

REGULAR CITY COUNCIL MEETING MINUTES
NOVEMBER 17, 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. The Mayor announced that Jon Ewing, resigned as a council member At-Large of the Newton City Council effective Friday, November 14, 2008. Mayor Allen requested the roll call. Present: Council members Plumb, Hansen, Foreman, Morris, Mullan. Absent: None.

At citizen participation, Todd Hackathorn stated Jon Ewing had been a resident of Polk County since August 1, 2008 and thought there should be a review of all the votes cast since that date.

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

2. Approve November 3, 2008 Regular City Council Meeting Minutes

3. Approve Financial Report Ending June 30, 2008

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

Mayor Allen stated this was the time place for a public hearing on a Resolution Instituting Proceedings To take Additional Action For The Issuance Of not To Exceed \$750,000 General Obligation Bonds. There had been no written comments submitted and there was no public participation. Foreman asked to have the advantages of bonding over using fund balance from the North Central TIF District fund for the Synergy project. Thomas Wardlow, Interim City Administrator stated this agenda item was linked to agenda item number nine and requested Bryan Friedman, Community Development Director to further explain. Friedman noted by bonding for the Synergy Project that would make it possible to release funds from the North Central TIF District back to the general property taxes, this would be shared by the city, county and school district. By not bonding this would mean we would have to claim more from the TIF district. Wardlow noted the big issue is the general fund, the revenue that is transferred every year to pay off the debt the district owes the general fund, ends this fiscal year. We are trying to fortify the general fund and to maintain services. Moved by Foreman, seconded by Mullan to close the public hearing. AYES: Five. NAYS: None. Public hearing closed. Moved by Mullan, seconded by Morris to approve the Resolution Instituting Proceedings To take Additional Action For The Issuance Of not To Exceed \$750,000 General Obligation Bonds. AYES: Mullan, Morris. NAYS: Plumb, Hansen, Foreman. Resolution failed.

Mayor Allen stated this was the time and the place for a public hearing on the Resolution Adopting The Agricultural Airport Use Agreement And Lease. There had been no written comments. Todd Hackathorn asked why this was coming back to the City Council when it was a ninety-nine year lease. It was noted this new agreement clarifies and specifically allows crop farming by US Motorsports or for them to sub-lease for this purpose. Denny Chalupa, representing Iowa Speedway stated he was present to represent the board and the city wanted clarification of the lease, we just want to cooperate with the City. City Council discussion. Hansen moved, Plumb seconded motion to table public hearing until receiving a legal opinion on the rights of the City and the Speedway. City Council discussion held. Mayor restated motion to continue public hearing at the call of the Mayor until receiving a legal opinion on the rights of the City and the Speedway. City Council discussion held. Mayor restates motion, Foreman seconds. Question raised whether there was in fact a motion. Hansen moved, Foreman seconded motion to table the public hearing until the Mayor brings it back onto the agenda. AYES: Plumb, Hansen, Foreman. NAYS: Morris, Mullan. Motion fails 3-2. Mayor declares public hearing still open. Denny Chalupa spoke. City Council discussion. Carl Repp spoke. Hansen moved, Foreman seconded to reconsider the prior vote. AYES: Plumb, Hansen, Foreman, Mullan. NAYS: Morris. Motion passes 4-1. Prior motion now on the table (Hansen moved, Foreman seconded motion to table the public hearing until the Mayor brings it back onto the agenda). AYES: unanimous. NAYS: none. Motion to table public hearing approved.

Moved by Mullan, seconded by Morris to introduce a Resolution Authorizing Publication Of Public Hearing On Sal Of Lots 10 and 11 Of Mershon's Addition In The 1000 Block Of North 2nd Avenue East Through The City of Newton Dangerous and Dilapidated Building Program. Foreman asked if there were any written proposals. Thomas Wardlow, Interim City Administrator stated there was not. There was some

discussion on the location of the property. AYES: Five. NAYS: None. Resolution No. 2008 – 148 adopted.

Moved by Hansen, seconded by Mullan to Introduce a Resolution Approving Engineering Services Agreement For A Standby Generator Project And Prison Force Main Extension For Odor Control. AYES: Five. NAYS: None. Resolution No. 2008 – 149 adopted.

