

REGULAR CITY COUNCIL MEETING MINUTES
MARCH 3, 2008, 5:30 P.M.
CITY COUNCIL CHAMBERS

The City Council of Newton, Iowa met in regular session at 5:30 P.M. on the above date in the Council Chambers at 101 West 4th Street South. Mayor Hansen Pro-Tem presided. Present: Council members Plumb, Ewing, Foreman, Morris, Mullan. Absent: None.

There was no citizen participation.

Moved by Foreman, seconded by Ewing to approve consent agenda items 2 - 3.

2. Approve February 18, 2008 Regular City Council Meeting minutes

3. Approve New Class B Native Wine

AYES: Six. NAYS: None. Consent agenda items approved.

Mayor Pro-Tem Hansen stated this was the time and the place for a Public Hearing on the Resolution Adopting The 2008 – 2009 Operating Budget For The City of Newton. There had been no written comments and no public participation. Moved by Mullan, seconded by Ewing to close the public hearing. AYES: Six. NAYS: None. Public Hearing closed. Moved by Foreman, seconded by Morris to Introduce the Resolution Adopting The 2008 – 2009 Operating Budget For The City of Newton. AYES: Six. NAYS: None. Resolution No. 2008 – 017 adopted.

Mayor Pro-Tem Hansen stated this was the time and the place for a Public Hearing on the Ordinance Vacating And Disposing Of Certain Real Estate Consisting Of 1300 Feet By 66 Feet Of North/South Street Right-of-Way In The 1500 Through 1800 Blocks Of East 8th Street North, City of Newton, Jasper County, Iowa. There had been no written comments. During public participation the following citizens addressed the Council:

Ruth Jaimes, 1113 E. 15th Street S., stated she has been in real estate for 25 years and does not object to this company in town but we need to stop and take a good, long look. This will affect Progress Industries and that Maytag Dairy Farm will go along with the road closure as long as there is an alternative route.

Jerry Kelly, 611 S. 5th Avenue W., stated he is opposed to the closing of this street and that we need to know who is going to pay for the closing and rerouting of the City street. The burden shouldn't fall on the taxpayers. There is a limited amount of time and we need to step back and take another look.

Gary Smith, 1010 S. 15th Avenue W. and also owns Smith Rental, questioned where the City would put the by-pass and if they were going to build a high lift track. The City Council should consider putting the by-pass West and North. He also stated that he firmly believes that 8th Street should stay open to 19th Avenue.

Dave McClurg, with Progress Industries, noted that it is essential that an alternative route be chosen before 8th Street is closed.

Duane Arkema, Osborne Industries, stated that he was at the Planning and Zoning meeting and that he thinks there needs to be emergency routes. He also noted that he would like to know what it would do for his insurance if the road were closed.

Dana Woody, Planning and Zoning Commission member suggested that 8th Street be a through street.

Rita Baker, 405 W. 11th Street S., stated that she is a trustee of Progress Industries and notes that there are ambulance calls to Progress Industries on a frequent basis. She noted that she understands that this needs to be a win-win situation but we need to keep all the options on the table.

Chris Barton, Realm, stated he was at the P&Z meeting because my business is on 8th Street. My first thought was how it would affect my business and how the needs of a few are ignored. I don't want to see that building empty so I came to the decision that it is smarter for everyone and that we need the new manufacturing business.

Tom Fitzgerald, 1024 E. 8th Street N., wanted to know how Council can make this decision without knowing how much it will cost to close the street and reroute it.

Bruce Haas from Industrial Realty Group addressed the City Council and stated IRG is one of the largest full-scale development companies, we have a unique set up dealing with partners. IRG does not ask for government assistance. The 8th street closing is a requirement by the company that would like to go into this facility. Bryan Friedman, Community Development Director stated it was exciting to hear these opportunities; we need to have an acceptable alternative road to use if we are going to close 8th Street. The passing of the first consideration of this ordinance this evening does not adopt the ordinance and it would allow working with the prospective company and the needs of the community. Morris stated it was unfortunate we are talking about the closing of 8th street and not the alternative road. It was noted funding has not been determined. Foreman stated he was in favor of the jobs we just need to have more information. We appreciate what IRG is doing. Moved by Ewing, seconded by Mullan to close the public hearing. AYES: Three. NAYS: Plumb, Hansen, Foreman. Motion to close the public hearing failed. Moved by Hansen, seconded by Foreman to continue the public hearing. AYES: Three. NAYS: Ewing, Morris, Mullan. Motion to continue the public hearing failed. Moved by Foreman, seconded by Plumb to table the public hearing and ordinance until we can make a more informed decision. AYES: Three. NAYS: Ewing, Morris, Mullan. Motion to table failed. Moved by Ewing, seconded by Morris to encourage IRG and their prospective tenant to continue to consider locating in Newton and to allow Council to continue its due diligence, motion to continue the public hearing and 1st consideration of the Ordinance to the call of the Mayor/City Administrator to allow City Council to receive alternative routes and funding sources while IRG continues to work with their prospective tenant. AYES: Five. NAYS: Plumb. Motion carried.

