

REGULAR CALLED CITY COUNCIL MEETING
Tuesday, March 5, 2019 – 5:00 P.M.
Council Chambers – Denison, Iowa

The first 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 Loeschen/Curnyn to remove item #21 – Discussion and possible motion regarding keys to City Hall and server room – from the agenda and then approve the agenda. Ayes: 5 Motion carried.
MOTION TO APPROVE CONSENT AGENDA	Motion Curnyn/Loeschen to approve the following items on the consent agenda: a) approve and waive the reading of the minutes for 2/12/19; b) approve the bills as presented; Granzen said \$8,790.50 had been billed by BrownWinick after council voted to end the investigation on Jan. 24 th and doesn't feel the city should have to pay after Jan. 24 th . Beymer said the fact finding ended, not the agreement. Granzen didn't feel council should have to pay the invoice to Digital Intelligence for sending the City Manager's phone to be gone through because the Mayor has no authority to spend money. Blazek said the contract with BrownWinick would allow the phone to be sent. c) approve liquor license(s) for Wal-Mart. Ayes: 4 – Granzen -no on bills Motion carried.
PUBLIC HEARING ON FY19-20 BUDGET	5:00 Public Hearing on FY19-20 Budget. There were no written or oral objections. Mayor Beymer declared the hearing closed.
PUBLIC HEARING ON APPEAL OF NOLASCO REGARDING ORDER TO REMOVE DOG FROM CITY LIMITS	5:00 Public Hearing on appeal of Bernabe Nolasco regarding the order to remove dog from city limits. Council heard from all parties involved. Motion Granzen/Okker to uphold Chief Schaffer's order for removal because the husky is a domesticated animal that has proven itself to be a dangerous or vicious animal by attacking humans or other animals. The husky demonstrates propensity without provocation to bite or attack. Ayes: 4 Abstain: Curnyn. Motion carried. The Council will prepare a written order which will be delivered within 3 days.
DEPARTMENT HEAD REPORTS	Dept. Head Reports: Council skipped due to time constraints. Boulders Conference Center did submit a written report. Loeschen commended street crew.
PUBLIC FORUM	<u>Pam Soseman</u> – Read in the Feb. 15 th paper about Ms. Vogt's investigation into the City lack of bidding for certain projects, but she didn't reference which IA Code wasn't followed. There are two different thresholds that require bids or quotes and two different types of projects, horizontal or vertical infrastructure, which determine whether to use the bid or quote process per Chapter 26, IA Code and the fire prop fits into the vertical structure category. A competitive quote is an estimate received by a contractor, usually by phone, to ask

them to give a quote. There is no advertising or posting requirements for a quote. Competitive bids are required if the project is \$135,000 or more and competitive quotes are required if the project is \$55,000-\$135,000. Competitive quote process does not require advertising. Both Joe's Welding and Hrabik Welding were contacted, so two quotes were verbally asked for but Hrabik's did not have time for the project and didn't want to give a quote. The actual cost of the vertical structure was \$51,468.94 – below quote threshold of \$55,000 – and is a non-consumable item which means it won't be replaced after each use. Council voted at several meetings to approve these purchases. Curnyn questioned some of the expenses in October and where the expenses were paid from, but the expenses were all unanimously approved. The rest of the purchases are consumable items, meaning they will continuously need to be replaced every time they are burned during training and will be an ongoing operating expense. The cost of the consumable items was \$5,423.97 and are ongoing operating expenses. All of these purchases were made and approved over several different council meetings and never questioned. Ms. Vogt stated the prop was paid from 5 different accounts based on information provided to her by Ms. Sell. The City doesn't use accounts, they use fund accounting. Within each fund are multiple expense lines for each department, but they are not separate accounts, they are part of the fund. The breakdown of the purchases is \$14,967.75 from the Fire Dept. operating fund; \$23,709.06 from LOST fund; and \$18,216.10 from capital improvement fund totaling \$56,842.91 of which \$51,468.94 was the non-consumable structure and \$5,423.97 consumable items.

