

CITY OF MUSCATINE  
REGULAR MONTHLY SESSION OF CITY COUNCIL  
Council Chambers - March 3, 1988 - 7:30 p.m.

The meeting was called to order by Mayor Don LeMar.

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

The opening prayer was given by Reverend Kenneth Bell, Pastor of Wesley United Methodist Church.

The Pledge of Allegiance was given.

#10821. Councilmember Kemp moved to approve the Minutes of the February 18, 1988, Regular Council Meeting. Seconded by Councilmember Amerine. All ayes; motion carried.

#10822. Councilmember Amerine moved to approve the following liquor license renewals: 1) Class "B" Beer and Sunday Sales Permit for Riverbend Racquet and Health Club, 2617 Park Avenue - Muscatine Realty Corporation, subject to final inspections; 2) Class "B" Beer and Sunday Sales Permit for Long John Silver's #21, 2516 Park Avenue - Common Stock Trust of Ellis I. Levitt Central Management Corporation, subject to final inspections; 3) Class "C" Beer and Sunday Sales Permit for Holiday Stationstore #10, 502 Grandview Avenue - Cedar Falls Oil Company; 4) Class "C" Liquor License and Sunday Sales Permit for Chet's Playtime, 1209 Hershey Avenue - Carolyn Ballenger, subject to inspections; 5) Class "C" for Diamond Dave's Taco Company, Muscatine Mall - South of the Border, Inc.; and 6) Special Class "C" (Beer-Wine) Liquor License and Sunday Sales Permit for Peking Palace Restaurant, 1107 Grandview Avenue - Peking Palace Ltd. Seconded by Councilmember Kemp. All ayes; motion carried.

#10823. Councilmember York moved to approve the request for a new Class "B" Beer and Sunday Sales Permit for Rudy's Taco, 2220 Park Avenue - Linda L. Hopp. Seconded by Councilmember Harder. All ayes; motion carried.

#10824. Councilmember York moved to table the request for a new Class "A" Liquor and Sunday Sales Permit for American Legion, 110 Houser Street. Seconded by Councilmember Amerine. All ayes; motion carried.

#10825. Councilmember Amerine moved to adopt the Resolution for Cigarette Permit for Muscatine Sports Page LTD, 1903 Park Avenue. Seconded by Councilmember York. All ayes: Councilmembers York, Harder, Sayles, Amerine and Kemp. Motion carried and Resolution duly adopted.

#10826. Councilmember Sayles moved to receive and file petitions opposing the S-3 rezoning request for the University of Iowa Foundation property located north of Colorado Street and east of the Muscatine Mall. Seconded by Councilmember York. All ayes; motion carried.

#10827. Councilmember York moved to refer the claim filed against the City by Connie K. Root, 2002 Logan Street involving a vehicle accident at the intersection of Main Street and Hershey Avenue between the claimant and a City

Police vehicle to the City's insurance company and the City Attorney. Seconded by Councilmember Harder. All ayes; motion carried.

#10828. Councilmember Sayles moved to approve the Ordinance to establish a new S-3 Mixed Use Development District on third and final reading and publish in the Muscatine Journal as required. Seconded by Councilmember Amerine.

Councilmember Kemp clarified the fact that this Ordinance was for setting up the zoning district, not for rezoning the University of Iowa Foundation property, which failed at the last meeting.

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

#10829. Councilmember Amerine moved to approve the Ordinance amending the Flood Plain Zoning District in accordance with the requirements of the Federal Emergency Management Agency on third and final reading and publish in the Muscatine Journal as required. Seconded by Councilmember York. All ayes: Councilmembers York, Harder, Sayles, Amerine and Kemp. Motion carried and Ordinance approved on third and final reading.

#10830. Councilmember Amerine moved to approve the Ordinance to increase Landfill charges on first reading. Seconded by Councilmember York. All ayes: Councilmembers York, Harder, Sayles, Amerine and Kemp. Motion carried and Ordinance approved on first reading.

#10831. Councilmember York moved to adopt the Resolution setting a public hearing on March 17, 1988 for roof replacement work at the Art Center and Library and set the bid opening date for March 15, 1988 at 10:00 a.m. Seconded by Councilmember Sayles. All ayes: Councilmembers York, Harder, Sayles, Amerine and Kemp. Motion carried and Resolution duly adopted.

City Administrator Wolff stated that the Council has two sets of plans for Phase IV of the Water Pollution Control Plant Renovation project. He asked Water Pollution Control Plant Director Craig Olson to review the first page of the plans which described the layout, what the engineers have proposed and cost estimates for the project. He noted that the engineers will be present at the March 10th In-Depth meeting.

