporation, and Jim Kent, President of the Muscatine Development Corporation. He indicated that the property is surrounded by the type of uses the Foundation was looking for in the development of the parcel, and that it is their intention to market it for light industrial and

commercial uses. He reported that only twelve residential building permits were issued in 1987 by the City, so there has been no demand for housing except for institutional housing similar to what is being considered by Muscatine Community College. He noted that there are numerous locations for single-family residential development.

Councilmember Harder asked Mr. Halpin if the property would be sold as one parcel or several smaller ones.

Mr. Halpin stated that each parcel had to be at least five acres, and he would be happy if he could market the entire property in three large parcels.

Jerry Sanders, F1 Heather Lynn Drive, voiced his opposition to the rezoning, because of the availability of industrial properties in other areas of the city.

Bud Swick, A1 Heather Lynn Drive, stated that he had no objection to the development, but had not been able to get a clear definition of light industrial uses.

Councilmember Kemp asked for a definition of "light industry" and industrial parks.

Kevin Whittaker, Director of Planning and Community Development, stated that the zoning would allow office buildings, industrial parks and research parks. He noted that industrial parks are similar to Progress Park where there is a public street leading to a number of lots serving different industries who can share in the cost of utility and sewer lines.

Councilmember Kemp requested information on setback requirements.

Mr. Whittaker stated that the setback requirements would be determined in a site plan review process. He noted that each development would be reviewed and the placement of the structure on the lot would be negotiated with the developer at the time it is being reviewed.

Councilmember Kemp asked if adequate screening would be provided.

Mr. Whittaker reported that screening would be monitored under the present procedure in the Site Plan Review Ordinance which requires, for example: that parking lots have to be screened with either a fence or evergreens at least four feet high to screen headlights, or earth berms or a combination of landscaping and fencing could be used. He noted that as development occurs, each case would be looked at and reviewed according to the Site Plan Review Procedures.

Councilmember Harder requested clarification of the permitted uses in the S-3 zoning.

Kevin Whittaker, Director of Planning and Community Development, stated that under the zoning ordinance as it is currently set up, unless something is specifically listed as a permitted use, it is not allowed. He indicated that if a developer would plan something of a commercial nature that is not specified as a permitted use, the developer has the availability of the appeal

process before the Zoning Board of Adjustment to determine if it could be considered a permitted use.

Councilmember Harder requested further information on buffers in the development.

Mr. Whittaker reported that for residential development, a 50 foot buffer strip would have to be maintained around the perimeter of each five acre parcel. He noted that commercial and industrial uses would be decided on a case-by-case basis, with no less than a 50 foot buffer required.

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

#10760. Councilmember Amerine moved to close the hearing. Seconded by Councilmember Phillips. All ayes; motion carried.

PUBLIC HEARING

Mayor LeMar announced the hearing was being held to receive public comment on amendments to the Flood Plain District Ordinance.

Kevin Whittaker, Director of Planning and Community Development, reported that the proposed changes are to clarify and refine the existing regulations. He indicated that one change affecting remodeling of existing buildings in the flood plain would require approval by the Zoning Board of Adjustment if the remodeling entails more than 50 per cent of the value of the building or if the floor area is to be expanded 25 feet or more on the same level. He noted that adding a second story to an existing building would not have to be reviewed unless it added more than 50 per cent to the value of the property.

Councilmember Kemp asked if the Federal Emergency Management Agency would have to approve any remodeling.

Mr. Whittaker stated that the approval would be done on a local level.

Councilmember Harder asked if the change would affect any plans for the former Timmons Building.

City Administrator Wolff stated that the current proposal would use existing floor space, but would add a second floor to the building.

There were no oral comments for or against the amendments.

There were no written petitions for or against.

#10761. Councilmember Phillips moved to close the hearing. Seconded by Councilmember Sayles. All ayes; motion carried.

#10762. Councilmember Amerine moved to approve the Minutes of the January 21, 1988, Regular City Council Meeting. Seconded by Councilmember York. All ayes; motion carried.

Martin Cubbage, R R #5, expressed his opposition to the demolition of the houses on Greenwood Cemetery property. He stated that he felt the houses were

in better shape than some of the houses people are currently living in. He expressed the need for affordable rental housing, and cited the strict building codes as the reason for the expensiveness of rental housing.

Councilmembers Harder and Kemp noted the physical and structural problems with the houses, as well as other problems with renting the properties.