Rod Bradley – First express dismay at what has occurred over the last several months. Some council seem to believe that we have an autocratic government, but we do not, we have a representative form of government. We elect others to act in our stead. People put you in those chairs and can vote you out. Contrary to what is being said, we are not a mob, we are people and council has not bowed to a mob. People have the right to assemble to make known and address grievances. All of council has to take an oath of office to faithfully and impartially to uphold the laws. Respectfully asking that the people stop being referred to as a mob. We are concerned citizens addressing concerns with council. City ordinances refer back to the state code and that is why references city code when speaking, rather than state code. Based on codes and the importance of decisions made on Dec. 18, 2018 in which a duly called council meeting was cancelled with than less an hours' notice and then summarily 3 dept. heads were placed on leave, should've only been done with the consent of council. Therefore, he is renewing his questions that Mayor or no council member has bothered to answer yet. What was the reason for cancelling the Dec. 18th council meeting? What was it that any of the 3 managers could or would've been able to do had the meeting been held as scheduled? Were all members of the council consulted, prior to the cancellation of the

meeting? Mayor Beymer told Rod his 5 minutes were up. Citizens in the room said they were willing to give their 5 minutes to Rod. Curnyn said they couldn't do that. Blazek said have never had this situation before. Consensus of council was to let Rod continue. Were all council members consulted prior to putting the 3 managers on leave? Why given the fact that most of these issues have been festering since February of 2018, and some of these issues were addressed in a letter to the City Clerk dated November 1st, and that some of the issues surrounding the fire prop were discussed in an open meeting on Nov. 20, 2018 did the decision makers finally decide that late in the afternoon of Dec. 18th was the best time to act? Finally, why given the importance and gravity of these decisions and their foreseeable ramifications within the community did it take 2 days for the mayor to issue a press release? Because these answers have not been forthcoming, I renew my request that the City council direct the city attorney prepare an amendment under Chapter 5 of city ordinances to set forth under what authority a duly called meeting of the council can be cancelled and under who's authority. I further renew my request that the placing of leave of a department head or any suspension be approved only by a majority of the council to assure that this can never happen again. Given other actions that occurred over the course of the past year, requesting council amend ordinance 15.03 and add the city's representative to the County 911 Board to the list of persons the mayor can appoint with council approval. It is apparent that during the codification process in 2011, due to pure oversight, that this was appointment was not added to city ordinances during that process. Doing so will help prevent what occurred in September of last year when the mayor became upset with the person who had held that position since the formation of the 911 board, summarily and with little or no input from council replaced him. During the course of this removal, the city ended up retaining the services of 2 outside law firms and incurred legal fees of nearly \$1,000 in addition to fees paid to the city attorney's office related to this matter. Regardless what board we are talking about, no one person including the mayor, should be able to replace any member of any board without a majority vote of council. Not only did the mayor not inform council of the appointment of Bruce Musgrave to the 911 board, but he never informed the 911 board per their bylaws. It was also intent to ask council to direct city clerk to only pay portion of BrownWinick bill for December that was incurred after council approved hiring the law firm and that any other cost prior be denied by the city. Since the bill has already been paid, now asking the council to direct city clerk to submit a written request of repayment of \$5,598.78 to Mayor Jared Beymer who entered into a contract without first obtaining the permission of a majority of the city council as required by city ordinance 17.02(5). It is my desire, and I think the desire of, most people in this community that this insanity stop. This autocratic type of behavior not occur any further and pass ordinances or resolutions to ensure that it never happens again.

Denny Fineran – Who is paying bill and how big has it gotten? Have been here 5 or 6 times and said you are on the wrong road. You are still on the wrong road because you are too stubborn, but I'm stubborn too, so I'll be back if you are going to stay on this road. Asked Beymer to explain why when the investigation was over, unless council had questions, and questions were sent to law firm and now we've spent another 8000-10000 on those questions? We couldn't have brought this out in one meeting? If you have anything, quit stretching this out with innuendos, making things seem like they are worse than they are, because all you are going to do is make this look worse longer. You aren't going to have anything, because if you did, it would be out there. None of you have time to be at City Hall. Mayor hasn't been here for 5 months. Vogt said on social media that Fineran didn't do job when hired these 3 employees. Fineran did do an investigation of his own. Mayor and some of council need to step down, this is a witch hunt, with a personal agenda because of who you want in those seats, but this is to be done without bias and it has not.

Gordon Wolf – Beymer, Mahrt and Curnyn had asked questions. Did you receive answers and were you satisfied with those answers?

