

REGULAR CALLED CITY COUNCIL MEETING  
Thursday, January 24, 2019 – 5:00 P.M.  
Council Chambers – Denison, Iowa

The second regular City Council Meeting of the City of Denison, Iowa was held pursuant to law on the above date and hour; Mayor Beymer called the meeting to order at 5:00 p.m. with the following members present: CURNYN,GRANZEN, LOESCHEN, MAHRT, OKKER

- PLEDGE OF ALLEGIANCE                      Mayor Beymer lead the Pledge of Allegiance.
- MOTION TO APPROVE  
AGENDA    Motion Loeschchen/Curnyn to approve the agenda.  
Ayes: 5 Motion carried.
- MOTION TO APPROVE  
CONSENT AGENDA                              Motion Mahrt/Loeschchen to approve the following items on the consent agenda: a) approve and waive the reading of the minutes for 1/8/19; b) approve the bills as presented; c) approve budget, cash & activity reports for December 2018; d) approve liquor license(s) for Dollar General Ayes: 5 Motion carried.
- PUBLIC FORUM
- Denny Fineran: Going down the wrong road and he is very disgusted. This gives the City a blackeye and is clearly a witch hunt. He would vouge of each of these employees. What are the charges? Left one councilperson completely out & that is wrong.
- Annie Schrum: Leadership starts from at the top down. As elected officials, stop the nonsense & fighting, not here for personal agendas. Communication is key. Everyone makes mistakes – learn from them. Time is always right to do what is right.
- Jennifer Zupp, Snowgren’s attorney: Nobody knows what is going on. She & Sherinian have said clients want everything in the open. There were only 2 issues with Snowgren – the fire prop and three days’ time from Koch. Gilliam, investigator, assured no illegal conduct. She released a statement. Then the mayor says he has been going through things and documents have been destroyed. After everyone reinstated on Jan. 8<sup>th</sup>, then the next day we get another list of issues. Since last council meeting, Gilliam has said no illegal conduct and no mal-intent, but a lack of oversight by council. We look forward to working together. Put an end to this tonight and put everyone back to work.
- Mark Sherinian, Crawford & Koch’s attorney: Mr. Gilliam told counsel he was not going to say found any criminal or mal-intent. Then we receive a new set of questions, which we voluntarily answered again – still no illegal conduct. Investigators statement to be released says everyone involved acted with the best intent. Council and administration not communicating. Sherinian suggests council take the recommendations from Gilliam. Crawford & Koch fully embrace the recommendations.

Crawford: Thanked business leaders for being here. Talked about wanting to move forward. We were given a second round of questions that we responded to in writing then went to Des Moines last Fri. and met with Gilliam again. Never usurped policy – council changes policy. They say administration became defensive when asked questions – just communicate with us. Communication completely stopped with Crawford and Mayor. He agrees with the rest of the report and the recommendations.

Koch: Thanked community for all the support during this stressful time. Worked and lived here for 8 ½ yrs and very proud of the things we have accomplished. Am a Certified Municipal Clerk and a Certified Municipal Finance Officer. My evaluations over the last eight yrs have been complimentary of me and my job performance. We have brought the City's debt capacity from 86% down to just over 50% and are still able to accomplish things. Take great pride in being fiscally responsible. Do not understand how we got to this point. Send emails to mayor and council and very rarely receive a response. Departments have great flexibility with their budgets and a lot is left open to interpretation. We try to make the best decisions we can by communicating amongst staff. We now understand council wants more oversight and we are very willing to do that. Council sets policy, we just need to communicate. We just want to work with mayor and council for the betterment of Denison.

Pat Breen: Struggles with the pain and suffering through this process. Employees have waived rights and want everything in the open. Mayor and Curnyn acting on your own – where is the transparency? When there isn't even communication among council, not in our best interest. These three employees work hard and will continue doing that. They want to improve communication, which is kind of on council if you aren't even responding.

Pam Soseman: There is hurt and insinuations on both sides. Employees need an apology. Work together and can make great strides.

Noel Johnson: Mad at mayor and council for what these employees have been put through. Lisa puts work before herself, many times you will see her at City hall at 10:00 p.m.

Jessica Zupp: Can't go into closed session under pending litigation just to chat with lawyers. None of the employees have threatened litigation. She has sued and won on inappropriate litigation. Council members are all liable, not just the city. Council has right to vote no to go into closed session. Everyone has consented to revealing everything. How do we recruit future leaders? Need to treat people better now and in the future.

Mark Sherinian: Agrees with Jessica, we have not made any threats of litigation. Jennifer Zupp – we currently are not suing either. Our legal position is there is no imminent threat. Jessica will sue for illegal closed session.

Pat Breen: Cost of legal fees through Dec. \$9,618.75.

Denny Fineran: People have questions. Transferring vacation has been a practice for years.

MOTION TO APPOINT TO LIBRARY BOARD      Motion Granzen/Okker to appoint Robert Arambula to the Library Board to replace Tom Alesch. Ayes: 5 Motion carried.