Craig Olson, Water Pollution Control Director, indicated that existing areas in the plant will be gutted and transformed as follows: 1) a vacuum filter area will be gutted and will become the maintenance shop and mobile equipment storage area; 2) chemical feed room will be gutted and will become a locker room, storage area and utility area; 3) another vacuum filter area will be gutted and will become the laboratory and operations center; and 4) the existing lab will become the lunch/training room. He noted that there currently is no training center and the current lunch room is very small. He stated that the design is 99% complete. He further indicated that he had asked the engineers for a cost estimate based on the City hiring a general contractor to do all of the work. Mr. Olson stated that the engineers estimated the cost to be \$330,000 plus a 10% contingency for any change orders. He noted that he was proposing that the City act as general contractor and subcontract major portions of the project, with City staff doing some of the work. He stated that he would be comfortable with the

original proposal of \$200,000 for the project, and when this project was finished, the plant would have all modern facilities that would last 15 to 30 years.

City Administrator Wolff stated that additional copies of the plans will be available early next week, if Councilmembers desired to inspect them prior to the In-Depth meeting.

#10832. Councilmember Amerine moved to adopt the Resolution setting a public hearing on Phase IV of the Water Pollution Control Renovation Project for March 17, 1988. Seconded by Councilmember Kemp. All ayes: Councilmembers York, Harder, Sayles, Amerine and Kemp. Motion carried and Resolution duly adopted.

#10833. Councilmember York moved to adopt the Resolution setting a public hearing for April 7, 1988 on the proposed application for State and Federal funds for the Public Transportation System. Seconded by Councilmember Sayles. All ayes: Councilmembers York, Harder, Sayles, Amerine and Kemp. Motion carried and Resolution duly adopted.

#10834. Councilmember Amerine moved to set a public hearing on March 10, 1988 for the Fiscal Year 1989 City Budget with a tax rate not to exceed \$10.5695. Seconded by Councilmember Sayles.

City Administrator Wolff stated that the copies of the budget changes placed on Councilmembers' desk prior to the meeting are the result of discussion and recommendations by the Council during their budget review sessions. He noted that if the Council does not make any additional changes and depending on input at the public hearing which may cause any changes, the tax rate would be \$10.48 or approximately 2.2% above the current rate. Mr. Wolff noted this rate is less than the \$10.5695 rate that was initially recommended. He indicated that if the changes do not reflect those tentatively agreed on during the budget sessions, Councilmembers should contact either him or the Finance Director and adjustments will be made accordingly.

Vote - All ayes; motion carried.

City Administrator Wolff reported that two positions were certified at the March 2, 1988 regular meeting of the Civil Service Commission, Equipment Operator I and Custodian.

#10835. Councilmember York moved to approve the Civil Service Certification List for Equipment Operator I and Custodian. Seconded by Councilmember Amerine. All ayes; motion carried.

#10836. Councilmember Amerine moved to receive and file Communication Items A through I. Seconded by Councilmember Sayles. All ayes; motion carried.

#10837. Councilmember Kemp moved to approve the bills totalling \$495,336.59 and authorize the Mayor and City Clerk to issue warrants for the same. Seconded by Councilmember Amerine. All ayes; motion carried.

Councilmember York stated that he has had calls from Third Ward residents asking that a meeting be held for their Ward.

#10838. Councilmember York moved to table discussion of the Ordinance amendment changing the procedures for appointment and removal of the Police and Fire Chief on final reading until the May 5, 1988 Regular Council Meeting when the new Fifth Ward Councilmember has been seated. Seconded by Councilmember Harder.

Councilmember Kemp stated that he felt the issue should be permanently tabled rather than setting a specific date since former Chief Tesmond has found employment elsewhere. He also indicated that based on information from various meetings, the issue does not need to be decided this week or next month. He noted that the Mayor and Council needs to work together, and stated that he would like the Ordinance to remain the same. He further stated that if changes are needed, the changes should be made in a cooperative manner between the Mayor and the Council.

Councilmember Amerine stated that he had originally suggested tabling the issue at his Ward meeting, but received a mandate from his Ward asking him not to vote for tabling this issue, but to bring it up. He noted that everyone knows how he plans to vote, so he cannot support tabling the issue at this time.

Councilmember Kemp stated that approximately 140 residents of the Fifth Ward attended the meeting and 90% of those present at the meeting wanted the Ordinance to remain the same. He noted that they indicated they would like the new Fifth Ward representative to be present before a vote is taken on this issue.

Councilmember Harder stated that he supports tabling the issue because he had had difficulty in setting up a meeting with residents in the First Ward prior to this Council meeting.

#10839. Councilmember Sayles moved to call the Question. Seconded by Councilmember York. Four ayes, one nay (Kemp); motion carried.

Vote on tabling of Ordinance - Four ayes: Councilmembers York, Harder, Sayles and Kemp. One nay: Councilmember Amerine. Motion carried and Ordinance tabled until the May 5, 1988 Council meeting.