Mark Sherinian - I think I need to pull back the curtains and look at why council is repeatedly coming up with more and more issues that seem intent on getting rid of Lisa Koch and maybe Mr. Crawford. It is our understanding that Mr. Curnyn & Mr. Beymer want to replace Lisa Koch with Terra Sell and that has become obvious with a number of things that have happened over the last year. Friday before interviews were held, Mr. Curnyn met with Sell for an hour, on this floor of the building, and effectively we believe prepped her for the interview. When interviews were held, Koch & Crawford were told if they presented any other candidate for the deputy clerk position, they wouldn't be approved, so Koch & Crawford followed the direction of Curnyn, even though they didn't feel she was the best candidate. Two months later Curnyn insisted Ms. Sell receive a raise and that raise was inconsistent with the City's practice. In order for a clerk to receive a raise, they have to meet the clerk certification process, which includes three years on the job as well as taking two courses and Ms. Sell has not satisfied those criteria. As the year went on, communication between Mayor Beymer and Ms. Koch and Mr. Crawford disappeared almost completely. Mr. Beymer & Mr. Curnyn have replaced their communication with Koch & Crawford with Ms. Sell. Then when Koch, Crawford & Snowgren were suspended people observed the mayor & Ms. Sell in city hall the night after they were suspended, and they were going through Terry's office & Lisa's office. All of a sudden Ms. Sell is doing the work of Mayor Beymer to try to find evidence upon which Mr. Crawford and Ms. Koch would be suspended and maybe terminated. Most recently found out that Ms. Sell gave administrative password to Mayor Beymer which allowed for some unauthorized access to the computer system for the

city and a report has been issued on those findings. What amazes me is that we have this huge division where the purpose is obviously to get rid of Ms. Koch and its being done in a clandestine way, involving secrecy and manipulation but is driving a huge wedge between staff at City Hall and we believe that needs to stop. Now they have to justify \$60,000 expense and find some reason to get rid of Ms. Koch. Went back 5 years at the first of the investigation and now someone has gone back 20 years in Koch's history and are trying desperately to try to find something to justify what they have done. Mr. Curnyn & Mr. Beymer this has to stop.

Loeschen asked Sherinian if he had the IT report and how he received it. Sherinian says some of his communications are privileged. Sherinian has had communication with Blazek about why the report is not a confidential document. What the report calls into question is why is the Mayor, at 1:00 in the morning, setting up a system 2 days after Terry and Lisa get reinstated, so that he can have remote access as an administrator to the city's computer system.

George Blazek – Gordon Wolf with the Denison Bulletin did make a public records request for that IT report and the city attorney's office emailed Gordon Wolff, citing code section for confidentiality, pending further review and said it was a confidential record. They are happy to reexamine the issue.

Rod Bradley – He was asked by city administration today to respond as the author of that report whether that document is a confidential report. There is nothing in the report that would give anyone the ability to do anything to our system. Report is simply a matter of facts. Ben Merrill, BrownWinick, asked who redacted the report. Bradley redacted of any sensitive info. State statute requires the body to prove that the release of the report would create a risk that the system could be attacked if released. Blazek will review with Bradley and reply to newspaper's request for a copy.

Jennifer Smith – How is it the City attorney's authority to determine whether the document is confidential. He can offer his opinion, but ultimately up to council to determine whether it is confidential and council always has the authority to release any public document. People know report is there and will probably file a FOIA request, so to save money, the city can just release it.

Dan Mundt – Two meetings ago, council was coerced into not going into closed session to discuss with the investigator the details of the report so that discussion and everything that happened was made under the idea better not do it because there could be a lawsuit. Now that there is a direct threat of a lawsuit is there any value to city council meeting with the investigator and finding out what was all in there or is it going to be left the way it was and not know any more details.

Beth Vogt – Where do you the law that says consumables aren't part of the cost to build?

David Loeschen – Mr. Mayor we have already gone over that and answered that. This is public forum, not a question and answer session.

