

REGULAR CITY COUNCIL MEETING MINUTES
AUGUST 18, 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 Allen presided. Present: Council members Plumb, Hansen, Ewing, Foreman, Morris, Mullan. Absent: None.

There was no citizen participation.

Moved by Foreman, seconded by Mullan to approve consent agenda items 2-9.

2. Approve July 24, 2008 Special City Council Meeting Minutes, August 4, 2008 Regular City Council Meeting Minutes
3. Approve City of Newton Civil Service Commission Police Officer Candidate List
4. Resolution Appointing Tammi DeJong To Serve On The Civil Service Commission Board For The Unexpired Term Ending April 5, 2010
5. Resolution Reappointing Stacy Raines to Serve On The Civil Service Commission Board For A Six Year Term Expiring July 1, 2014
6. Resolution Reappointing Amy Davis To Serve On The Library Board For A Six Year Term Expiring July 1, 2014
7. Approve Class B Beer Permit, Sunday Sales, Panda Garden, 106 First Street North
8. Approve Class C Beer Permit, Sunday Sales, Casey's # 1911, 1018 First Avenue East
9. Approve Class C Beer Permit, Sunday Sales, Kum & Go #47, 1708 South 8th Avenue East

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

Mayor Allen recused himself from this agenda item. Mayor Pro-Tem Hansen took over the gavel and stated this was the time and the place for a Public Hearing for Community Development Block Grant Project Status Update For Former Maytag Downtown Campus Demolition. Bryan Friedman, Community Development Director stated:

- This public hearing is being held to update Newton residents on the project involving demolition of the former Maytag facilities. This project is funded in part by a 2007 Community Development Block Grant. The scope of work and goals of the project have not changed since the grant was awarded by the State of Iowa in March of 2007.
- The project was bid in three phases:
- Phase 1, the Asbestos Abatement of the project was bid March 12, 2008 and is now 100% complete
- Phase 2, the Utility Modification portion of the project was bid March 26, 2008 and is now 85% complete.
- Phase 3, the Demolition and Re-Build portion of the project was bid May 7, 2008 and is now 26% complete.
- The grant is scheduled to closeout December 31, 2008. An extension to the closeout may be necessary.
- \$580,857.00 in CDBG funds has been drawn to date. \$1,032,723.73 in Brownfield, PIAP, and other local funding sources has also been expended.
- There was no oral or written comments

Moved by Ewing, seconded by Plumb to close the public hearing. AYES: Six. NAYS: None. Public hearing closed.

Mayor Allen resumed the Council meeting; he then stated this was the time and the place for a public hearing on the Ordinance Amending Title 3, Chapter 20, "Building Regulations" Of The Code of Ordinances Of The City of Newton, Iowa. There had been no written comments submitted. There were no oral comments from the citizens. Moved by

Foreman, seconded by Hansen to close the public hearing. AYES: Five. NAYS: Plumb. Public hearing closed. Moved by Hansen, seconded by Ewing to introduce on first consideration an Ordinance Amending Title 3, Chapter 20, " Building Regulations" of The Code of Ordinances Of The City of Newton, Iowa. Plumb stated he was against this ordinance and went on to note we have boards that handle these types of things and to stay with what we have. Hansen stated he would approve standards as we move forward but have concerns with the fire sprinkler regulations in three plexes. He went on to note he would be offering an amendment to that portion of the ordinance. Ewing stated there may be some misunderstanding, we are currently under the uniform code, it does not cover new technology, as well as life and safety of code, the International code is just published by a different company, they are similar in many ways. Having the international code will put us on par with other communities in Iowa. Ewing also concurred with his colleague Hansen on the amendment to the fire sprinkler section. Foreman stated there was so much we do not know about, I need to know what I am voting on. Ewing also noted the Building Official has discretion and can allow the International Code over the Uniform Code, he is working with the contractors and believe there would be a smooth transition. Hansen noted Newton would be one of the last communities to adopt this code. Hansen moved to make the following amendment, seconded by Ewing, the new fire code sprinkler regulations would not apply to residential three plexes. Mayor Allen asked for the roll call vote on the amendment. AYES: Six. NAYS: None. Amendment passed. Mayor Allen then asked the Clerk for the roll call vote on the first consideration of the ordinance. AYES: Four. NAYS: Plumb, Foreman. Ordinance passed first consideration.