Councilmember York stated that the City can recoup more money from the property by selling grave spaces than by renting the houses.

City Administrator Wolff reported that the Cemetery Advisory Commission had recommended the demolition of the houses. He noted that the City had originally purchased the property to be used for expansion of the cemetery and the houses were being rented on a temporary basis.

Larry Wolf, Parks and Recreation Director, reported that the value of grave sites on that property would be \$300,000, and the City had collected under \$2,000 per year in rental fees on the houses. He indicated that the Commission would like to have the houses off of the property, and are still looking at alternatives.

Mr. Cubbage asked if it would be possible for the public to tour the houses.

Mayor LeMar asked Mr. Cubbage to discuss the matter with Larry Wolf the next day.

Dave Seal, 2126 Fifth Avenue, stated he felt the amount of severance pay and insurance granted to former Police Chief Tesmond was a large expenditure with no benefit to the City, and asked the Council to reconsider the decision for this individual and others in the future.

#10763. Councilmember Amerine moved to approve the renewal of Class "C" Liquor License for Muscatine Labor Activities, Inc., 222 East Second Street - Muscatine Labor Activities, Inc. subject to correction of the fire violations. Seconded by Councilmember Kemp. All ayes; motion carried.

#10764. Councilmember Amerine moved to adopt the Resolution for Cigarette Permit for AJ's Restaurant, 5806 Grandview Avenue - Jacqueline J. Chase. Seconded by Councilmember Sayles. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine, and Kemp. Motion carried and Resolution duly adopted.

#10765. Councilmember Sayles moved to approve the request from the Melon City Bike Club to close Weed Park to vehicular traffic on Sunday, May 29, 1988, from 7 a.m. to 5 p.m. to hold the 10th Annual Melon City Bike Races, subject to coordinating traffic control with the Police Department. Seconded by Councilmember York. All ayes; motion carried.

City Administrator Soren Wolff reported that a request for a new Class "B" Liquor License had been received from LaRosa DeOro, 417 Mulberry Avenue - Refugio and Maria Salas. He noted that La Rosa De Oro has had a Class "C" Liquor License, but was changing to a Class "B" license, which is why it is being submitted as a new license.

#10766. Councilmember Kemp moved to approve the request for a new Class "B" Liquor License for LaRosa DeOro, 417 Mulberry Avenue - Refugio and Maria Salas. Seconded by Councilmember Amerine. All ayes; motion carried.

Mayor LeMar read a Proclamation proclaiming February 14, 1988, as Loyal Order of Moose Centennial Sunday.

#10767. Councilmember York moved to approve the proclamation. Seconded by Councilmember Amerine. All ayes; motion carried.

Mayor LeMar read a Proclamation declaring February 21-27, 1988 as Children's Dental Health Week.

#10768. Councilmember York moved to approve the proclamation. Seconded by Councilmember Sayles. All ayes; motion carried.

Mayor LeMar submitted the following appointments: Laura Dollieslager, Human Rights Commission and Daryl Kiddoo, Transportation Advisory Commission.

#10769. Councilmember Amerine moved to approve the appointments. Seconded by Councilmember Phillips. All ayes; motion carried.

#10770. Councilmember York moved to adopt the Ordinance on final reading to rezone approximately 32 acres of land located off Colorado Street from R-L Large Scale Residential to C-1 Commercial and publish the Ordinance in the Muscatine Journal as required. Seconded by Councilmember Sayles. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine and Kemp. Motion carried and Ordinance duly adopted on third and final reading.

#10771. Councilmember Sayles moved to adopt the Ordinance on first reading to establish a new S-3 Mixed Use Development District. Seconded by Councilmember Phillips. Five ayes: Councilmembers York, Harder, Sayles, Phillips, and Kemp. One nay: Councilmember Amerine. Motion carried and Ordinance approved on first reading.

#10772. Councilmember Kemp moved to approve the Ordinance on first reading to rezone approximately 238 acres of land owned by the University of Iowa Foundation and located south of U.S. 61 and Colorado Street from various residential categories to the new S-3 Mixed Use Development District, subject to the approval by Council of the new S-3 Zoning District. Seconded by Councilmember Sayles.

Councilmember Kemp stated that he would support the rezoning on first reading, but would like more input from the public on the request.

Councilmember Harder stated that he is not opposed to the establishment of an S-3 District, but is concerned that the residents living around the property do not support the rezoning request. He indicated that he would consider supporting the rezoning if a specific development was planned for the property, but could not support it at this time.