MOTION TO AMEND PREVIOUS MOTION TO SPLIT FDPAY BETWEEN SCHRUM, D. ZENK, AND T. ZENK      On Jan. 8, 2019 council approved paying \$1,500 to Mike Schrum. Motion Granzen/Loeschen to amend the previous motion to say approve paying \$500 to Mike Schrum, \$500 to Duane Zenk and \$500 to Tim Zenk. Ayes: 5 Motion carried.

RESOLUTION SETTING PUBLIC HEARING TO AMEND CODE REGARDING ACCESSORY BUILDINGS      Resolution #2019-1 was introduced setting public hearing for amending Code of Ordinances Chapter 170.05 regarding accessory buildings. Motion Mahrt/Curnyn that Resolution #2019-1 is adopted setting the public hearing for 5:00 p.m. on February 5, 2019. Ayes: 5 Motion carried.

RESOLUTION AUTHORIZING APPLICATION FOR REGION XII RPA FASTBG SURFACE PROGRAM ON AVE C & 7<sup>TH</sup> STREET      Resolution #2019-2 was introduced authorizing application for Region XII RPA FASTBG Surface Transportation Program on Ave C and 7<sup>th</sup> St. Motion Mahrt/Granzen that Resolution #2019-2 is adopted. Ayes: 5 Motion carried.

MOTION TO APPROVE \$2,000 CONTRIBUTION TO COG HOUSING TRUST FUND FY 2020      Motion Mahrt/Okker to approve \$2,000 contribution to COG Housing Trust fund in FY 2020. Ayes: 5 Motion carried.

DISCUSSION REGARDING ENTERING INTO CLOSED SESSION      Discussion was held on going into closed session. Ann Kendall, special counsel for City, issued a written opinion in which she feels special code is applicable for closed session. Opposing attorneys had given her litigation hold language. The closed session is for traditional legal counsel only, no discussion of findings. Attorney Jennifer Zupp asked for documents and to preserve information, doesn't mean they are suing. Attorney Sherinian said his clients were suspended and he asked that all documents be preserved. There is no present intent to sue. Kendall said not discussing employees. Attorney Jessica Zupp told council she has litigated this closed session scenario before and won. Lawyers can't just put it in writing and say its ok for litigation. Councilperson Loeschen said this whole matter troubles him of having to get council in closed session because of mistrust and fear of litigation.

MOTION TO ENTER INTO CLOSED SESSION	Motion Mahrt/Curnyn to enter closed session per IA code 21.5(1)(c) 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. Mahrt – Aye; Curnyn – Aye; Granzen – No; Loeschen – No; Okker – No. Motion failed.
REPORT FROM ATTORNEY REGARDING INVESTIGATION	Attorney Kendall reported that the investigator, Jim Gilliam who is present, prepared a summary of findings. Both Zupp & Sherinian gave changes and/or objections/recommendations. Kendall said council has three options: 1) Close investigation; 2) publish findings; 3) get additional documents/report from Gilliam. Kendall recommended council be cautious in comments to protect employees from damage to reputation. The specific issues have been put in writing. The investigator is not legal counsel. Kendall advised council against identifying witnesses, this is a sensitive subject, and not to provide disinformation.
10 MINUTE RECESS	6:15 recess 6:25 back in session
WRITTEN SUMMARY FROM INVESTIGATOR	Gilliam read his written summary. He did not find any evidence that any of the administrative decisions reviewed were product of bad faith, personal profit or constituted criminal conduct. The administrators believed the decisions were in the best interest of the City. The decisions were made in an environment where council was exercising less than full oversight and control over administrative decisions. Gilliam reported that the performance of City administrators was not prompted by illegal or improper motive. Gilliam reported that each of the administrators interviewed agreed the communication with the council could be improved and they were willing to work with council to accomplish that. Gilliam presented seven recommendations for council to consider to help improve council oversight. In addition, Sherinian recommended that the whole council needs to approve this type of action in the future, which could be set by resolution. Granzen reminded everyone that individually council has no voice and does not want to see any more individual reprimands. Council needs to communicate among themselves as well.
MOTION TO END INVESTIGATION	Motion Granzen/Loeschen to end the investigation. Ayes: 5 Motion carried.
MOTION TO NOT GET A FINAL WRITTEN REPORT FROM INVESTIGATOR	Motion Granzen/Loeschen not to get a final written report from Gilliam. Granzen – Aye; Loeschen – Aye; Okker – No; Mahrt – Aye; Curnyn – No Motion carried.
MOTION TO RETAIN ALL EMPLOYEES	Motion Loeschen to retain all employees. Attorney Blazek said not on the agenda so has to wait until next meeting.

MOTION TO REVIEW  
ATTORNEY INFORMATION  
DETERMINE IF ADDITIONAL  
QUESTIONS ARE NECESSARY

Motion Loeschen/Mahrt to review the information attorney Sherinian had submitted and the eight issues originally given and then at next council meeting determine if additional questions to Gilliam are necessary. Ayes: 5 Motion carried.

There being no further business, the meeting was adjourned at 8:04 p.m.

Signed \_\_\_\_\_  
Jared Beymer, Mayor

ATTEST:

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Lisa K. Koch, City Clerk