

CITY COUNCIL MEETING
RAND CENTER
JULY 5, 2017
6:00 P.M.

Mayor Sargent called the meeting to order at 6:00 p.m. with the following Council members present: Gunderson, Struble, Tiffey, Thompson. Council member Johnson was absent. Also present were CC/A Miller, City Engineer Olmsted and visitors: Tom Jarosz, Bruce Kocher, Richard Kube, Terri Kube, Tom Salter, Sally Salter, Minnie Fisher, Joanna Barnard, Brenda Loftus, Brad Westercamp, Brenda Osborn, Scott Bade, Leonard Ratliff, Nathan Summers.

The Pledge of Allegiance was recited.

Moved by Council member Tiffey to approve the agenda for July 5th, seconded by Council member Gunderson. Motion carried on a 4-0 vote.

Council member Struble requested SWIPCO be contacted with regard to work done on a property in the rehab program.

Moved by Council member Struble to approve the Consent Agenda, seconded by Council member Thompson. Motion carried on a 4-0 vote.

Library Director Kocher shared a video presentation on the up-coming solar eclipse and provided an update on the a/c repairs.

Sally Salter informed Council that the Missouri Valley Times will be at Summit Park on Thursday at 6:45pm for a picture and article on the new park equipment. She invited them to attend.

Brenda Loftus – Harrison County Assessor, gave a presentation on the county-wide reappraisal and answered questions on the process. She explained they are doing all classifications at once so it doesn't just shift the tax burden to another class. She invited anyone with questions to contact her office.

Moved by Council member Struble to approve the 2nd reading and waive the 3rd reading of Ordinance #527, "An Ordinance Amending The Zoning Ordinances Of The City Of Missouri Valley, Iowa, By Amending The Zoning Map, To Change The Zoning Designation Of Real Property Legally Described As The East 75' Of Lot 1; And All Of Lots 2 and 3, Block 26, Blair's Addition To The City Of Missouri Valley, Iowa, From A Zoning Designation Of RD60 To A Designation Of BGC", seconded by Council member Thompson. Roll call.

AYES: Tiffey, Thompson, Struble, Gunderson

NAYS: None. Motion carried on a 4-0 vote.

Mayor Sargent declared Ordinance #527 passed and adopted upon publication.

Nathan Summers - D.A.Davidson, presented information on bond financing for the 5th Street Construction Project. Moved by Council member Struble to authorize the Mayor to sign

the underwriting engagement letter with D.A. Davidson & Co., seconded by Council member Gunderson. Motion carried on a 4-0 vote.

Council and City Engineer discussed the Erie Street overlay work. The cost estimate for the work was \$185,000 - \$222,000. This would be let separately but included in the bond issue. Council consensus was to have Mr. Olmsted approach the IDOT about a timeframe of any repairs they might be contemplating on HWY 30 to see if this could be a shared project. Moved by Council member Struble to include the overlay in the bond financing, seconded by Council member Tiffey. Motion carried on a 4-0 vote.

Moved by Council member Struble to approve Resolution 17-18, "Resolution Setting The Date For A Public Hearing On Proposal To Enter Into A General Obligation Corporate Purpose Loan Agreement And To Borrow Money Thereunder In A Principal Amount Not To Exceed \$1,350,000", seconded by Council member Tiffey. Motion carried on a 4-0 vote.

CC/A Miller informed Council of a request for water service at a location along the proposed water line extension, but currently outside city limits. Council discussed providing the service prior to annexation contingent upon creating a development agreement requiring the company to voluntarily annex and hook onto city sewer when it becomes available. Following discussion, moved by Council member Thompson to provide the water service contingent on a development agreement, seconded by Council member Struble. Motion carried on a 4-0 vote.

Moved by Council member Struble to approve the 2nd reading Ordinance #528, "An Ordinance Amending The Code Of Ordinances Of The City Of Missouri Valley, Iowa, By Amending Section 41.12 Entitled "Fireworks", seconded by Council member Tiffey. Motion carried on a 4-0 vote.

Moved by Council member Struble to waive the 3rd reading of Ordinance #528, "An Ordinance Amending The Code Of Ordinances Of The City Of Missouri Valley, Iowa, By Amending Section 41.12 Entitled "Fireworks", and adopt the Ordinance, seconded by Council member Thompson. Motion carried on a 4-0 vote. Mayor Sargent declared Ordinance #528 passed and adopted upon publication.

Moved by Council member Thompson to approve the Joint Participation Agreement with SWIPCO for taxi service, seconded by Council member Struble. Motion carried on a 4-0 vote.