MOTION TO HAVE ANSWERS TO FOLLOW-UP QUESTIONS	Motion Granzen/Okker to have investigator give answers to follow-up questions as soon as possible. Ayes: 5 Motion carried.
TABLE ORDINANCE AMENDING CHAPTER 21	Consensus was to table the ordinance amending Chapter 21 pertaining to the supervisory authority of the City Manager.
RESOLUTION #2019-5 TO SET PUBLIC HEARING TO AMEND CHAPTER 170.05 OF CODE OF ORDINANCES	Resolution #2019-5 was introduced setting public hearing for amending Code of Ordinances Chapter 170.05 regarding accessory buildings. Motion Okker/Mahrt that Resolution #2019-5 is adopted setting the public hearing for 5:00 p.m. on March 19, 2019. Ayes: 5 Motion carried.
RESOLUTION #2019-6 SETTING PUBLIC HEARING FOR FY18-19 BUDGET AMENDMENT	Resolution #2019-6 was introduced setting public hearing for FY 18-19 Budget amendment. Motion Mahrt/Granzen that Resolution #2019-6 is adopted setting the public hearing for 5:00 p.m. on March 19, 2019. Ayes: 5 Motion carried.
RESOLUTION #2019-7 SETTING PUBLIC HEARING TO AMEND CODE OF ORDINANCES REGARDING SIDING	Resolution #2019-7 was introduced setting public hearing to amend code of ordinances regarding siding requirements. Motion Granzen/Curnyn that Resolution #2019-7 is adopted setting the public hearing for 5:00 p.m. on March 19, 2019. Ayes: 5 Motion carried.
RESOLUTION #2019-8 SETTING PUBLIC HEARING FOR 2019 HMA RESURFACING – NORTH 10 TH STREET PROJECT	Resolution #2019-8 was introduced setting public hearing for 2019 HMA Resurfacing – North 10 th St. Project No. STBG-WAP-1920(626)—5G-24. Motion Curnyn/Okker that Resolution #2019-8 is adopted setting the public hearing for 5:00 p.m. on March 19, 2019. Ayes: 5 Motion carried.
RESOLUTION #2019-9 CREATING A PERSONNEL COMMITTEE	Resolution #2019-9 was introduced creating a personnel committee. Motion Loeschen/Okker that Resolution #2019-9 is adopted. Ayes: 5 Motion carried.
MOTION TO ADOPT PROCUREMENT POLICY	Motion Mahrt/Loeschen to adopt the procurement policy after adding a performance bond requirement on projects \$25,000 or over and add the yard waste site to the exclusion list. Ayes: 5 Motion carried.
DISCUSSION REGARDING FATS, OIL AND GREASE CONTROL ORDINANCE	Discussion was held regarding an ordinance regarding fats, oil and grease control for food service establishments. Council directed city attorney to prepare an ordinance for the next meeting.
COUNCILMAN LEFT MEETING	Councilman Mahrt left at 7:03 p.m.
DISCUSSION ON CREATING ORDINANCE ON WHEN MEETINGS CAN BE CANCELLED	Discussion was held on creating an ordinance that spells out when meetings can be cancelled and under whose authority. Council directed city attorney to prepare an ordinance for the next meeting.

DISCUSSION ON SPENDING
AUTHORITY OF THE MAYOR

Discussion was held on the spending authority of the mayor. Councilman Granzen stated that there is no money budgeted for the mayor to spend and he has no authority to spend any money without council approval. Council gives CDC \$40,000 for tourism so if they want the mayor to attend tourism conferences, they should pay for him to go. List CDC invoice on next agenda as a separate item.

RESOLUTION #2019-10
APPROVING FY19-20 BUDGET

Resolution #2019-10 was introduced approving FY 19-20 budget. Motion Loeschen/Okker that Resolution #2019-10 is adopted. Ayes: 4 Motion carried.

MOTION TO APPROVE J&M
DISPLAYS PROPOSAL FOR JULY
3 FIREWORKS, OPTION #1

Motion Granzen/Loeschen to approve J&M Displays proposal, Option #1, for \$15,200 for the July 3rd fireworks display. Ayes: 4 Motion carried.

MAYOR REPORT

Mayor Report – None.

CITY MANAGER REPORT

City Manager Report – Crawford reported his written report was in drop box. He informed council we had gotten three quotes for mulch for the uptown nodes, with HyVee being the low quote.

MOTION TO ENTER CLOSED
SESSION UNDER IA CODE
21.5(J) TO DISCUSS PURCHASE
OF REAL ESTATE

Motion Curnyn/Loeschen to enter closed session at 7:20 p.m. under IA Code 21.5(j) to discuss the purchase of particular real estate only where premature disclosure would be reasonably expected to increase the price the governmental body would have to pay for that property. Ayes: 4 Motion carried.

RETURN TO OPEN SESSION

Returned to open session at 8:17 p.m. with no action taken.

There being no further business, the meeting was adjourned at 8:17 p.m.

Council stayed after the meeting adjourned to discuss union negotiation strategy.

Signed _____
Jared Beymer, Mayor

ATTEST:

Lisa K. Koch, City Clerk