Vote - Four ayes: Councilmembers York, Sayles, Phillips, and Kemp. Two nays: Councilmembers Harder and Amerine. Motion carried and Ordinance approved on first reading.

#10773. Councilmember Sayles moved to approve the Ordinance on first reading to amend the Flood Plain Zoning District in accordance with the requirements of the Federal Emergency Management Agency. Seconded by Councilmember York. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine, and Kemp. Motion carried and Ordinance approve on first reading.

#10774. Councilmember Amerine moved to adopt the Resolution setting a public hearing for February 18, 1988, on the 1988 Muscatine Transit Development Plan. Seconded by Councilmember Kemp. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine and Kemp. Motion carried and Resolution duly adopted.

The Council held a ten minute recess.

#10775. Councilmember Sayles moved to adopt the Resolution removing four traffic signals at 1) Chestnut Street and Mississippi Drive; 2) Chestnut Street and West Second Street; 3) Sycamore Street and East Fourth Street; and 4) Walnut Street and East Fourth Street. Seconded by Councilmember Amerine.

Councilmember Kemp asked for the specific rationale behind the recommendation of the four-way stop at the corner of Sycamore and 4th Streets.

City Administrator Soren Wolff stated that the recommendation by the traffic consultant had been based on the traffic volume coming in both directions. He noted that according to State and Federal guidelines, certain requirements have to be met such as traffic volumes and site clearance of buildings, and that intersection met the requirements for a four-way stop.

Councilmember Kemp requested a six-month review of the changes.

City Administrator Wolff reported that the State and Federal Governments require follow-up studies of traffic movement as a part of the project, and the information would also be given to the Council at that time. He noted that other adjustments may have to be made.

Councilmember York expressed his concerns about the Clark House residents and asked why a four-way stop had not been planned for the corner of Chestnut and Third Street.

City Administrator Wolff reported that the staff had asked the traffic consultant to look at the situation around the Clark House several times, and the consultant initially recommended a two-way stop, but had also recommended that the crosswalks be painted. He noted that Housing Administrator Jack Paetz had also expressed his concern for the safety of Clark House residents. Mr. Wolff stated that the area around the Clark House will be watched and adjustments, if warranted, will be made accordingly.

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

#10776. Councilmember Sayles moved to adopt the Resolution approving stop signs at 1) Chestnut and Mississippi Drive with traffic stopping for Mississippi Drive; 2) Chestnut and West Second Street to a four-way stop; 3) Sycamore and East Fourth Street to a four-way stop; and 4) Walnut Street and East Fourth Street to a four-way stop. Seconded by Councilmember York. All

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

#10777. Councilmember York moved to adopt the Resolution designating the two blocks of Third Street between Pine Street and Iowa Avenue as two-way traffic. Seconded by Councilmember Sayles. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine and Kemp. Motion carried and Resolution duly adopted.

Steve Boka, Building and Zoning Administrator, reported that he was able to contact the owner of the property located at 608 Pine Street in Arizona. He stated that he will be contacting the Veterans Administration and the mortgage company regarding disposition of the property, and asked the Council to remove the demolition from consideration at this time.

#10778. Councilmember Amerine moved to remove the demolition of 608 Pine Street from consideration. Seconded by Councilmember York. All ayes; motion carried.

Steve Boka, Building and Zoning Administrator, reported that a notice has been sent to and received by the owner of the property located at 509 West Fifth Street. He stated that the utilities have been disconnected and the occupants have relocated.

#10779. Councilmember Amerine moved to adopt the Resolution authorizing the building official to proceed with the demolition of the property at 509 West Fifth Street. Seconded by Councilmember Phillips.

Esperanza Martinez Brockert, 910 Nebraska, daughter of Mrs. Martinez, reported that she and her husband are in the process of arranging to have someone repair the house and obtaining a loan for that repair.

Councilmember York asked Mrs. Brockert if she had a timetable and an estimated cost for the repairs to the dwelling.

Mrs. Brockert stated that she did not have that information, but would be talking to the person doing the repairs the next day.

Steve Boka, Building and Zoning Administrator, reported that the addition to the dwelling had not been constructed properly in the beginning and had deteriorated, so nothing in the addition can be saved and has to be demolished. He circulated pictures of the house to Councilmembers.

Councilmember Kemp stated that due to the concerns expressed by the neighbors, he felt the Council needed a specific timetable for the repairs to be completed as well as an estimated cost for those repairs.