Moved by Council member Thompson to approve the Mayor's appointment of Jesse Render to the Library Board, seconded by Council member Gunderson. Motion carried on a 4-0 vote.

Moved by Council member Struble to approve Resolution 17-19, "Resolution To Transfer Money From The General Checking Into The Splash Pad Fund", seconded by Council member Thompson. Motion carried on a 4-0 vote.

Moved by Council member Thompson to approve the request from the Fair Board to hang a banner on the pool fence, seconded by Council member Struble. Motion carried on a 4-0 vote.

Council member Gunderson requested a couple properties be checked on for abatements and proposed the city allow gardens to be planted on vacant city-owned property. It was suggested the Garden Club might take that on.

Per Council's request, CC/A Miller presented proof of reimbursement from 2013 of the Keurig coffee maker at City Hall. Council was in agreement the coffee was an allowable office expense. She provided a draft purchasing policy, which Council will review for the next meeting. She gave an update on the request for audits regarding water utility and pool hours. Only one firm was responsive and they will be requested to meet with Council at the next meeting. She also reported that she has contacted IWCC for assistance in staff development training and has met with their coordinator to develop a plan and proposal. The consultant will be requested to meet with Council in August/September to present a proposal. Mayor Sargent reported he is getting quotes on a security monitoring system for City Hall and will report back when he has the information.

Moved by Council member Struble to adjourn, seconded by Council member Thompson. Motion carried on a 4-0 vote. Meeting adjourned at 7:58 p.m.

Clint Sargent, Mayor

Attest:

Rita Miller, City Clerk/Administrator

ORDINANCE #527

AN ORDINANCE AMENDING THE ZONING ORDINANCES OF THE CITY OF MISSOURI VALLEY, IOWA, BY AMENDING THE ZONING MAP, TO CHANGE THE ZONING DESIGNATION OF REAL PROPERTY LEGALLY DESCRIBED AS THE EAST 75' OF LOT 1; AND ALL OF LOTS 2 AND 3, BLOCK 26, BLAIR'S ADDITION TO THE CITY OF MISSOURI VALLEY, IOWA, FROM A ZONING DESIGNATION OF RD60 TO A DESIGNATION OF BGC.

SECTION 1: SUBSECTION MODIFIED. Pursuant to Article IV, Section 4.3, the Official Zoning Map is modified to change the zoning designation of real property commonly referenced as 125 N. 1st Street; 121 N. 1st Street; 119 N. 1st Street; 117 N. 1st Street; 113 N 1st Street; and 111 N. 1st Street and legally described as the East 75' of Lot 1; and all of Lots 2 and 3, Block 26, Blair's Addition to the City of Missouri Valley, Iowa from a zoning designation of RD60 to a zoning designation of BGC.

SECTION 2: REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3: SEVERABILITY: If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the

ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4: WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the 5th day of July, 2017, and approved this 5th day of July, 2017.

Clint Sargent, Mayor

ATTEST:

Rita Miller, City Clerk/Administrator

I certify the foregoing was published as Ordinance #527 on the 12th day of July, 2017.

Rita Miller, City Clerk/Administrator

1st reading: 6-20-2017

2nd reading: 7-05-2017

3rd reading: Waived

Published: 7-12-2017

ORDINANCE #528

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MISSOURI VALLEY, IOWA, BY AMENDING SECTION 41.12 ENTITLED "FIREWORKS."

BE IT ENACTED by the City Council of Missouri Valley, Iowa:

SECTION 1. AMENDED SECTION. Section 41.12 entitled "Fireworks" of the Code of Ordinances of the City of Missouri Valley, Iowa, is hereby adopted to read as amended:

41.12. FIREWORKS REGULATIONS. The sale and use of fireworks are regulated as follows:

1. Prior to any person engaging in fireworks sales, the following shall be provided to the fire chief:

A. Proof of valid permit issued from the state fire marshal.

B. Proof of liability insurance separate from the building property insurance specifically showing coverage of fireworks sales for an aggregate amount of \$2,000,000.

2. Any property, building, or premise whether it be permanent or temporary, intended for fireworks sales shall have an initial fire inspection completed by the fire chief prior to engaging in fireworks sales. The fire chief or their designee shall cause an annual inspection to occur meeting the requirements of the National Fire Protection Association standard 1124 (2017 edition) and the current fire code adopted by the City of Missouri Valley. An annual inspection fee of \$200 shall be charged for any temporary or permanent building used to sell fireworks.