Moved by Foreman, seconded by Plumb to take a five-minute recess. AYES: Five. NAYS: Ewing. Motion carried to take a five-minute recess.

Moved by Ewing, seconded by Mullan to Introduce on second consideration an Ordinance Creating Section 11.0312 "Obedience To Peace Officer". Discussion ensued by Council Members. It was noted by Darrin Hamilton, City Attorney that currently, the law has a simple misdemeanor interference with official acts charge, which has a minimum fine of \$250.00. There is growing frequency when the conduct of an individual that a peace officer is dealing with does not rise to the level of an interference charge, but still poses a potential for endangering the officer and/or the public. This new charge fills this gap. The new section 11.0312 stated, " No person shall willfully fail or refuse to comply with any lawful order or direction of a peace officer". It was also noted by the City Attorney he had spoke with one of the judges and they felt this ordinance was not inappropriate. AYES: Four. NAYS: Plumb, Foreman. Ordinance passed second consideration.

Moved by Plumb, seconded by Mullan to Introduce a Resolution Ordering Bids, Approving Plans, Specifications And Form Of Contract And Notice To Bidders, And Ordering City Clerk To Publish Notice And Fixing A Date For Receiving The Same, And For A Public Hearing On Plans, Specifications, Form Of Contract And Estimate Of Costs For The Maytag Campus One Demolition Project-Phase 2-Utility Modifications Project. AYES: Six. NAYS: None. Resolution No. 2008 – 018 adopted.

Moved by Morris, seconded by Mullan to Introduce a Resolution Approving The Allocations And Expenditure Of The Remaining Unspent Proceeds Of The General Obligation Capital Loan Notes, Series 2006B, Of The City of Newton, Iowa. It was noted staff has identified \$125,000 that should be applied to pay costs associated with future right-of-way acquisitions and that unspent proceeds, in an amount not to exceed \$570,000, should be applied to pay costs associated with streetscape and landscaping in the areas adjacent to the public improvements that have already been constructed with the proceeds of the notes. The acquisitions, streetscape and landscaping projects will be presented to Council at a later date.

Council approved the wetland mitigation project last fall, but because of the timing of this project, it will not be completed until this spring; this amount is less than \$30,000. There are no other project costs expected to be paid by the City with the proceeds of

the Series 2006B Notes, and that the remaining unspent proceeds in the amount of approximately \$961,818, should be transferred from the Series 2006B Project Fund to the Series 2006B Note Fund on the applicable payment dates and used to pay the principal of and interest on the Notes as they become due. AYES: Five. NAYS: Ewing. Resolution No. 2008 – 019 adopted.

The next item of business was a discussion on the spring clean up program. David Stewart, Public Works Director presented information to the City Council. Included in the discussion was the trash tonnage and metal tonnage since 1997. Hard costs were also discussed. Discussion ensued. By unanimous consensus of the City Council it was decided to suspend spring-clean up this year.

There was no new business.

Moved by Morris, seconded by Foreman, to go into closed session to discuss strategy with Counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation, which discussions are exempt from the open meetings law pursuant to the provisions of Section 21.5(1)(C), Code of Iowa, 2007. AYES: Six. NAYS: None. Motion carried. Mayor Pro-Tem Hansen called for a five-minute recess to clear the council chambers.

Upon return to open session @ 8:11 p.m. it was moved by Morris, seconded by Foreman to adjourn the meeting at 8:12 p.m. Motion unanimously carried by voice vote.

Michael Hansen, Mayor Pro-Tem

Candice Van Zee City Clerk