

SPECIAL CITY COUNCIL MEETING MINUTES  
FEBRUARY 12, 2007, 5:00 P.M.  
CITY COUNCIL CHAMBERS

The City Council of Newton, Iowa met in special session at 5:00 P.M. on the above date in the Council Chambers at 101 West 4th Street South. Mayor Allen presided. Present: Council members Foreman, Morgan, Hansen, Mullan, Ewing. Absent: None.

At this time Mayor Allen handed the gavel over to Mayor Pro-Tem to proceed with the first agenda item. Mayor Pro-Tem Hansen took over the meeting. Moved by Ewing, seconded by Morgan to introduce on third consideration An Ordinance Amending Title 4, Chapter 34 of the Code of Ordinances Of The City of Newton And The Zoning Map Adding "Educational Facilities" As A Permitted Use In The C-CBD: Central Business District Commercial Zone And Rezoning The DMACC And Whirlpool (Maytag) Properties To C-CBD From IH: Heavy Industrial. AYES: Five. NAYS: None. Ordinance passed third consideration. Moved by Morgan, seconded by Ewing to adopt the above ordinance. AYES: Five. NAYS: None. Ordinance No. 2099 adopted.

Mayor Allen resumed the council meeting.

Moved by Hansen, seconded by Mullan to introduce on first consideration an Ordinance Amending Title 1, Chapter 4, Article 1 of The Newton Code of Ordinances, "CITY ADMINISTRATOR" to allow for an Employment Contract and Conform with the Iowa Court of Appeals January 31, 2007 Decision in Bass vs. City of Huxley. Darrin Hamilton, City Attorney stated with the above court decision the city of Newton needed to amend their current ordinance to enter into a contract with the City Administrator. AYES: Five. NAYS: None. Ordinance passed first consideration. Moved by Hansen, seconded by Mullan to suspend the rules and waive the second and third considerations of the above ordinance. AYES: Five. NAYS: None. Ordinance passed second and third considerations. Moved by Hansen, seconded by Mullan to adopt the above ordinance. AYES: Five. NAYS: None. Ordinance No. 2100 adopted.

Mayor Allen stated the next agenda item was a discussion on the process to fill the City Council seat vacancy. Darrin Hamilton, City Attorney stated the following: Iowa Code section 270.13(2) sets forth the process to fill a vacancy. The City Council has the option to call for a special election or to appoint. The Council has until Monday, March 19th to make an appointment or to call for a special election.

Our internal, estimated cost for a special election is approximately \$6,000 - \$12,000 (depending upon number of candidates). This dollar amount represents approximately two to four cents on the levy. Besides the cost of an election, another factor that may suggest appointing is the term would have an election this November. Whether filled by appointment or by special election, the person would only serve until after the election November 6, 2007 when, after the election the County Board of Supervisors certifies results and the election winner takes the oath of office, they would begin serving immediately.

Should the Council determine to appoint, you'll need to have a 4/20 notice published in the newspaper before making the appointment. The 4/20 is not less than 4 days before nor more than 20 days before the meeting to make the appointment. If you take this approach, I would recommend a public notice be done on 2/15, which then lets you have the 2/19 and 3/5 regular meetings fall within the 4/20 time frame.

City Council's who appoint take tend to take one of two approaches. The first is to appoint more of a caretaker. A person with community/government knowledge, who will do a good job, but who will not run for the position. The theory is the Council does not want to give anyone a leg up in the election. The second approach is to appoint either regardless of whether they intend to run, or only if they intend to run. The theory is it is a test period for the person to see if being a council member is what they want to do and the public sees if they want to elect this person.

The other thing to look at is process of gathering/considering names. Most places declare a time frame by which interested parties have to submit an application or a resume or a

letter of interest in the appointment to the City Clerk. Council would need to decide what process they wish to use.

The City Council would then vote (4 required) by naming the person who fills the vacancy. While no public hearing is required, since you are doing a public notice anyway, you may wish to make it a public hearing.

The public has the option to file a petition to force an election. That timeframe is a 14 day window after the (1) publication of notice & (2) appointment being made. The number of signatures needed is 15% of the voters who voted for candidates for the office at the preceding regular election at which the office was on the ballot OR 1000, whichever is less.

If an election is chosen, then appropriate notice is given to the County Auditor for holding a special election. The Council is to set the election for the earliest practicable date.

Discussion ensued by Council members. It was suggested applications of interest be filed with the City Clerk. It was also noted there is a lot of public interest.

Moved by Mullan, seconded by Hansen to adjourn the meeting at 5:30 p.m. Motion unanimously carried by voice vote.

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Charles Allen, Mayor

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Candice Van Zee, CMC  
City Clerk