Tim Brockert, 910 Nebraska, reported that they are waiting to hear from the bank on the loan and planned to work on the house as soon as the loan is approved. He estimated the cost to be approximately \$5,000.

#10780. Councilmember York moved to table the demolition of the property at 509 West Fifth Street for two weeks, with a report to be submitted by Mrs. Brockert on the estimated cost and specific timetable for repairs by the

February 18, Regular Council meeting. Seconded by Councilmember Kemp. All ayes; motion carried.

#10781. Councilmember Phillips moved to authorize staff to obtain bids for roof replacement at the Art Center and the estimated cost of \$11,800, to be funded from the general obligation bond proceeds. Seconded by Councilmember Sayles.

City Administrator Soren Wolff reported that the leak in the roof has caused \$12,000 to \$15,000 damage to the walls and basement in the Art Center. He stated that he is working with the insurance company, but the policy has a \$5,000 deductible, so he may have to discuss funding for those repairs with Council at a later date.

Mayor LeMar asked City Administrator Wolff if the repairs to the roof were to be patching the existing roof.

City Administrator Wolff indicated that the roof is not being patched, but the entire roof is being replaced in sections.

Councilmember Harder asked if the roof repair would be guaranteed.

City Administrator Wolff stated that the roof repair will go through the formal bidding process, and indicated that a definite answer to that question would be obtained before the bid on the project was awarded.

Vote - All ayes; motion carried.

#10782. Councilmember Amerine moved to approve the two tax abatement applications for Sieg Company and the Super 8 Motel located in the former Urban Revitalization District I. Seconded by Councilmember York. All ayes; motion carried.

#10783. Councilmember York moved to receive and file Communication Items A through F. Seconded by Councilmember Phillips. All ayes; motion carried.

#10784. Councilmember Kemp moved to approve bills totaling \$470,824.93 and authorize the Mayor and City Clerk to issue warrants for the same. Seconded by Councilmember Amerine. All ayes; motion carried.

Councilmember Harder questioned whether a \$190 travel advance had been listed twice or was charged to more than one fund.

City Administrator Soren Wolff stated that a number of travel items are split between funds, and that that particular item was not a duplication.

Councilmember Harder stated that he felt each of the ordinance amendments prepared by the City Attorney outlining alternatives for the appointment and removal of the Police and Fire Chiefs should be discussed before a motion is made on any one.

Dorothy Forrester, 1617 Cedar Street, stated that she supported the amendment that stated "Appointment and removal by the Mayor subject to City Council approval". She stated that she was opposed to the timing of the amendments, since the Council has had over a year to make the change. She

indicated that if a change is made, it should become effective in 1990 when a new Mayor is elected.

Cal Purdy, 920 Webster Street, stated that he felt the ordinance amendment that stated "Appointment and removal by the City Administrator" gave away the power of the Mayor and Council to the City Administrator. He noted that the City Administrator should be responsive to the Council, not the Council being responsive to the City Administrator, and that there should be another reason, rather than politics, to make the change.

Jim Meltzer, 921 West Third Street, noted the drug and alcohol problems at Muscatine schools, and stated that he had not been pleased with the handling of the change in the Mayor's office. He stated he felt there should not be a change, and that the Mayor should retain the power to appoint the Police Chief and Fire Chief. He presented a petition calling for the Council to vote to defeat any motion to change the Mayor's power to hire and fire the Police and Fire Chiefs.

#10785. Councilmember Kemp moved to receive and file the petition. Seconded by Councilmember Amerine. All ayes; motion carried.

Harlan Phillips, 2817 Mulberry Avenue, stated that he was concerned about the dissension and divisiveness over the firing of the Police Chief. He stated he was upset with the manner in which the Police Chief had been removed, but felt the Council should put personal prejudice aside in dealing with the issue. He noted that a city cannot hope to obtain professional law officers if those people are looking at being removed from office every two years whenever there is a change in the Mayor's office. He stated that he felt the positions of Police and Fire Chiefs are very important positions in a community and the hiring and firing of those people should not be in the hands of one individual. He noted that if there is a problem with the Chief, the evidence should be heard in the appropriate manner, and indicated that former Chief Tesmond is entitled to hearing, because his reputation has been tarnished. He indicated that if the Council wanted petitions in support of the ordinance amendment, he could obtain them.

Mayor LeMar stated that the City of Muscatine has had good Chiefs in the past, so the City does get well-qualified people applying for the position.

