

JOHNSTON CITY COUNCIL MEETING MINUTES
COUNCIL MEETING NO. 17-07
Johnston City Hall, 6221 Merle Hay Road
April 3, 2017
7:00 p.m.

1. CALL TO ORDER

Mayor Dierenfeld called the meeting to order at 7:00 p.m.

2. ROLL CALL

Present: Clabaugh, Cope, Lindeman, Temple, Brown
Absent: None

3. WELCOME

Mayor Dierenfeld welcomed residents and guests to the meeting.

4. PLEDGE OF ALLEGIANCE

Brett Klein led those present in the Council Chambers in the Pledge of Allegiance.

5. AGENDA APPROVAL

Motion by Lindeman, which was seconded by Temple, to approve the agenda as noted.

ROLL CALL: Aye: Cope, Lindeman, Temple, Brown, Clabaugh
Nay: None
Motion Approved 5-0

6. PUBLIC COMMUNICATIONS

None

7. PUBLIC HEARINGS

a. Conduct a Public Hearing and Consider First Reading of Ordinance No. 964 - An Official Zoning Map Amendment for Approximately 5.73 Acres from M-1, Light Industrial Zoning District, to MUC-ROC-2, Mixed Use Center Zoning District, and for Approximately 0.50 Acres from CD, Conservation Zoning District, to MUC-ROC-2 Mixed Use Center Zoning District. The Subject Property is Located on the North of 6506 Merle Hay Road and South of 6508 Merle Hay Road

- Consider First Reading of Ordinance No. 964 - An Official Zoning Map Amendment for Approximately 5.73 Acres from M-1, Light Industrial Zoning District, to MUC-ROC-2, Mixed Use Center Zoning District, and for Approximately 0.50 Acres from CD, Conservation Zoning District, to MUC-ROC-2 Mixed Use Center Zoning District. The Subject Property is Located on the North of 6506 Merle Hay Road and South of 6508 Merle Hay Road

The public hearing opened at: 7:04 p.m.

Planner Clayton Ender introduced this item. Ender stated that this item is based on a request to rezone two portions of property from Light Industrial and Conservation Zoning Districts to Mixed Use Center Zoning District. The subject property is listed in the Future Land Use Map as Mixed Use Center Zoning District, indicating it does match the City's Future Land Use.

The proposed use is for multi-family residential with mostly one-bedroom and a few two-bedroom. The applicant will be providing a need that they feel is underserved.

Ender went over some site planning requirements including the buffer. Johnson Brothers business has submitted a letter of concern over the location and possible adverse effects. Subsequently the applicant has worked out a vegetative design buffer and all parties agree now that it should be sufficient buffer, in addition to the orientation of garages.

Water and sanitary sewer are provided to the site that meet the needs and the subject property is not in the floodplain. There is a parkland dedication requirement and the preliminary plans show a community private park of 3.5 acres, as well as a private dog park. There would likely be an equal value parkland alternative consisting of a trail easement and a 10' wide trail along Merle Hay Road from north to south, and the City would be responsible for the southern part as identified.

There was proper notice provided and there were two comments including the aforementioned Johnson Brothers letter.

Luke Jensen of 2519 Chamberlin in Ames, Iowa requested to speak. Jensen stated that he wanted to introduce the idea and mentioned that the rezone makes it possible. Jensen stated they are excited to be a part of the community and would like to invest in the community. Jensen stated that they have had success with underutilized commercial sites off of main thoroughfares that were converted to residential. Jensen stated that there is a need for one-bedroom rentals and they have enjoyed great success from a market absorption standpoint in other similar projects in the metro area.

Mayor Dierenfeld thanked Jensen for working with abutting property owners and staff to resolve any issues, and also expressed thanks for considering Johnston and offering their product to enhance housing diversity.

The public hearing closed at: 7:15 p.m.

Motion by Cope, which was seconded by Brown, to approve the First Reading of Ordinance No. 964