3. Fireworks sales shall only be conducted in accordance with dates and times designated by Iowa Code.

- A. Approved fireworks sales meeting the requirements of this chapter shall be allowed from an approved permanent structure or building between June 1 and July 8 and from December 10 until January 3.
- B. Approved fireworks sales meeting the requirements of this chapter shall be allowed from an approved temporary structure between June 13 and July 8.
- C. It shall be unlawful to sell fireworks without meeting the requirements specified in this ordinance, or to sell fireworks outside of the dates specified.
- D. Fireworks shall not be sold from a motor vehicle or trailer required to be licensed for travel on a public roadway.

4. The City may, upon application in writing, grant a permit for the display of fireworks on public property by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

- A. Personal Injury: \$250,000 per person
- B. Property Damage: \$50,000
- C. Total Exposure: \$1,000,000

(Code of Iowa, Sec. 727.2)

5. Exceptions. This section does not prohibit the sale by a resident, dealer, manufacturer or jobber of such fireworks as are not prohibited; or the sale of any kind of fireworks if they are to be shipped out of State; or the sale or use of blank cartridges for a show or theatre, or for signal purposes in athletic sports or by railroads or trucks for signal

purposes, or by a recognized military organization. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.
(Code of Iowa, Sec. 727.2)

6. Fireworks Sales and Safety Requirements. The following safety requirements shall be adopted for all locations where fireworks are sold:

- A. Not more than 100 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located inside a commercial business with other mercantile products for sale. Sparkers, snakes, snaps, cap gun caps, or smoke bombs shall not be considered when figuring weight.
- B. Not more than 500 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located inside a building where fireworks are the primary business. Sparkers, snakes, snaps, cap gun caps, or smoke bombs shall not be considered when figuring weight.
- C. Not more than 1000 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located in a temporary structure used primarily for fireworks sales. Sparkers, snakes, snaps, cap gun caps, or smoke bombs shall not be considered when figuring weight.
- D. Any permanent structure used primarily for the purpose of fireworks sales shall be located 35 feet from a property line, public roadway, alley, or highway; and 70 feet from an inhabited building. However, where a person owns the adjacent property or written permission is granted, the property line distance requirement can be reduced to 15 feet.
- E. Any temporary structure having between 500 and 1000 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located 55 feet from a property line, public roadway, alley, or highway; and 110 feet from an inhabited building.
- F. NO SMOKING signs shall be posted in conspicuous locations throughout the sales area. Smoking, open flame source, or matches shall not be located within 50 feet where fireworks are sold, with the following exceptions:
 - 1) Lighters and matches may be sold as part of a retail business in commercial structures who engage in other merchandise sales where fireworks are not the primary business.
 - 2) Locations who engage in fireworks sales as a primary source of revenue may sell extended lighters so long as lighters are located in a sealed package and not opened within the store premises.
- G. All electrical wiring shall meet NFPA 70 National Electrical Code. Permanent structures or buildings used primarily for fireworks sales shall meet wiring requirements for a hazardous location, including covered light fixtures to avoid sparks upon failure or damage to lights.

- H. All fireworks sales locations shall maintain 48 inch clear aisles between fireworks display shelves.
- I. Any location where fireworks are sold shall maintain two approved exits for egress during an emergency. All approved exits shall be clearly marked with signage; except that, exit signs shall be illuminated in permanent structures.
- J. Fireworks sales shall only be permitted in a single story at grade building or structure to facilitate easy exiting during an emergency.
- K. All locations shall have a minimum of two 10 pound ABC rated fire extinguishers mounted in accordance with NFPA 10. Additional fire extinguishers shall be placed in locations to prevent travel distance exceeding 75 feet in order to reach a fire extinguisher. Nothing in this ordinance prevents a temporary sales location from having emergency water barrels positioned in the sales area for use during a small fire; except that fire extinguishers are still required.
- L. All doors used as service doors outside the view of a clerk shall be locked to prevent unauthorized persons from entering the building unnoticed. If doors are required as part of the two approved exits needed, they shall be operable without special tools, keys, or knowledge. Delayed or alarmed egress doors are permitted so long as release is activated within 8 seconds and the delay device is not affixed to the primary egress door.
- M. No persons under the influence of alcohol, drugs, or narcotics, shall be allowed to remain in the business where fireworks are sold as a primary business.
- N. No more than one convex container or approved explosive magazine shall be located on site for short term storage of extra product. All containers shall be properly placarded and equipped with tamper proof locking devices. It is permitted to place containers in a security fenced area.
- O. Individual fireworks devices or opened fireworks packages shall not be permitted to be displayed. No open fuses shall be exposed during storage inside a sales location.
- P. Leftover fireworks shall be removed from sales locations by July 9 following the June/July sales period and January 4 following the December/January sales period.
- Q. The Fire Chief or designated inspector shall have the authority to reduce or eliminate requirements under Section 6 of this Ordinance for permanent structures, when, in his or her opinion, safety of the structure and general public will not be compromised, in order to ensure property owners a reasonable right to pursue firework sales.