Moved by Morris, seconded by Hansen to Introduce a Resolution Accepting Work On The Wastewater Grit Removal And Pump Station Improvements Project For The Water Pollution Control Facility. Plumb asked what the amount of the contract was. David Stewart, Public Works Director stated the contract amount was \$2,247,00.00, after change orders, the final contract amount was \$2,282,388.01. AYES: Five. NAYS: None. Resolution No. 2008 – 150 adopted.

Mayor Allen turned the gavel over to Mayor Pro-Tem Hansen. Discussion ensued by Council members and Staff. Thomas Wardlow, Interim City Administrator stated because agenda item number four failed and amendment would need to be made to this resolution. Bryan Friedman, Community Development Director stated he would recommend modifications of the resolution by claiming \$400,000 instead of the \$1,000 and this would still fund the Synergy project at \$700,000. Without the full TIF increment for Fiscal Year 2009-2010, the City would need to utilize the existing fund balance to pay for debts and activities. Fortunately, per the current budget, there is projected to be a fund balance of over \$700,000 in the North Central TIF on June 30, 2009. This balance would pay for the required \$250,000 in bond payments in 2009-2010. It could also potentially pay for a \$60,000 contribution to the General Fund to support staffing of TIF activities and could pay for a \$40,000 projected rebate for Iowa Telecom. This would still leave \$350,000 that could be applied toward future debts, other projects, or other unexpected expenses. Friedman went on to note even by changing the requested amount from \$1,000 to \$400,000 this does not dissolve the TIF district, and does not relinquish any rights to claim more TIF revenues in future years. Iowa Code requires that his decision be certified to the County Auditor by December 1 of each year. Moved by Mullan, seconded by Morris to amend the Resolution Claiming Less Than The Maximum Allowable Revenue From The North Central Tax Increment Finance District For Fiscal Year 2009 – 2010 by changing the amount of \$1,000 to \$400,000. AYES: Four. NAYS: Plumb. Amendment passed. Moved by Foreman, seconded by Mullan to approve the amended Resolution Claiming Less Than The Maximum Allowable Revenue From The North Central Tax Increment Finance District For Fiscal Year 2009 – 2010. AYES: Four. NAYS: Plumb. Resolution No. 2008 – 151 adopted.

Mayor Allen took over the gavel. Moved by Foreman, seconded by Hansen to Introduce a Resolution Approving Amendment Number 1 To The Agreement For Grant Funding With The United States Department Of Commerce Economic Development Administration. AYES: Five. NAYS: None. Resolution No. 2008 – 152 adopted.

The next agenda item was a discussion on eviction debris. Darrin Hamilton, City Attorney noted this was on appearances, health, and safety issues when an eviction takes place and the tenant's property is placed curbside. Under Iowa Code, first an order for removal can only be executed in the daytime, next the Iowa Court of Appeals has ruled there is no statutory duty imposed on a landlord to care for any personal property located in the premises after an eviction has been ordered. Lastly, there would only be a duty if legislatively imposed or contractually created. Depending on the goals of the City Council, there may be a regulatory mechanism to address the concerns. Mayor Allen requested there be more research on what other cities have done.

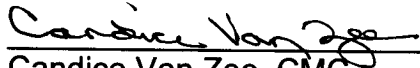
Under new business the Mayor stated there was now a vacancy on the Council. Darrin Hamilton stated a public notice needs to be published and if an appointment was to made that must be done within forty days of the vacancy if there was no objection from the Council to follow the same procedure that was done in 2007. Mullan stated he thought phasing out of plastic bag usage was worthy of a discussion.

Under old business Foreman noted he still would like to see some kind of certificates for outside renovation of homes, a discussion on the nuisance ordinance and spring clean up.


Moved by Foreman, seconded by Hansen to go into closed session To Evaluate The Professional Competency Of An Individual Whose Appointment, Hiring,

Performance Or Discharge Is Being Considered When Necessary To Prevent Needless And Irreparable Injury To That Individual's Reputation And That Individual Request A Closed Session. Pursuant To The Provisions Of Section 21.5(1)(i), Code of Iowa 2008. AYES: Five. NAYS: None. Motion passed. The Mayor declared a five-minute recess to clear the council chambers.

Upon return to open session at 7:59 p.m. it was moved by Mullan, seconded by Plumb to adjourn the meeting at 8:00 p.m. Motion unanimously carried by voice vote.



Candice Van Zee, CMC
City Clerk



Charles Allen, Mayor