

August 10, 2010

Proceedings of the City Council of University Heights, Iowa, subject to approval by the Council at a subsequent meeting. ALL VOTES ARE UNANIMOUS UNLESS OTHERWISE STATED.

REGULAR MEETING

Mayor From called the August 2010 meeting of the University Heights City Council to order at 7:05 p.m.

Present: Mayor From. Council Members Mike Haverkamp, Stan Laverman, Jim Lane, Brennan McGrath, and Pat Yeggy. Staff present: Engineer Bilskemper, Attorney Ballard, Treasurer Kimura, and Clerk Anderson. Also attending: 65 other persons (see attached sign-in sheets).

Absent: Police Chief Ron Fort.

The minutes of the July 13, 2010 meeting of the Council were presented and approved by **unanimous consent**.

Public Input: Renee Goethe, of 103 Highland Drive, asked the council if there was any ordinance which prohibited ice cream trucks from selling in University Heights as she had been informed, by a truck operator, they could not sell within the city limits. Goethe feels this would be beneficial to the community to allow. Attorney Ballard responded that currently there is an ordinance which regulates the sale of goods, merchandise and services within University Heights. Mayor From stated the council could take this up for consideration at a later council meeting.

Mary Mathew Wilson, 308 Koser Avenue, inquired what the protocol is to close off a portion of Koser Avenue for the annual Koser Avenue Block party. Wilson was directed to contact Police Chief Fort to make the arrangements.

Special Election: A petition was filed within 14 days after the appointment of Jim Lane replacing Amy Moore as city council member. Clerk Anderson verified that the petition had the requisite signatures needed to trigger a special election.

MOTION by McGrath, seconded by Haverkamp, to hold a special election on Tuesday, January 11, 2011, and if necessary, a primary to be held December 14, 2010. **Carried.**

Haverkamp - Aye	McGrath - Aye
Lane - Abstain	Yeggy - Aye
Laverman - Aye	

PUBLIC HEARING ON PROPOSED ZONING AMENDMENT

Mayor From called the public hearing to order at 7:20 pm for the purpose to discuss proposed amendments to the City’s Zoning Ordinance (No. 79). Two proposals have been submitted to the Council; both concern property owned by St. Andrew Presbyterian Church and property adjacent to the east, generally at the northwest corner of Melrose Avenue and Sunset Street. One proposal creates a Multiple-Family Commercial Zone that would establish a procedure for the property to be redeveloped as a mixed-use commercial and residential development comprising no more than 2 buildings, 95 dwelling units, and 20,000 square feet of commercial space, among other limitations and restrictions.

The other proposal creates a Residential Redevelopment Planned Unit Development that would establish a procedure for the property to be redeveloped as a multiple-family residential development comprising no more than 2 buildings, 74 dwelling units, and no commercial space, among other limitations and restrictions.

Present: Mayor From. Council Members Mike Haverkamp, Stan Laverman, Jim Lane, Brennan McGrath, and Pat Yeggy. Staff present: Engineer Bilskemper, Attorney Ballard, Treasurer Kimura, and Clerk Anderson. Also attending: 65 other persons (see attached sign-in sheets).

Absent: Police Chief Ron Fort.

17 members of the public spoke for or against the Multi-Family Commercial Zone proposal as follows:

Alice Haugen–1483 Grand Avenue–Against
Joseph Frankel–323 Koser Avenue–For
Rich Schmidt–207 Mahaska Drive–Against
Al Leff–215 Sunset Street–Against
Mary Mathew Wilson–308 Koser Avenue–Against
Jane Boyd–1465 Grand Avenue–Against
Naser Payvandi–1491 Grand Avenue–Against
Rachel Stewart–1327 Oak Crest Avenue–Against
Cathy Payvandi–1491 Grand Avenue Avenue–Against

Renee Goethe–103 Highland Drive–For
Roger Tracy–105 Birkdale Court–Against
Jerry Zimmerman–1434 Grand Avenue–Against
Randy Kardon–220 Sunset Street–Against
Larry Wilson–308 Koser Avenue–Against
Kathy Belgum–104 Sunset Street–Against
Rachel Prickman–104 Sunset Street–Against
Chris Luzzie–338 Koser Avenue–Against

In addition, the council received a petition with 30 signatures from property owners adjacent to the proposed development who are against the Multi-Family Commercial Zone proposal.