- R. The vendor's license issued from State Fire Marshall authorizing sales of fireworks shall be clearly and prominently displayed at all times.
- S. All weeds and combustible materials shall be cleared from the location of any structure, including a distance of at least twenty feet surrounding any structure dispensing fireworks.
- T. All temporary structures shall be removed from the temporary location by 12:00 p.m. on the seventh day after the end of sales of fireworks and all accompanying litter shall be cleared from said location by the said time and date.
- U. A retailer or community group selling or offering for sale consumer fireworks shall not knowingly have a person less than 18 years of age, whether the person is paid or unpaid, involved in the sale, handling or transport of consumer fireworks.

7. Sales allowed, location: Fireworks sales shall only be allowed in areas zoned BGH (Heavy General Business Zone).

- A. Any person engaged in sales in any zone other than those designated BGH (Heavy General Business Zone) shall not be approved for sales within the city limits.
- B. No person shall sell a DOT 1.4 class firework to a person under the age of 18.
- C. Fireworks shall not be sold to an intoxicated person or to any person whom a reasonable person would believe may be impaired by other substances.

8. Fireworks Sales penalties:

- A. A person or entity who violates the provision of this fireworks sales ordinance is guilty of a simple misdemeanor and punishable as scheduled by Iowa Code.
- B. In circumstances where a flagrant or intentional violation of these provisions occurs, a peace officer shall issue a misdemeanor charge with a scheduled fine in accordance with Iowa Code.
- C. Individuals, retailers, businesses, consumers, community groups violating the provisions of this chapter shall be reported to the state fire marshal to cause revocation of permit hearings to commence.

9. Fireworks use and discharge, general requirements:

- A. No person under the age of 18 shall discharge a DOT 1.4 class fireworks without adult supervision.
- B. A person shall only discharge a fireworks device on real property they own or on property where consent has been given except that snakes, sparklers, or

caps can be discharged on a public place so long as all trash, wrappers, and wires are properly disposed of.

- C. Fireworks shall not be discharged by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic.
- D. Any person discharging a fireworks device assumes all responsibility for its operation, flight, and the consequences thereof.
- E. No person shall discharge a fireworks device in a reckless manner or manner likely to cause death, injury, fire, or property damage.
- F. No person shall discharge a fireworks device outside the following dates and hours:
 - 1) July 1 through July 8 from 12:00 p.m. (noon) until 10:00 p.m., except for July 4 the hours shall be from 12:00 p.m. (noon) until 11:00 p.m.
 - 2) December 29 through January 1 from 12:00 p.m. (noon) until 10:00 p.m., except December 31 the hours shall be from 12:00 p.m. (noon) until January 1 at 12:30 a.m.

However, it shall be unlawful to display or discharge fireworks at any and all times the City's fire danger warning is categorized as "High" or "Extreme."

- G. It shall be unlawful to alter, remove, or discharge components of a fireworks device from its intended method of discharging.
- H. Sky lantern open flame devices are not permitted to be released within the city limits, except if tethered by a retrievable rope so long as the person discharging has control over the sky lantern.
- I. It shall be unlawful to discharge fireworks, firework devices or firework components within 200 feet of a licensed firework vendor's location.
- J. It shall be unlawful to discharge fireworks, firework devices or firework components within 15 feet of a structure.

10. Fireworks use and discharge, penalties:

- A. Any person who violates the provisions of the fireworks discharging ordinance or without reckless intent causes injury, property damage or a fire shall be guilty of a simple misdemeanor punishable as scheduled by Iowa Code.
- B. Persons who recklessly endanger the property or safety of another shall be guilty of a serious misdemeanor in violation of 712.5 State Code of Iowa.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the 5th day of July, 2017, and approved this 5th day of July, 2017.