Mayor Allen stated this was the time and the place for a public hearing on an Ordinance Vacating and Disposing Of Certain Real Estate Consisting Of Property Measuring Approximately 66 Feet By 205.5 Feet Of East/West Road Right-of-Way In The 1100 Block Of South 7th Avenue West, Located In The City of Newton, Jasper County, Iowa. There had been no written comments. Megan Berryhill, 703 West 11th Street South stated she hoped the ordinance would be approved, we need the vacated area for a garage, which also includes an easement, and all the neighbors are in agreement. Plumb asked how much was paid for the property on 5th Avenue. Bryan Friedman, Community Development Director stated \$21,000. Friedman noted there is an existing sanitary sewer line within the road right-of-way. If the vacation were approved, the City would need to retain a public utility/sewer easement over some portion of the vacated area. The public works department asked to retain an easement for the full width of the unimproved right-of-way. Moved by Mullan, seconded by Ewing to close the public hearing. AYES: Six. NAYS: None. Public hearing closed. Moved by Morris, seconded by Ewing to Introduce on first consideration the above ordinance. AYES: Six. NAYS: None. Ordinance passed first consideration. Moved by Foreman, seconded by Ewing to suspend the rules and waive the second and third readings of the above ordinance. AYES: Six. NAYS: None. Ordinance passed second and third readings. Moved by Hansen, seconded by Ewing to adopt the above Ordinance. AYES: Six. NAYS: None. Ordinance No. 2128 adopted.

Mayor Allen stated this was the time and the place for a public hearing on an Ordinance Amending the 2001 Official Zoning Map Of The City of Newton, Iowa To Rezone The Property At 1001-1003 Highway 14 South From R-3: One – Twelve Family Zoning To C-A: Arterial Commercial Zoning And Amending Section 34.04032 C-A: Arterial Commercial To Add "Paintball Facility" As A Conditional Use. There was one written letter opposing the Ordinance from John Zajicek. Shawn Risseeuw owner and operator of Action Jack's Paintball at Colfax stated in his nine years being in business in Colfax he had never received a complaint. He went on to note there had been no injuries and the game was always supervised, it is a safe and clean facility. He listed several companies that have used and played at his facility. Mullan stated he was concerned about the esthetics of the facility. Risseeuw stated we do not use junk, we use things that are safe, we set up to look like villages, berms, natural terrain, etc. Hansen asked if we drove by the facility what would we see? He responded with a stick built facility. Foreman noted Joyce Moen had contacted him, because she was unable to attend the meeting, she asked that the facility be enclosed. Ewing requested the hours of operation. His response was Saturday and Sunday 8 – 5 and during the week he would open the facility for groups of ten or more. Dennis Combs turned a petition into the Mayor. Rod Brown, 1124 West 28th Street South stated he was all for the new facility just not at this location, it is adaptable to residential, the area needs to be completely fenced in, it will not stop the dumping ground. Julie Broderson, 1021 West 28th Street South stated she did not want this facility in this location because of the resale value of our properties. Rick and Tracey Trese, 717 South 3rd Avenue West both stated they have owned the property right next to the proposed facility

for 22 years and it had been a garbage dump for years, we are supporting this proposed facility, it is a very well run operation. They also noted there is a railroad right by there property and also beside the proposed site. Moved by Hansen, seconded by Plumb to close the public hearing. AYES: Six. NAYS: None. Public Hearing closed. Moved by Morris, seconded by Foreman to Introduce on first consideration an Ordinance Amending the 2001 Official Zoning Map Of The City of Newton, Iowa To Rezone The Property At 1001-1003 Highway 14 South From R-3: One – Twelve Family Zoning To C-A: Arterial Commercial Zoning And Amending Section 34.04032 C-A: Arterial Commercial To Add “Paintball Facility” As A Conditional Use. AYES: Five. NAYS: Plumb. Ordinance passed first consideration. Moved by Foreman, seconded by Hansen to suspend the rules and waive the second and third readings of the above ordinance. AYES: Five. NAYS: Plumb. Ordinance passed second and third readings. Moved by Foreman, seconded by Mullan to adopt the above Ordinance. AYES: Five. NAYS: Plumb. Ordinance No. 2129 adopted.

Moved by Mullan, seconded by Ewing to Introduce a Resolution Approving CEBA Agreement And Promissory Note With The Iowa Department of Economic Development For Vernon Company Assistance. AYES: Six. NAYS: None. Resolution No. 2008 – 095 adopted.

Mayor Allen recused himself from this agenda item. Mayor Pro-Tem Hansen took over the gavel. Moved by Ewing, seconded by Morris to Introduce the Resolution Approving Amendment TO CDBG Administrative Agreement with Simmering-Cory, Inc. AYES: Six. NAYS: None. Resolution No. 2008 – 096 adopted.

Moved by Ewing, seconded by Mullan to Introduce the Resolution Approving Brownfield And PIAP Administrative Agreement With Simmering-Cory, Inc. AYES: Six. NAYS: None. Resolution No. 2008 – 097 adopted.