The mayor adjourned the public hearing at 8:16 pm

REGULAR MEETING

Mayor From reopened the August, 2010 regular meeting of the University Heights City Council at 8:17 p.m.

Zoning Commission Majority Report: Pat Bauer, chair of the Zoning Commission, stressed that the Zoning Commission unanimously supported that a reversionary clause should be added to both proposals to protect the city if neither proposal is approved.

The Bauer proposal is a compromise to the Maxwell proposal and reduces the density approximately 20% and completely eliminates all commercial property. Bauer feels the commercial aspect present a very high risk to the city. Bauer said he understands the attraction of a town center, but points to the downtown Coralville area as an example of the difficulty in creating a town center “out of nothing”.

The Maxwell proposal underwent modest changes from last year’s submission including a decrease in the height of the front building and increasing the setback from Melrose Avenue but Bauer contends those aspects were “deficiencies that should not properly have been there in the first place”. Bauer stated Maxwell refused to provide details on restrictions for residential and commercial properties and he refused to specify the percentage or duration for TIF financing. Bauer said critical consideration needs to be determined prior to rezoning and not after a request is approved.

Zoning Commission Minority Report: Catherine Lane was unable to attend the meeting therefore Clerk Anderson read a prepared statement.

Lane stated the Bauer proposal is not a viable alternative development proposal that the city should consider. There is no developer, there is no plan by Bauer to purchase the property, there are no representational drawings of how the buildings will look, no idea what materials will be used during construction and if the project would achieve LEED certification. Given that there are too many unanswered questions, Lane urged the council to vote against the Bauer proposal.

Lane felt that the Maxwell proposal is a progressive plan which meets many of the Smart Growth criteria and addresses the elements for rezoning as outlined in the Comprehensive Plan adopted in May 2010. Maxwell has given the citizens opportunities for input, has modified his proposal based on the input and has stated his plan will be environmentally sensitive during all phases of the project. Lane felt that the Maxwell plan was well-thought out and urged the council to vote for the Maxwell proposal.

Applicant comments: Kevin Monson, of Neumann Monson Architects, stated he recognized this has been a long process for all concerned. Originally, the proposal started as a nine-story building but following public input the proposal has changed and been improved. The proposal does not abut any single-family property and it does not tear-down any existing homes. The proposal is consistent with the city’s Comprehensive Plan and has received a strong review from JCCOG. Monson stated that the rezoning is critical for this project to succeed and all other details will be hammered out in coordination with the city council.

Monson did state that the contingencies and conditions, Part 3, as outlined in Ordinance No. 180 are deal-breakers for the project. The developer needs to have clear assurances that the rezoning is approved outright as this could affect financing for the project. Monson respectively asked the council to remove Part 3 from the ordinance and to approve the rezoning.

City Council Discussion and Consideration: Mayor From asked the council members to disclose communications they had with the developer, architect, council members or other interested parties. From stated she had phone conversations which involved Tom Gelman, lawyer for the developer, Bob Wiegel, accountant with RSM McGladrey, the developer and every council member; council member Haverkamp met with Pat Bauer and council member Yeggy; council member Lane spoke with the architect; council member Laverman spoke with council members Haverkamp and McGrath, zoning commissioner Wally Heitman and Pat Bauer; council member McGrath spoke with the developer, all council members except Lane and met with Pat Bauer; council member Yeggy met with the developer and other council members.

MOTION by McGrath, seconded by Laverman, to table Ordinance No. 180. Discussion by council.

MOTION by McGrath to close debate on the motion to table. Motion died for lack of a second.

Further discussion by council on motion to table. Vote on motion to table. **Not Carried.**

Haverkamp - No	McGrath - Aye
Lane - No	Yeggy - No
Laverman - No	

MOTION by Yeggy, seconded by Haverkamp, to approve the first reading of Ordinance No. 180.