Clint Sargent, Mayor

Attest:

Rita Miller, City Clerk/Administrator

1st reading: 6-20-2017
2nd reading: 7-05-2017
3rd reading: Waived
Summary Published: 7-12-2017

RESOLUTION 17-18

RESOLUTION SETTING THE DATE FOR A PUBLIC HEARING ON PROPOSAL TO ENTER INTO A GENERAL OBLIGATION CORPORATE PURPOSE LOAN AGREEMENT AND TO BORROW MONEY THEREUNDER IN A PRINCIPAL AMOUNT NOT TO EXCEED \$1,350,000

WHEREAS, the City of Missouri Valley (the “City”), in Harrison County, State of Iowa, proposes to enter into a General Obligation Corporate Purpose Loan Agreement (the “Loan Agreement”) and to borrow money thereunder in a principal amount not to exceed \$1,350,000, pursuant to the provisions of Section 384.24A of the Code of Iowa, for the purpose of paying the cost, to that extent, of constructing street, water system and sidewalk improvements (the “Project”), and it is necessary to fix a date of meeting of the City Council at which it is proposed to take action to enter into the Loan Agreement and to give notice thereof as required by such law;

NOW, THEREFORE, Be It Resolved by the City Council of the City of Missouri Valley, Iowa, as follows:

Section 1. The City Council shall meet on July 18, 2017, at the Rand Center, Missouri Valley, Iowa, at 6:00 o'clock p.m., at which time and place a hearing will be held and proceedings will be instituted and action taken to enter into the Loan Agreement described in the preamble hereof.

Section 2. The City Clerk is hereby directed to give notice of the proposed action on the Loan Agreement setting forth the amount and purpose thereof, the time when and place where the said meeting will be held, by publication at least once, not less than four (4) and not more than twenty (20) days before the date of said meeting, in a legal newspaper which has a general circulation in the City. The notice shall be in substantially the following form:

NOTICE OF PROPOSED ACTION TO INSTITUTE PROCEEDINGS TO
ENTER INTO A LOAN AGREEMENT AND TO BORROW MONEY
THEREUNDER IN A PRINCIPAL AMOUNT NOT TO EXCEED \$1,350,000

(GENERAL OBLIGATION)

The City Council of the City of Missouri Valley, Iowa, will meet on July 18, 2017, at the Rand Center, Missouri Valley, Iowa, at 6:00 o'clock p.m., for the purpose of instituting proceedings and taking action on a proposal to enter into a loan agreement (the "Loan Agreement") and to borrow money thereunder in a principal amount not to exceed \$1,350,000 for the purpose of paying the cost, to that extent, of constructing street, water system and sidewalk improvements.

The Loan Agreement is proposed to be entered into pursuant to authority contained in Section 384.24A of the Code of Iowa and will constitute a general obligation of the City.

At that time and place, oral or written objections may be filed or made to the proposal to enter into the Loan Agreement. After receiving objections, the City may determine to enter into the Loan Agreement, in which case, the decision will be final unless appealed to the District Court within fifteen (15) days thereafter.

By order of the City Council of the City of Missouri Valley, Iowa.

Rita Miller
City Clerk

Section 3. Pursuant to Section 1.150-2 of the Income Tax Regulations (the "Regulations") of the Internal Revenue Service, the City declares (a) that it intends to undertake the Project which is reasonably estimated to cost approximately \$1,350,000, (b) that other than (i) expenditures to be paid or reimbursed from sources other than the issuance of bonds, notes or other obligations (the "Bonds"), or (ii) expenditures made not earlier than 60 days prior to the date of this Resolution or a previous intent resolution of the City, or (iii) expenditures amounting to the lesser of \$100,000 or 5% of the proceeds of the Bonds, or (iv) expenditures constituting preliminary expenditures as defined in Section 1.150-2(f)(2) of the Regulations, no expenditures for the Project have heretofore been made by the City and no expenditures will be made by the City until after the date of this Resolution or a prior intent resolution of the City, and (c) that the City reasonably expects to reimburse the expenditures made for costs of the City out of the

proceeds of the Bonds. This declaration is a declaration of official intent adopted pursuant to Section 1.150-2 of the Regulations.

Section 4. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. This resolution shall be in full force and effect immediately upon its adoption and approval, as provided by law.

Passed and approved July 5, 2017.

Clint Sargent, Mayor

Attest:

Rita M. Miller
City Clerk/Administrator

RESOLUTION 17-19

RESOLUTION TO TRANSFER MONEY FROM THE GENERAL CHECKING INTO THE SPLASH PAD FUND

WHEREAS, the City of Missouri Valley desires to create a Splash Pad; and

WHEREAS, this project will be accomplished in phases over multiple fiscal years; and

WHEREAS, the Council has budgeted money to be set aside for that purpose.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Missouri Valley, Iowa that the City Clerk is hereby directed to transfer \$8,000 into the Splash Pad Reserve Fund from the FY18 budget.

Passed and approved this 5th day of July, 2017.

Clint Sargent, Mayor

ATTEST:

Rita M. Miller
City Clerk/Administrator