Mayor Allen resumed the meeting. Moved by Hansen, seconded by Ewing to Introduce a Resolution Approving The Fee Schedule For Plumbing, Electrical, Mechanical, Moving, and Demolition Permits, City of Newton, Jasper County, Iowa. Hansen noted this schedule was attractive because it had a flat fee for one and two family dwellings. AYES: Five. NAYS: Foreman. Resolution No. 2008 – 098 adopted.

Moved by Hansen, seconded by Plumb to Introduce a Resolution of Solidarity With Maytag Retirees. AYES: Six. NAYS: None. Resolution No., 2008 – 099 adopted.

Moved by Mullan, seconded by Plumb to Introduce a Resolution Extending The Solid Waste Collection Fee Low-Income Assistance Program. Hansen stated this was a very important piece when originally discussed among the council as a way for lower income citizens to cope with the increase in the fees when it became self-supporting and not general fund dependent. AYES: Six. NAYS: None. Resolution No. 2008 – 100 adopted.

Moved by Mullan, seconded by Hansen to Introduce a Resolution Approving The Return To Full Authorized Strength Of Twenty-Five Officers For The Police Department. Tom Wardlow, Interim City Administrator stated the City and the School did enter into a three –year agreement to reinstate the SRO. The agreement was conditional upon the police department moving to a twenty-five-officer level. Plumb stated the school should start paying for all of the SRO. Morris noted the school resource officer does more than serve the school. Mullan stated this is a wonderful agreement between the city and the school system. Hansen noted you all know I work for the school system, this is a shared position between the city and school, there are many benefits, there are relationship that are developed through this officer and the funding from the school has been stepped up. Foremen also noted the SRO in the summer covers other officers while on vacation, it is relative to time spent at school. AYES: Six. NAYS: None. Resolution No. 2008 – 101 adopted.

Moved by Hansen, seconded by Ewing to Introduce a Resolution Approving The Return to Full Authorized Strength Of Twenty-Five Firefighter / Paramedic For The Fire Department. Tom Wardlow, Interim City Administrator stated this was a similar situation as the police department. Ed Clements, Fire Chief noted the decision to not replace the open firefighter position has left the response crew inadequately staffed thus compromising initial emergency operations. In the interim, the Fire Marshal was assigned to fill the open position. As he is working a standard 24-hour shift, the Fire Marshal is constantly called into work on his day off. A firefighter who works a 24-hour shift works on average 56 hours per week. The Fire Marshal is currently working 60-64 hours a week. The Fire Marshal position is an exempt employee and does not receive overtime compensation. AYES: Six. NAYS: None. Resolution No. 2008 – 102 adopted.

Moved by Mullan, seconded by Ewing to Introduce a Resolution Approving An Agreement With The Newton School District For The Newton Police Department To Provide School Crossing Guards And Dare Instruction For The 2008 – 2009 School Year. AYES: Six. NAYS: None. Resolution No. 2008 – 103 adopted.

Moved by Plumb, seconded by Hansen to Introduce a Resolution Approving First Amendment TO The City of Newton's Medical Benefit Plan. It was noted this amendment is House File 2539 which went into effect July 1, 2008. The bill changes the limiting age for each dependent child from age 19 to age 25. Something we have to comply with. Council directed staff to seek an impact report from Holmes Murphy. AYES: Four. NAYS: Ewing, Foreman. Resolution No. 2008 – 104 adopted.

The next agenda item was a discussion on the D & D Disposition. Bryan Friedman, Community Development Director updated the City Council on the status of the D & D properties the City owns. Interim City Administrator advised City Council they would need to determine future funding source(s) in the near future if they wished to continue the D & D program.

Under new business Foreman stated the lower channels on Mediacom were very snowy. Wardlow stated he had been calling an individual at Mediacom, leaving messages, sending emails, and there had been no cooperation in returning the calls or emails.

Under old business Tom Wardlow, Interim City Administrator stated the handicap ordinance was in place as Council wished. The follow up information on the civil defense sirens was in a weekly report. Since April more enforcement has been done on nuisances than in the past. A high majority of citizens are responding after the first contact. Foreman stated he would still like to see some kind of certificate or affidavits for the citizens that are making tremendous improvements to run down homes in Newton. Hansen wanted to thank his constituents for being patient with returning responses to calls, etc. since his illness.

Moved by Hansen, seconded by Mullan 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 Provision of Section 21.5(1)(c), Code of Iowa 2008. AYES: Six. NAYS: None. Motion passed. Mayor Allen stated there would be five-minute recess to clear the council chambers.

Upon return to open session at 7:59 p.m. it was moved by Morris, seconded by Foreman to adjourn the meeting at 7:59 p.m. Motion unanimously carried by voice vote.

Charles Allen, Mayor

Candice Van Zee, CMC
City Clerk