ROLL CALL: Aye: Lindeman, Temple, Brown, Clabaugh, Cope

Nay: None

Motion Approved: 5-0

8. CONSENT AGENDA

- a. Consider Approval of Minutes of March 20, 2017, Worksession
- b. Consider Approval of Minutes of March 20, 2017, Council Meeting
- c. Consider Resolution No. 17-88 - Approving Staff Appointments and Establishing Wages
- d. Consider Approval of an Alcohol Policy for the Johnston Public Library
- e. Consider Resolution No. 17-93 – Waiving the Prohibition Against Possession and Use of Alcohol in Johnston Commons Park for Kites on the Green and Terra Park for Metro Arts Jazz in July
- f. Consider Resolution No. 17-90 – Fixing Date for a Public Hearing on the Proposal to Enter into a Development Agreement with Amega Garage Door and Opener Inc., and Providing for Publication and Notice Thereof
- g. Consider Approval of Purchase Order No. 15-974 for \$6,300.00 to Xtreme Tree for Removal of Trees in an Area Along NW Beaver Drive
- h. Consider the Renewal of the City's Property and Casualty Insurance Package for April 1, 2017
- i. Consider Resolution No. 17-89 – Setting a Public Hearing for April 17, 2017, at 7:00 p.m., to Consider an Official Amendment to the Johnston 2030 Comprehensive Plan's Future Land Use Map and an Official Zoning Map Amendment for 4.223 Acres from PUD to R-3 and for 3.694 Acres from PUD to R-4. The Subject Property is Located North of Windsor Parkway and West of NW 90th Street
- j. Consider Resolution No. 17-94 – Approving the Stormwater Management Facilities Maintenance Agreement for Brio of Johnston
- k. Consider Approval to Purchase a New Concrete Saw (\$24,770.00)
- l. Consider Resolution No. 17-92 - Approving the Acquisition of Real Estate Interests and Authorizing Payments to Acquire Real Property for the NW 54th Court Improvements
- m. Consider Resolution No. 17-95 - Ordering Construction, and Fixing a Date of May 1, 2017, at 7:00 p.m. for the Public Hearing on the Johnston Community Fiber Optic System Phase 4 Project
- n. Receive and file the following reports:
 1. Planning and Zoning Commission Meeting Minutes – March 27, 2017

Motion by Brown, which was seconded by Cope, to approve the Consent Agenda

ROLL CALL: Aye: Temple, Brown, Clabaugh, Cope, Lindeman
Nay: None
Motion Approved: 5-0

9. NON-CONSENT AGENDA

- a. Consider Third and Final Reading and Adopt and Publish Ordinance No. 958 – Amending the Johnston Revised Ordinances of 2007 By Amending the Official Zoning Map for Approximately 1.79 Acres and Adjoining Right-of-Way from R-3, Medium Density Residential District, to C-2, Community Retail Commercial District. The Subject Property is Located on the Southeast Corner of NW 70th Avenue and the Future Extension of Peckham Street

Clabaugh left the chambers at 7:15 p.m.

Director of Planning and Development David Wilwerding stated that there have been no changes from the first and second readings, and no comments from the public were received.

Motion by Lindeman, which was seconded by Temple, to approve the third and final reading, and adopt and publish Ordinance No. 958

ROLL CALL: Aye: Brown, Cope, Lindeman, Temple
Nay: None
Motion Approved: 4-0

Clabaugh returned at 7:17 p.m.

- b. Consider First Reading of Ordinance No. 972 – An Ordinance Amending Speed Limits Along NW 62nd Avenue, NW 70th Avenue, NW 100th Street and NW 107th Street

City Administrator Jim Sanders introduced this item and mentioned several meetings with an ad hoc public safety committee which analyzed various speed limits around the city considering numerous factors including safety when determining any recommended change. Sanders then summarized the ad hoc committee's recommendation and mentioned already having been presented at an earlier work session. In some instances the speed was increased while adding flashing lights such as in the instance near the new high school. Following the summarization of the changes contained in Ordinance No. 971 two members of the public spoke in opposition to the increase on 100th Street: Tim Pelzer of 9916 Ashton Drive and Kevin Zirke of 9908 Ashton Drive.

Council Member Temple stated that the committee examined in great detail considering many factors and recommended support of the ordinance. Council Member Cope stated that he was somewhat apprehensive at first but now he supports the changes after more consideration and hearing some of the decision making process.

Pelzer stated that he did not support the change. He stated it was dangerous already with the posted limit and mixing in new drivers – high school kids. Pelzer stated that when the school was proposed it was stated that there would be no changes, and warned of a potential tragic event. Pelzer stated with the roundabouts, drivers are using it as a slingshot and far exceed the 15 miles per hour inside the roundabout. Pelzer stated there is no 90 degree angle to slow down turning on to Ashton.

Council Member Brown asked about Mr. Pelzer's concerns and what was discussed in that regard. Brown stated that he believed Mr. Pelzer's concerns centered on enforcement. Pelzer stated that as he watches from his front yard, it is mostly adult violators. Pelzer also mentioned increase traffic from 141 and other construction projects upcoming.

