

CITY COUNCIL MEETING
RAND CENTER
SEPTEMBER 17, 2013
6:00 P.M.

Mayor Sargent presided over the meeting and called it to order at 6:00 p.m. with the following Council members present: Struble, Ratliff, Wentworth, Isom, Dillinger. Also present were City Clerk/Administrator Miller, City Attorney Argotsinger, Building Official Mowery and visitors: Roger Gunderson, Michele Stirtz, Dave Scott, Mary Jo Buckley, Dolores Ring, Robert Millin, LeAndrea Bowman, Darin Smith and Kelly Sherer.

The Pledge of Allegiance was recited.

Moved by Council member Struble to approve the agenda as amended (amendment posted 9-16-13), seconded by Council member Dillinger. Motion carried on a 5-0 vote.

Moved by Council member Dillinger to approve the consent agenda, seconded by Council member Struble. Motion carried on a 5-0 vote.

During citizens' inquiries, questions were asked about funding and construction of a new fire station. Mayor Sargent responded the majority of the funds are expected to come from fundraising. There have been and will continue to be open public meetings where citizens can get information. The design has been set through the feasibility study but when the building process starts bids will be let for construction.

Moved by Council member Struble to approve the 3rd reading of Ordinance #497, "An Ordinance Amending The Code Of Ordinances Of The City Of Missouri Valley, Iowa By Amending Provisions Pertaining To Water Service Charges", seconded by Council member Dillinger. Motion carried on a 5-0 vote. Mayor Sargent declared Ordinance #497 passed and adopted upon publication.

ORDINANCE #497

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE
CITY OF MISSOURI VALLEY, IOWA BY AMENDING PROVISIONS PERTAINING
TO WATER SERVICE CHARGES**

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

SECTION 1. SECTION MODIFIED. Section 92.07 of the Code of Ordinances of the City of Missouri Valley, Iowa is repealed and the following adopted in lieu thereof:

92.07 Lien Exemption. The lien for nonpayment shall not apply to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the

usual cost of ninety (90) days of water service be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water service charges are paid in full. A change in the ownership of the rental property shall require written notice of such change to be given to the City within thirty (30) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service.

SECTION 2. 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 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the City Council on the _____ day of _____, 2013 and approved this day of _____, 2013.

Clint Sargent, Mayor

ATTEST:

Rita M. Miller, City Clerk/Administrator

Moved by Council member Struble to approve the 3rd reading of Ordinance #498, "An Ordinance Amending The Code Of Ordinances Of The City Of Missouri Valley, Iowa, By Adding Provisions Pertaining To Removal Of An Officer's Communication Or Control Device", seconded by Council member Wentworth. Motion carried on a 5-0 vote. Mayor Sargent declared Ordinance #498 passed and adopted upon publication.

ORDINANCE #498

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MISSOURI VALLEY, IOWA, BY ADDING PROVISIONS PERTAINING TO REMOVAL OF AN OFFICER'S COMMUNICATION OR CONTROL DEVICE

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

SECTION 1. SECTION ADDED. The Code of Ordinances of the City of Missouri Valley, Iowa, is amended by adding a new Section 41.13, entitled REMOVAL OF AN OFFICER'S COMMUNICATION OR CONTROL DEVICE, which is hereby adopted to read as follows:

41.13 Removal Of An Officer's Communication Or Control Device. No person shall knowingly or intentionally remove or attempt to remove a communication device or any device used for control from the possession of a peace officer or correctional officer, when the officer is in the performance of any act which is within the scope of the lawful duty or authority of that officer and the person knew or should have known the individual to be an officer.

(Code of Iowa, Sec. 708.12)

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 on the day of , and approved this day of , .

Clint Sargent, Mayor

ATTEST:

Rita M. Miller, City Clerk/Administrator

John Danos, bonding attorney with Dorsey & Whitney Law Firm, joined the meeting by phone conference. Council member Wentworth expressed his concerns about the Resolution Authorizing Internal Loan Of Funds For Fire Station Project. Mr. Danos responded that the Council could choose an alternate source of funds for the loan however because the fire station project will entail some water, sewer and street infrastructure. Council could use Local Option funds without violating the law.