#10786. Councilmember Sayles moved to adopt the ordinance amendment changing the appointment procedures of the Police and Fire Chiefs to state; "Appointment and removal by the City Council." Seconded by Councilmember Harder.

Councilmember Kemp stated that he favored the amendment allowing the Mayor to appoint and remove the Police and Fire Chiefs subject to City Council approval, since the Council has the responsibility for the City's budget and the Police and Fire Departments are major parts of that budget.

Councilmember York stated that he concurred with Councilmember Kemp, and noted that during the time he was Mayor he used the Council's assistance in the hiring of the Police Chief.

Vote-Three ayes: Councilmembers Sayles, Harder, and Amerine. Three nays: Councilmembers York, Kemp, and Phillips. Motion defeated due to a tie vote.

#10787. Councilmember York moved to approve the ordinance amendment changing the appointment procedures of the Police and Fire Chiefs to state; "Appointment and removal by the Mayor subject to City Council approval." Seconded by Councilmember Kemp. All ayes: Councilmembers York, Harder, Sayles, Phillips, Amerine and Kemp. Motion carried and ordinance amendment approved on first reading.

City Administrator Soren Wolff reported that a written request from Patrick J. Madden on behalf of former Police Chief Jerome Tesmond for a public hearing before the City Council has been received. He noted that the schedule for the Council to consider the 1988/89 budget has not been set and that City Attorney Allbee would need approximately seven days to supply the information requested by former Chief Tesmond's attorney before the hearing date.

#10788. Councilmember Amerine moved to set a hearing before the City Council on the dismissal of Police Chief Tesmond on February 16, 1988, at 5 p.m. in City Council Chambers. Seconded by Councilmember Sayles. All ayes; motion carried.

City Attorney Harvey Allbee reported that Patrick J. Madden, attorney representing former Chief Tesmond, has requested all information pertaining to the dismissal of the Chief, and asked the Council to authorize the City Clerk to issue subpoenas to require the appearance of persons or documents pertaining to the issue.

#10789. Councilmember Amerine moved to authorize the City Clerk to issue subpoenas to require the appearance of persons and documents containing information that the former Chief of Police's attorney may request. Seconded by Councilmember Kemp. All ayes; motion carried.

Robert Whitlock, 5212 67th Avenue West, requested clarification on the ordinance amendment changing the hiring and firing of the Police and Fire Chiefs regarding the fact that it would need three readings to pass.

Mayor LeMar stated that the ordinance amendment had passed on the first reading, and that there would be two more readings before it would become official.

Councilmember Phillips asked City Administrator Wolff to investigate the possibility of the City's purchasing the house on the corner of Park Avenue and Clay Street since the City has been purchasing small portions of that property in the past.

City Attorney Allbee reported that a decision has been made by the District Court regarding the retained funds being held by the City involving Water Pollution Control Plant renovation contract with Knutson Construction Company. He stated that Knutson Construction Company had asked for a ruling from the Court stating that the City be required to pay the retained funds even though the releases from subcontractors had not been filed, based on the premise that State statutes would bar recovery. He noted that the District Court authorized the City to proceed to pay the retained fund to Knutson Construction Company in the amount of \$94,616.05. He indicated that the Court also ruled that the City would not be required to pay interest or attorney fees. City Attorney Allbee asked for authorization for the Finance Director to issue payment at this time.


#10790. Councilmember Amerine moved to authorize the Finance Director to issue a warrant in the amount of \$94,616.05 to Knut. Co., formerly Knutson Construction Company. Seconded by Councilmember Sayles. All ayes; motion carried.

Mayor LeMar asked the Council to consider the payment of the \$1,393.94 bill for interest charged by the County for the construction of the salt shed.

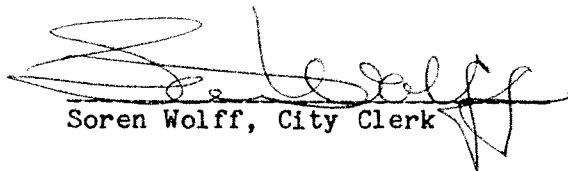
#10791. Councilmember Kemp moved to table discussion of the bill until the In-depth meeting on February 11th. Seconded by Councilmember Harder. All ayes; motion carried.

#10792. Councilmember Amerine moved to adjourn the meeting. Seconded by Councilmember York. All ayes; motion carried.

Meeting adjourned at 9:55 p.m.


Don LeMar, Mayor

ATTEST:


Soren Wolff, City Clerk