

The City Council of the City of Anamosa met in a Regular Session this September 27, 2010 in the Meeting Room at the Anamosa Library at 6:00 p.m. with Cody Shaffer, Bill Feldmann, Chuck Smith, Andy Bowers, Brady Reynolds (arrived at 6:09 p.m.) and Mike Dearborn present. Absent: None. Mayor Dale Barnes presided. Also present were Alan Johnson, City Administrator; Tammy Coons, City Clerk; Larry Driscoll, Public Works Director; Bob Simonson, Police Chief; Adrian Knuth, City Attorney; and Dave Stoklasa, Snyder & Associates. Guests Present - Addressing the Council: Glenn Meisner and Randy Williams, MMS Consultants. Mayor Dale Barnes called the regular meeting to order at 6:00 p.m. with a quorum present.

Council Minutes

Motion by Feldmann, second by Shaffer to approve the minutes from the September 13, 2010 Regular Council meeting. All Ayes. Motion Carried.

COMMUNITY BETTERMENT

Ordinance Amending Chapter 17 of the City Code to Provide for Removal of Councilperson for Lack of Attendance at Council Meetings

Mike Dearborn and Bill Feldmann inquired as to why the Mayor's position was not included in the proposed ordinance. Discussion followed.

Motion by Dearborn, second by Shaffer to approve the **first reading of ordinance** amending Chapter 17 of the City Code to provide for the removal of Councilpersons or Mayor for lack attendance at Council meetings as amended. Roll Vote. 1-Absent, Reynolds, 1-Abstain, Smith. 1-Naye, Bowers. All Remaining Ayes. Motion Failed.

Resolution Authorizing Economic Grant Agreement – Extension

Motion by Feldmann, second by Bowers to approve **Resolution 2010-54** authorizing the Economic Grant Agreement – Extension (City and Eagleview Land Development Company). Roll Vote. All Ayes. Motion Carried.

Administrative Law Judge's Decision Involving the Anamosa Community Schools and the City of Anamosa Zoning Board of Adjustment

City Attorney, Adrian Knuth addressed the Council reviewing the Administrative Law Judge's decision on the case. Adrian reviewed the issues that were before the District Court – 1) Question of whether the City could extend its zoning regulations to affect the School District's plans. 2) If the City zoning had that sphere of authority, could the City require a special exception permit to be applied for since the Code itself doesn't say the expansion of special exception use requires the issuance of a new special exception permit. 3) Did the Zoning Board of Adjustment apply the appropriate standards in reviewing the application for the special exception permit and finally was there enough evidence to support that decision, if they did in fact apply the right test or standard.

The Judge ruled that the City's zoning authority can extend to the School District owned land. The Judge also ruled that it was not illegal for the City to require the School District to apply for a special exception permit. The Judge stated that in reviewing this case she did not feel that the specific balancing test was applied. Adrian reviewed the case between the City of Ames vs. Story County, where you have two jurisdictions or two lawful entities and one says our zoning trumps your actions and the Court said no, everyone is on equal footing here. If you have two recognized jurisdictions and they are at conflict over a zoning issue, it is the Court's responsibility and by implication the Zoning Board of Adjustment, which serves as a "quasi" judicial body, in that context to apply a balancing of interests. In this case it would be the School District's interests and having a new auditorium and addition to the school in the location proposed and then the City's interests. The Judge keyed on the fact that there were no specific City issues that the City sought through a spokesman to identify and preserve. The argument that was advanced that the City through its citizens expressed their issues. The City of Ames vs. Story County case is saying that is not the same as the City itself saying we have issues that we want to advance independent of those general or specific issues of a citizenry.

Adrian stated that there are three options. 1) We still have time to appeal this issue. Adrian stated that with some of evidence, he does not feel that an appeal is merited. The notice of appeal would have to be filed by this Wednesday, September 29, 2010. 2) The City Council could identify specific issues that they could champion on behalf of the City. If the City Council was interested in identifying specific issues that they want championed they should designate a spokesman, whether it be the City Administrator or a delegate from the Council to appear at the Zoning Board of Adjustment and actually present the City's statement.