Attorney Ballard stated he had received a letter and attachments from Jerry Zimmerman regarding a potential conflict of interest with Jim Lane. Zimmerman contends that a court may conclude Lane has a conflict of interest, due to his marriage to Catherine Lane who is a zoning commissioner, which would prevent him from participating in the decision regarding the rezoning of the St. Andrew site. Ballard stated he reviewed the letter and attachments and feels that Iowa law does not prohibit Jim Lane from participating in the discussion. Ballard stated that if anyone feels they have a conflict, they should recuse themselves from the discussion. Ballard also stated that if a court concluded there was a conflict of interest, any decision would be overturned.

Attorney Ballard stated he had communication with the church regarding permission from them, as property owners, for the proposals to be submitted for consideration. Ballard received a signed, formal agreement from the church stating their permission for Maxwell to apply for rezoning.

Council member McGrath asked how the contingency dates were determined; Bill Wittig, commercial real estate broker for St. Andrew, stated the dates were reviewed and determined by the session elders. Wittig also stated that the dates would likely need to be adjusted again and he had issues with Part 3 in Ordinance No. 180 as well. Wittig stated the church must have approval to move from the congregation, approval from the governing Presbyterian council and show financial ability to afford a new church.

Council member Haverkamp said he understood the inclusion of Part 3 as a protection for the city but perhaps the council should consider removing the clause; council members Laverman and Yeggy agreed. Council member Lane asked if there was any concern with the wording of Part 3 and Attorney Ballard stated the Iowa Code provides mechanisms for changes to any city's zoning ordinance, including a public hearing and 3 readings of any proposed change. Ballard suggested that the present wording included contingencies that would have to be met by certain times before the zoning change was effective.

Council member Haverkamp stated he felt the council owed it to vote on the first reading at this meeting; he does not feel the ordinance should be collapsed into one reading. Council member Laverman asked how the council can amend the ordinance as to what is allowable for rezoning; Attorney Ballard stated the council can amend as they wish but an ordinance will need three readings to be approved. Council member McGrath stated he felt this was a complicated issue and there had not been a lot of discussion amongst the councilors.

Council member Laverman stated that he cannot support either proposal without amending certain requirements. Laverman stated certain figures had changed from the previous submission and they need to be changed back. Those include: 1) from 47,000 square feet to 45,000 square feet combined space, 2) the front building needs to be lowered to 38 feet from 40 feet, the back building lowered to 70 feet and one floor removed, parking reduced to a total of 220 spots with no more than 55 above ground, and 80 dwelling units to be constructed instead of 95. Laverman stated that 800 square foot units are unacceptable to him and there is plenty of current housing stock in that range. Monson replied that they would be happy to reduce the number of parking spots but to remove a floor and to reduce the number of units would not be financially feasible and would kill the project.

Council member McGrath stated that he is a member of St. Andrew and is part of a group who do not want the church to move. This group feels that the land should not be sold for more than what it is appraised for. By offering \$4.3 million to the church, this is “enticing” the church to consider a move.

MOTION by Laverman, seconded by McGrath to defer consideration of Ordinance No. 180 and Ordinance No. 181 until the next council meeting to be held on September 14, 2010. **Carried.**

Haverkamp - Aye	McGrath - Aye
Lane - Aye	Yeggy - Aye
Laverman – Aye	

Mayor’s Report: A written report was presented.

Legal Report: A written report was presented. Ballard stated he has received inquiries regarding the placement of a cell tower on the St. Andrew site. He suggested that the interest parties to wait until the rezoning issue has been resolved.

Clerk’s Report: One new building and 75 rental permits were received since the last council meeting. Anderson will send an updated rental listing to the council members which will also be listed on the city website.

Finance Report:

MOTION by Laverman, seconded by McGrath, to approve a borrowing period of 36 months for a loan to pay for street and sidewalk constructions costs. **Carried.**

Haverkamp - Aye	McGrath - Aye
Lane - Aye	Yeggy - Aye
Laverman – Aye	

MOTION by McGrath, seconded by Laverman, to adopt Resolution No. 10-17 to permit borrowing \$150,000 at an interest rate of 4.75% from MidwestOne Bank to pay for street and sidewalk constructions costs. **Carried.**

Haverkamp - Aye	McGrath - Aye
Lane - Aye	Yeggy - Aye
Laverman – Aye	

MOTION by McGrath, seconded by Laverman, to hold a council work session on August 24, 2010 at 7:00 pm. **Carried.**