Zirke stated that he would attest to what Pelzer was saying and that his original concern was with high school drivers, but he has since learned through observation that it was adults. Zirke followed up with

what Pelzer stated about using the two lanes in the roundabout as a slingshot and he is very concerned for his young children and all neighbors with young children.

There was some discussion with regard to enforcement. Chief McDaniel discussed the limited manpower and the inability to assign an officer for any considerable amount of time to that one location. After more discussion, Chief McDaniel said they could do some special enforcement and use an overtime detail, along with the speed trailer monitor. Chief McDaniel mentioned that the department would do some periodic enforcement. Council Member Temple asked for some targeted enforcement, and Chief McDaniel said that the area is certainly under consideration. Brown stated that he concurred with Temple in terms of having more than a “one and done” and requested to do some target enforcement.

Patrick Kueter from Foth Engineering stated that they had some radar units that can mount on a sign pole, which could be used in this instance and provide some data that would assist the police department and decision makers.

Council Member Clabaugh stated that he continued to have reservations with regard to changing the speed limit in front of the old high school, which will cause him to be a no vote.

Motion by Temple, which was seconded by Brown, to approve the First Reading of Ordinance No. 972

ROLL CALL: Aye: Cope, Lindeman, Temple, Brown

Nay: Clabaugh

Motion Approved: 5-0

- c. Consider First Reading of Ordinance No. 971 – To Amend and Update Chapter 155, Building Code of the Johnston Code of Ordinances from the 2012 to the 2015 International Building, Residential and Existing Building Codes

Wilwerding summarized all of the proposed ordinances in items C, D, and E. Wilwerding stated that many months were spent reviewing the 2015 International Council Code updates. The activity was done in concert with the Central Iowa Code Consortium in an effort to have the metro communities as consistent as possible in terms of the version and amendments to the building codes, however, individual municipalities may have some differences applicable to their city.

Wilwerding stated that the changes were discussed at a recent past work session and the amendments follow the recommendations of the CICC, along with the already incorporated local amendments for the City of Johnston. This will be the first time the building and fire codes are on the same version.

Wilwerding thanked Doug Sandvig, John Taylor and Eric Rehm for their vast efforts, and also mentioned the efforts of Fire Chief Jim Clark and Fire Marshal Craig Ver Heul.

Council Member Brown inquired whether or not any amendment was deemed controversial.

Wilwerding stated that there were not any, but potentially the requirement for dry walling the basement ceiling. The City of Johnston is proposing to not require this action. The City of Des Moines does not require the dry walling of basement ceilings. Council Member Temple inquired if the City requires an egress window in all basements regardless of whether or not they are finished. Rehm responded to the question and stated that the City of Johnston does require at least one egress window in any basement constructed regardless of whether or not they are finished or the grade of the property.

There was some discussion regarding sprinkler requirements. Rehm stated that the garage space and any other covered space under the roof line is included in the 8000 square foot requirement. The CICC had discussed excluding the garage areas and unfinished basement, but the code officials in the City of Johnston were not comfortable with that change as that area is most likely where combustibles are stored.

Motion by Cope, which was seconded by Brown, to approve the First Reading of Ordinance No. 971

ROLL CALL: Aye: Cope, Lindeman, Temple, Brown, Clabaugh
Nay: None
Motion Approved: 5-0

- d. Consider First Reading of Ordinance No. 965 – To Amend and Update Chapter 159, Fire Code of the Johnston Code of Ordinances

Motion by Clabaugh, which was seconded by Lindeman, to approve the First Reading of Ordinance No. 965

ROLL CALL: Aye: Lindeman, Temple, Brown, Clabaugh, Cope
Nay: None
Motion Approved: 5-0

- e. Consider First Reading of the Following Ordinances Related the Fuel Gas, Electrical, Mechanical, Plumbing and Swimming Pool Codes:

- Ordinance No. 966: Amend Chapter 154 to Update from the 2012 International Fuel Gas Code to the 2015 Edition, with Amendments;

Motion by Lindeman, which was seconded by Brown, to approve First Reading of Ordinance No. 966

ROLL CALL: Aye: Temple, Brown, Clabaugh, Cope, Lindeman
Nay: None
Motion Approved: 5-0

- Ordinance No. 967: Amend Chapter 157 to Update from the 2011 National Electrical Code to the 2014 Edition, with Amendments;

Motion by Temple, which was seconded by Lindeman, to approve First Reading of Ordinance No. 967

