

September 27, 2011

Proceedings of the Special Meeting of the City Council of University Heights, Iowa, held at the University Club, 1360 Melrose Ave., subject to approval by the Council at a subsequent meeting. ALL VOTES ARE UNANIMOUS UNLESS OTHERWISE STATED.

### SPECIAL MEETING

Mayor From called the September 27, 2011 special meeting of the University Heights City Council to order at 7:05 p.m.

**Present:** Mayor From. Council Members Mike Haverkamp, Rosanne Hopson, Stan Laverman, Brennan McGrath and Pat Yeggy. Staff present: Engineer Bilskemper, Kent Ralston, MPO-JC, and Attorney Ballard.

**Others Present:** Pat Bauer, June Braverman, Carolyn Brown, Andy Dudler, Ann Dudler, Bill Gay, Tom Gelman, Alice Haugen, Tom Haugen, Steve Hedlund, Gregg Hennigan, Chris Luzzie, Jeff Maxwell, Bill Olin, Jane Swails, Jim Stehbins, Rachael Stewart, Larry Wilson, Mary Mathew Wilson, Jerry Zimmerman. (A sign-up sheet was not available, so others may have been present.)

**Revised Financial Report:** Mike Mesch of Terry, Lockridge & Dunn presented an addendum to his firm's prior report concerning City finances. Mr. Mesch concluded that with 2% revenue growth, the City must decrease the growth of expenses to less than 1% to remain viable. If the City cannot cut expenses to match revenue growth, then the City will face a bigger long-term financial issue by 2060 than the One University Place proposal presented. Mr. Mesch suggested that the Council use the spreadsheet he prepared as a tool to evaluate its income and expenses and update this financial data annually.

**Updates and Discussion of the TIF request for One University Place:** Tom Gelman, counsel for developer Jeff Maxwell requested that the Council differ discussion and consideration of the tax increment financing (TIF) proposal. The Council agreed and did not have further discussion concerning the TIF proposal.

**Public Input:** Various members of the public commented on the One University Place TIF proposal the length of Council meeting; and the long-term financial issues facing the City as outlined by Terry, Lockridge & Dunn.

**Continued Discussion of PUD Development Agreement for One University Place:** Attorney Ballard noted that several draft agreements of the PUD development agreement had been exchanged between Tom Gelman, counsel for developer Jeff Maxwell, and himself. Council reviewed a prior iteration of the development agreement and Attorney Ballard's point-by-point memorandum outlining certain items for Council consideration at its special meeting August 23, 2011. The current iteration of the development agreement was circulated in a redlined version prior to the meeting; this iteration shows the changes made by Attorney Ballard, suggested additional changes by Mr. Gelman, and items identified for further discussion by Mr. Gelman.

The Council reviewed and discussed the changes, proposed additional changes, and additional comments shown in the current iteration of the development agreement one by one. The Council had no additional comment or discussion concerning the changes in numbered paragraph 2(a) and 2(c) of the present iteration. Paragraph 2(d) concerned LEED Certification and the scorecard that is contemplated to be presented at the construction document phase of the project. Council Member McGrath requested additional information regarding the developer's present intentions concerning LEED Certification and noted that a statement of intention is not the same as a development agreement requirement. Council requested that Kevin Monson, project architect, address the Council at its meeting October 11, 2011, to further outline and describe LEED Certification process. Mr. Gelman indicated that Mr. Monson would be happy to do so.

Paragraph 2(f) concerns the evaluation of an additional traffic signal for the main entrance to One University Place. Attorney Ballard and Mr. Gelman will work on language to include in the development agreement such that the need for an additional traffic signal may be evaluated not only at the time of full occupancy of the development, but at a later time or times so long as traffic from the development may be specifically identified in determining the cause of increased traffic congestion.

Paragraph 2(g) limits the developer and those coming after him (successors and assigns) from selling or leasing any more than 2,000 feet of the commercial portion of the project and none of the residential portion of the project to an owner or tenant whose use will exempt the applicable space from payment of real estate taxes. The Council discussed including a provision prohibiting the developer from conveying the entirety of the property to a tax-exempt entity in the event the One University Place project was not built. Mr. Gelman indicated that such a provision would be unacceptable to Mr. Maxwell.

Paragraph 2(h) concerned payment for intersection improvements, including replacing street lights and street striping at the intersection of Melrose Avenue and Sunset Street occasioned by the development. Mr. Maxwell agrees to epoxy street striping as the City standard for arterial streets.

The Council further discussed additional right-of-way that may be required to accomplish the Melrose Avenue and Sunset Street intersection alignment.

Council was agreeable to the changes in paragraph 3(a) indicating that Game Day activities on the commercial and residential portions of One University Place shall comply with all City ordinances and Association Rules.

Council agreed that paragraph 3(b) should prohibit drive-thru or hand-thru service windows only to vehicles and not to pedestrians in commercial areas.

Council was agreeable to the proposed additional language in paragraph 3(g) prohibiting music played through exterior speakers in outdoor commercial service areas after 9:00 p.m. on Sundays through Thursdays and after 10:00 p.m. on Fridays and Saturdays.