Haverkamp - Aye	McGrath - Aye
Lane - Aye	Yeggy - Aye
Laverman – Aye	

Treasurer’s Report: All bills presented and approved by **unanimous consent.**

**Warrants
July 14, 2010 through August 10, 2010**

Name	Amount	Name	Amount
Matthew Fort	1,439.52	J & L Construction	119,362.13
Ronald Fort	1,141.36	Shive Hattery	14,069.43
Benjamin Lord	731.63	L.L. Pelling Co., Inc.	50,264.99
Reinhard, Brad	1,197.22	Terry Goerd	2,065.00
Donald Strong	1,125.82	Electronic Engineering / EMS One	1,600.00
McLeod USA/PAETEC	131.85	Iowa City Tire and Service	16.20
MidAmerican Energy	36.71	Iowa Department of Public Safety	300.00
MidAmerican Energy	34.98	Johnson County Refuse, Inc.	1,738.50
MidAmerican Energy	102.96	Mediacom	69.95
MidAmerican Energy	611.18	Nate Moore Wiring Service	408.64
Christine Anderson	480.70	Pyramid Services Inc.	62.01
Matthew Fort	1,193.54	Racom Corporation	79.60
Ronald Fort	1,042.88	Myriah Boyer	105.00
Lori Kimura	292.60	Verizon Wireless	90.02
Benjamin Lord	670.69	Russ Boyer Construction	341.00
Brad Reinhard	1,400.38	Westport Touchless Autowash	48.00
Donald Strong, Donald K.	1,128.56	Communications Engineering Company	305.06
Wellmark BC/BS	1,245.50	Ultramax	238.00
MidwestOne Bank	3,767.70	Staples	61.98
IPERS	2,570.35	O'Reilly Auto Parts	19.98
IPERS	133.68	SEATS	703.66
Paul Moore	867.00	VISA	306.59
Iowa City Press-Citizen	317.24	Norm Cate	980.00
ABC Solutions	24.95	Coralville Public Library	2,934.00
City of Iowa City	10,583.01		

Total Receipts

\$ 31,319.93

Total Warrants

\$ 228,441.75

Community Protection: Police Chief Fort was unable to attend the meeting. Council member Lane reported Officer Ben Ford has returned to work after his car crash. The new hired reserve officers are doing very well with their training.

Streets and Sidewalks: Council member Yeggy stated that the tree and shrub trimming project is 85% completed and there are fewer properties out of compliance this year than in the past. Yeggy also stated that two driveways that were redone did not have building permits and it is unknown if they were constructed properly. Engineer Bilskemper can inspect the driveway after the fact but asked if there was any specific action that should happen in these instances. Attorney Ballard stated the council could amend the ordinance with a penalty and require the property owner to provide construction information. Yeggy also stated the fee has been in place since 1982 and should be increased.

Engineer Bilskemper suggested that Attorney Ballard also review the \$1,000 bond requirement in the city's excavation ordinance; this is not something that has been strictly enforced.

Bilskemper stated he will be submitting an invoice to the IDOT for \$50,000 to be reimbursed for the panel replacements on Sunset Street. \$14,000 in expenses have been submitted to the IDOT for the Melrose Wide Sidewalk project.

The Melrose Wide Sidewalk project is proceeding very well and the plan is to have the project complete by the first home football game. Bilskemper stated the railing for the retaining wall at Birkdale Court may not be finished by the first game.

Bilskemper also asked the council how it would like to deal with the two trees on Olive Court that were deemed hazardous in a recent DNR report. The council recommended that Bilskemper have several quotes for removal of the trees at the next meeting.

Building, Zoning & Sanitation: Council member Laverman suggested the council consider a policy to handle emergency trash situations which would include removal and billing the property owner for the expense. Laverman will look into this issue.

E-Government: No report.

JCCOG: The next meeting will be held August 25, 2010.

Announcements: Mayor From reminded everyone to get their orders for the special Diamond Jubilee T-shirts turned in by August 15th.

The meeting was adjourned by **unanimous consent at 10:50 p.m.**

Attest: Christine M. Anderson, City Clerk

Approved: Louise A. From, Mayor