The Zoning Board of Adjustment still has to hear the issues raised by the individual citizenry, but if there are specific issues that we, as the City wish to advance, we identify a spokesman and that spokesman needs to appear before the Zoning Board Adjustment and let those issues be made a matter of record. The Judge gave a qualified remand stating that we will do it all over again if the School District asks for that opportunity and the School District has asked. The matter is going to the Zoning Board Adjustment in the latter part of next month. If the City wants to identify specific issues that we want to advance, then they must designate a spokesman to do that.

Council discussion followed. Adrian stated that if this was repeated with the City itself not identifying any issues and persuade the Zoning Board of Adjustment that those issues have merit, I would guess or expect the decision of the Zoning Board of Adjustment would be different than what we experienced the first time. Adrian stated that a number of the issues that were voiced by the citizenry are issues that the City has to take up at some point with landscaping plan and site plan, such as traffic, ingress/egress for emergency vehicles, parking as it relates to emergency services, parking lot design and concept along with storm water run-off. He also stated there is a provision in the site plan development ordinance that requires any new construction to release any stormwater no more rapidly than it was released before the construction. Council discussion followed. Adrian stated that the City can approve or deny or place conditions on the special exception permit through the Zoning Board of Adjustment. More Council discussion followed on whether to appeal the Court decision. Adrian stated again he feels an appeal would not be merited. It was suggested that the Council hold a special meeting to determine the City's position the special exception permit and to send a representative of the City to the Zoning Board of Adjustment meeting. A public forum was suggested to receive public input and then the Council can decide if they wish to advance any particular issues to the Zoning Board of Adjustment. It was the consensus of the Council to hold a public forum meeting on Wednesday, October 6, 2010 at 6:00 p.m. Several citizens expressed a desire to address the Council on issues relating to the proposed special exception and the Mayor stated they may voice their issues at the Public Forum scheduled for October 6, 2010.

PUBLIC SAFETY

Beer and Liquor Licenses

Motion by Feldmann, second by Shaffer to approve the renewal of a Class C liquor license with Sunday Sales Privileges for Suzie Q's Softails. All Ayes. Motion Carried.

Appointment of Assistant Fire Chief

Motion by Shaffer, second by Dearborn to approve the appointment of Dan Ginter to Assistant Fire Chief. All Ayes. Motion Carried.

PUBLIC WORKS

Resolution Approving the Official Iowa Department of Transportation Financial Report for Fiscal Year Ending June 30, 2010.

Motion by Feldmann, second by Shaffer to approve **Resolution 2010-55** approving the Official Iowa Department of Transportation Financial Report for city streets and parking for Fiscal Year ending June 30, 2010. Roll Vote. All Ayes. Motion Carried.

Professional Services Agreement with MMS Consultants

Alan Johnson stated that the proposed professional services agreement with MMS Consultants for the STP project was read for review and approval. Glenn Meisner and Randy Williams, MMS Consultants were present and offered to answer any questions. Glenn stated that the survey work had been started to keep the project moving forward. Discussion followed on the possibility of turn lanes being needed on Old Dubuque Road for the new middle school. Alan Johnson reviewed the recent meeting with himself, MMS, School representatives and Larry Driscoll.

Motion by Feldmann, second by Reynolds to approve the professional services agreement with MMS Consultants for the STP project. All Ayes. Motion Carried.

FINANCE

Payment of Bills for the Month of September 2010

Discussion was held the payment of bills for the month of September, 2010.

Motion by Shaffer, second by Feldmann to approve the payment of bills for the month of September, 2010.

All Ayes. Motion Carried.

CITY ADMINISTRATOR'S REPORT

Alan reported that several Council members and city employees had attended the Iowa League of Cities Meeting in Coralville and found the conference to be very beneficial.

MAYOR AND COUNCIL REPORTS:

Council Reports on County Boards and Commissions

Bill Feldmann stated that the EMA/911 is scheduled for September 29th. They are still working on a new tower at Temple Hill and also the conversion to narrowband frequencies.

Becky Dirkshaugsted reported for the Local Access stating that the computer update has been completed, but not without some issues, so they are a little behind on some items.

Adjournment

Motion by Feldmann, second by Dearborn to adjourn at 6:52 p.m. All Ayes. Motion Carried.

Dale Barnes, Mayor

ATTEST:

Tammy Coons, City Clerk