Council discussed the provisions of 3(i) which concern the particular uses permitted in the commercial area of the project and grandfathering of any then-existing use should the uses specified in the City's zoning ordinance later change. Attorney Ballard and Mr. Gelman will work on additional language. Council discussed the sufficiency of surface parking and Kent Ralston of MPO-JC commented concerning his prior reports.

At 9:00 p.m. the Council took a 10-minute break from its meeting.

Paragraphs 3(n) concerns snow removal. Council discussed whether the developer should be required to remove snow on the south side of Melrose Avenue even after expiration of a contemplated TIF. Council discussed whether the City should look at performing snow removal from this area itself after expiration of any contemplated TIF.

Paragraph 3(o) prohibits more than 25% of residential units in the project to be rented. Council discussed whether this particular percentage would be attributable to the entire project or divided equally or in some other fashion between the front building and the back building.

Proposed paragraph 5 contemplates that residential property would not be subject to the residential rollback in determining property taxes. Council discussed that a minimum assessment agreement and a TIF development agreement could address this issue.

Paragraph 6 provides for the cessation of TIF if for non-compliance by the developer with various agreements and obligations. Attorney Ballard and Mr. Gelman will work on additional language to include additional enforcement mechanisms.

Paragraph 9 concerns timing of the commencement of construction and provides that developer would have 10 years from the date of approval of the developer's PUD Plan Application. Council Member McGrath indicated he was not comfortable with this provision because 10 years is too long a time. Council Member Yeggy indicated that the church would need sufficient time to move to construct a new facility and move there. Council Member Laverman indicated he was comfortable with the 10-year period if there was a provision prohibiting transfer of the property to a tax-exempt entity in the meanwhile and otherwise he was not. Council Member Havercamp suggested a provision requiring commencement of construction within a specified number of years from the church's move. Mr. Gelman suggested that negotiating a smaller timeframe for construction could be accomplished in the TIF development agreement.

Attorney Ballard reiterated the portions of his prior written response to Council member inquiries to say that the three pieces of the PUD process (the PUD development agreement, the PUD plan application, and the TIF) should be interrelated as much as possible in the documents themselves and should be considered by the Council simultaneously to the extent possible. Mr. Gelman requested that the Council continue its work only on the PUD development agreement and PUD plan application and approve those documents, deferring until after such approval for full consideration of the TIF. The Council indicated it wanted to consider the development pieces together. Mr. Gelman formally withdrew Mr. Maxwell's TIF application and again asks that the Council consider and approve the PUD development agreement and the PUD plan application. The Council again indicated that it desired to consider all of these pieces together.

**Mayor's Report:** A written report was submitted.

**Legal Report:** A written report was submitted. Council discussed rules for council meeting length and process. Council also discussed electronic storage of meeting proceedings and abbreviated minutes. Council will revisit the electronic storage and minute taking issues after the end of the year, after those elected in November have taken office. In response to a request from the public that the Council consider a resolution encouraging support of the library levy question on the upcoming municipal election ballot, Attorney Ballard indicated that the Council could adopt such a resolution at its next meeting.

**MOTION** by McGrath, seconded by Hopson, to require that reports and information submitted for Council action be received at least 24 hours before a meeting start time or they will not be considered and acted upon unless a super majority of the Council suspends the policy. **Carried.**

**Finance Committee:** No report.

**Treasurer's Report:** The Treasurer submitted a written report. All bills presented were approved by **unanimous consent.**

**Community Protection:** No additional Police report. Further discussion of Community Service Committee and Neighborhood Watch Program deferred.

**Streets and Sidewalks:** Steve Kuhl prepared the City's Street and Sidewalk Report for IDOT and will be submitting it. The Golfview intake has been repaired. The City is at Step 5 on the Federal Aid Consideration Checklist for the Sunset Wide Sidewalk Project. A letter to IDOT Administration Office will be sent. A dangerous tree on Highland Drive was discussed; the owner agreed to share in the cost of removal, and the tree is down and gone. Yeggy said she is in discussion with Iowa City as to who is responsible for maintaining the right-of-way on Emerald Street in Iowa City, which is the backyards of a portion of Koser Avenue. Discussion of any changes to the signal phase of the traffic light at the intersection of Melrose Avenue and Sunset Street was deferred, as was further discussion of lane markings north of the intersection.

**Engineer's Report:** Mark Vitosh of Iowa-DNR has completed his Community-Tree Survey and will submit a final report, probably around the end of the year. Plans and specification are being prepared for the pavement, reconstruction and replacement project at the intersection of Koser Avenue and George Street. Engineer Bilskemper expects to have a list of contractors who have submitted quotes by the Council's next regular meeting, October 11, 2011.

**MPO-JC:** Next meeting is on September 28, 2011.

**Announcements:** Bill Gay announced a Candidates' Forum coordinated by himself and Carolyn Brown. The forum is proposed for October 25, 2011, or October 27, 2011, at The University Club. Bill and Carolyn need two people to help formulate questions. The forum is expected to last about two hours.

The meeting was adjourned by **unanimous consent at 10:59 p.m.**

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**Attest: Steven E. Ballard, Acting City Clerk**

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**Approved: Louise A. From, Mayor**