ROLL CALL: Aye: Brown, Clabaugh, Cope, Lindeman, Temple
Nay: None
Motion Approved: 5-0

- Ordinance No. 968: Amend Chapter 158 to Update from the 2012 International Mechanical Code to the 2015 Edition, with Amendments;

Motion by Brown, which was seconded by Clabaugh, to approve First Reading of Ordinance No. 968

ROLL CALL: Aye: Clabaugh, Cope, Lindeman, Temple, Brown
Nay: None
Motion Approved: 5-0

- Ordinance No. 969: Amend Chapter 156 to Update from the 2012 International Plumbing Code to the 2015 Edition, with Amendments;

Motion by Brown, which was seconded by Cope, to approve First Reading of Ordinance No. 969

ROLL CALL: Aye: Cope, Lindeman, Temple, Brown, Clabaugh
Nay: None
Motion Approved: 5-0

- Ordinance No. 970: Adding a New Chapter 148, Adopting the 2015 International Swimming Pool and Spa Code with Amendments

Motion by Lindeman, which was seconded by Brown, to approve First Reading of Ordinance No. 970

ROLL CALL: Aye: Lindeman, Temple, Brown, Clabaugh, Cope
Nay: None
Motion Approved: 5-0

- f. Consider Resolution No. 17-91 – Approving the Preliminary Plat for Hidden Valley Estates Plat 1, Subdividing 7.89 Acres into 13 buildable lots, seven unbuildable outlots, and one street lot. The Subject Property is Immediately West of NW 100th Street and Immediately South of Little Beaver Creek (PZ Case 16-37)

Planner Clayton Ender introduced this item. Ender provided some background on the plat and stated it was zoned R-1 75 Single Family Residential. Ender stated that portions of the site are within the 100 year and 500 year floodplain and as such these areas will need to be raised at minimum one foot above base flood elevation and adhere to the floodway fringe overlay requirements.

There are no buffers required with the exception of Little Beaver Creek. There will be one new street named Hidden Valley Drive. The applicant would move forward with phase 2 if this plat is approved. There will be one sidewalk crossing across NW 100th Street. The site has appropriate and available water and sanitary sewer services as indicated in the plat. The storm water is proposed to be managed in two detention basins. During phase 2 the applicant will be providing the parkland dedication requirement, which comes to approximately .60 acres for both phases.

The property is downstream from the Benton dam, which was classified in 2012 by IDNR as a moderate hazard dam. The applicant and the two property owners of the dam to the south have reached an agreement to resolve the deficient status of the dam, encompassing transferring ownership to one owner, Mark Shyroch who will then incur the maintenance responsibilities solely, or his successor.

The resolution has a few conditions including a DNR permit being obtained prior to the Council approving the public improvements, along with the dam improvements to be completed and approved by DNR prior to acceptance by Council and issuing of a certification of occupancy.

David Vance, the engineer representing the applicant then spoke. Council Member Brown asked the applicant / Mr. Vance, whether or not the applicant had any issues with the requirements of the resolution. Attorney Jennifer Drake responded on behalf of the applicant. Drake stated that they have come to an agreement and as such they would like the requirements in 6e, 7a and 8b eliminated. Drake stated that there are assurances that those improvements will be completed, and even if there is a delay, the plat is constructed to handle a 500-year flood.

Wilwerding stated that staff is not supportive of removing the requirements requested by Drake and the Planning and Zoning Commission has approved with the three requirements listed by Drake. Drake stated that with the requirements in place that the applicant would incur significant expense due to the applicant not having control of the necessary lots and dam, along with considerable risk.

Drake stated that she was under the impression that a separate and additional resolution would be presented to the Council which eliminated the requirements in 6e, 7a, and 8b, and a provision for depositing funds into an escrow account to ensure completion of the agreed upon improvements. Wilwerding stated that staff had been working on an alternate resolution, but were operating under the understanding that there is now an agreement in place and that the resolution before Council tonight addresses that agreement.

It was proposed by Council Member Cope that action be taken on the resolution before the Council and if any amended language with regard to an escrow account and protections are proposed, those changes be considered at a subsequent Council meeting. After further discussion, Drake requested a recess to speak with her clients.

Following the recess, Drake stated that they are amenable to accepting Council Member Cope's suggestion to take action on the resolution before the Council tonight with the potential to amend at a subsequent Council meeting.

Motion by Cope, which was seconded by Temple, to approve Resolution No. 17-91
ROLL CALL: Aye: Temple, Brown, Clabaugh, Cope, Lindeman