Robert Whitlock, 5212 67th Avenue West, asked if discussion on Councilmember York's resolutions as stated in the Minutes of the February 18, 1988 Council meeting could be brought up for discussion.

City Attorney Harvey Allbee stated that it would have been more appropriate to discuss this matter during the approval of the Minutes or during the Citizen's Speak portion of the meeting, but it could be discussed during the "Other Business" portion.

Mr. Whitlock stated that he was perturbed with Councilmember York for his motions at the last Council meeting regarding the vote of support and reinstatement of former Police Chief Tesmond and asked the Council to remove the Resolutions from the books.

Councilmember York stated that he had asked City Attorney Harvey Allbee to check into the possibility of submitting the issue of the appointment and removal of the Police and Fire Chiefs to a referendum at an upcoming election.

City Attorney Allbee stated that the issue cannot be submitted to a referendum. He noted that the provision of the State Code that sets out how Police and Fire Chiefs are appointed provides that it will be by City Ordinance or City Charter, and Muscatine's Code prescribes the manner in which that appointment is to be made. He indicated that a recognized authority on municipal law stated that an ordinance cannot be submitted to a vote of the electors without authorization from either the State Constitution, City Charter or State statutes. Mr. Allbee noted that there clearly is no provision in any of those documents for submitting an ordinance amendment for an election. He further noted other areas that a referendum is called for. He also stated that the State Code further provides that the City Council shall exercise its powers by passage of a motion, a resolution, an amendment or an ordinance. He noted that Chapter 3.72 of the State Code provides for a representative format, i.e. Councilmembers or Commissioners and Mayors which are elected to make the decisions for the operation of the City and to adopt the ordinances. Therefore, Mr. Allbee asserted, there is no authority or any provision in State law which would allow the submitting of this question to the electorate at any election.

#10839. Councilmember Kemp moved to negate the eight weeks of severance pay for former Police Chief Tesmond and adjust severance pay to Monday, March 7, 1988. Seconded by Councilmember Amerine.

Councilmember Kemp stated that many residents of the Fifth Ward had been against paying the former Chief any more severance pay in light of his employment elsewhere. He noted that the former Chief had been paid five of the eight weeks. He further stated that the City could save money by not paying the final three weeks and felt that the City has also done justice to the former Chief on the matter.

Councilmember Amerine asked City Administrator Wolff in what manner former Chief Tesmond has been paid his severance pay.

City Administrator Soren Wolff stated that former Chief Tesmond had been receiving his severance pay as part of the regular payroll until the eight weeks is over and will receive a check on March 7, 1988 which will cover the payroll period ending February 28th.

Councilmember York asked if an official document had been received stating that former Chief Tesmond was actually employed elsewhere.

City Administrator Wolff stated that the Council had been given a copy of a letter from former Chief Tesmond indicating that the former Chief has accepted the job in Greenville, North Carolina. Mr. Wolff noted he has not had any other information other than what has been printed in the newspaper.

Vote - Four ayes, one nay (Councilmember Sayles); motion carried.

Councilmember Amerine thanked the residents of the Fourth Ward for attending the Ward meeting. He stated he felt it was a good meeting and was pleased with the way the meeting went.

Councilmembers Kemp and York echoed Councilmember Amerine's remarks and stated that community meetings do have merit and appreciated the attendance by the people.

Mayor LeMar thanked everyone present at the Council meeting and those watching at home for their support.

#10841. Councilmember Amerine moved to go into Executive session to discuss the status of Labor Negotiations. Seconded by Councilmember York.

Cal Purdy, 920 Webster Street, stated that he had attended both the Fourth and Fifth Ward meetings and indicated he felt they were profitable. He thanked the Councilmembers for holding the meetings and noted that the meetings gave the people who elected the Councilmembers a chance to speak.

Vote - All ayes; motion carried.


#10842. Councilmember Kemp moved to come out of Executive session. Seconded by Councilmember Amerine. All ayes; motion carried.

#10843. Councilmember Kemp moved to approve the Contract with the Firefighters for the period from July 1, 1988 to June 30, 1990. Seconded by Councilmember Sayles. All ayes; motion carried.

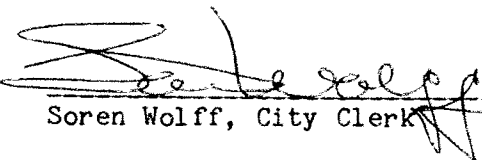
#10844. Councilmember Amerine moved to approve the Contract with the Blue/White Collar Workers for the period from July 1, 1988 to June 30, 1990. Seconded by Councilmember York. All ayes; motion carried.

#10845. Councilmember Kemp moved to adjourn the meeting. Seconded by Councilmember York. All ayes; motion carried.

Meeting adjourned at 9:50 p.m.

  
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Don LeMar, Mayor

ATTEST:

  
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Soren Wolff, City Clerk