Council member Wentworth asked questions about the Resolution Relating To Financing Of A Proposed Project To Be Undertaken By The City Of Missouri Valley, Iowa; Establishing Compliance With Reimbursement Bond Regulations Under The Internal Revenue Code, and stated he felt it was difficult to understand and could be open to interpretation. Mr. Danos

explained that the majority of the document was directly out of IRS regulations and gave a summation of the intent of the Resolution. The City must make a public declaration of intent in order to be able to expend money on a project and then borrow later and reimburse itself if they plan on using any tax-exempt bonding. He recommended the City adopt the Resolution. Council member Wentworth asked Mr. Danos to put a synopsis at the beginning of the Resolution to make it more understandable to someone reading it.

Council discussed Resolution 13-16, "Resolution Authorizing Internal Loan Of Funds For Fire Station Project", with consensus to fill in 0% interest rate, commencing September 17, 2013. Moved by Council member Dillinger to approve Resolution 13-16, seconded by Council member Struble. Motion carried on a 4-1 vote with Wentworth voting Nay.

RESOLUTION 13-16

AUTHORIZING INTERNAL LOAN OF FUNDS FOR FIRE STATION PROJECT

WHEREAS, the City of Missouri Valley, Iowa (the "City"), has determined to undertake a municipal fire station project (the "Project"); and

WHEREAS, the City will incur certain costs in connection with the undertaking of the Project, including land acquisition costs (the "Project Costs"); and

WHEREAS, in order to provide for the payment of the Project Costs, it is now necessary to approve an internal loan of funds from the Local Option Tax Fund (the "Source Fund") to the Fire Station Capital Project Fund (the "Borrowing Fund");

NOW, THEREFORE, IT IS RESOLVED by the City Council of the City of Missouri Valley, Iowa, as follows:

Section 1. It is hereby directed that an amount not in excess of Two Hundred Thousand Dollars (\$200,000) be loaned (the "Loan") from the Source Fund to the Borrowing Fund in order to fund the Project Costs. The Loan shall be repaid to the Source Fund with interest at the per annum rate of 0%, out of payments to be received from the Developer pursuant to the Agreement.

Interest shall be calculated on the basis of an actual 365-day calendar year commencing on September 17, 2013. To the extent that proceeds from the Loan remain in the Borrowing Fund after the full payment of the Project Costs, such funds shall be transferred to the Source Fund as repayment of the Loan. The City reserves the right to periodically make payments of principal of an interest on the Loan as directed by the City Council. All payments shall be applied first to accrued interest and then to principal.

It is intended that the Loan, plus accrued interest thereon shall be repaid in-full to the Source Fund on or before June 30, 2017, provided, however, that repayment of the Loan is subject to the determination of future City Councils that there are revenues available for such purpose, and the City Council reserves the right to appropriate funds to the repayment of the Loan, or to withhold such appropriation, at its discretion.

Section 2. All resolutions or parts thereof in conflict herewith, are hereby repealed, to the extent of such conflict.

PASSED AND APPROVED this 17th day of September, 2013.

Clint Sargent, Mayor

ATTEST:

Rita M. Miller
City Clerk/Administrator

Moved by Council member Struble to table the Resolution Relating To Financing Of A Proposed Project To Be Undertaken By The City Of Missouri Valley, Iowa; Establishing Compliance With Reimbursement Bond Regulations Under The Internal Revenue Code, pending inclusion of a synopsis, seconded by Council member Wentworth. Motion carried on a 5-0 vote.

Darin Smith addressed the Council on behalf of Longview Home. He explained their independent living townhomes project and their TIF funding proposal. Mayor Sargent thanked him for the proposal and stated the Council will take it under advisement. Kelly Sherer also thanked the Council for their support of the project and consideration of the proposal. Mayor Sargent informed Council of the inquiry to run sewer downhill from Longview, picking up Sunnyside and connecting to the City main along Hwy 30. A study would need to be done to determine feasibility. Moved by Council member Dillinger to authorize Olmsted & Perry Consulting Engineers to do the study, seconded by Council member Struble. Motion carried on a 5-0 vote.

The Park Board addressed Council regarding additional playground equipment in Willow Park. They were told to bring proposals/plans to the Council for consideration in the next budget.

City Attorney Argotsinger explained the difference in procedures between condemnation and abandonment of properties and the costs associated with each. He felt this property would meet the requirements for abandonment and recommended to proceed that direction. Moved by Council member Dillinger to move forward with abandonment procedures of 587 N 1st Street, seconded by Council member Wentworth. Motion carried on a 5-0 vote.

Moved by Council member Struble to post 'no trucks allowed' on Ontario between 6th & 8th Streets to allow time for the new concrete to cure, seconded by Council member Wentworth. Motion carried on a 4-1 vote with Council member Isom voting Nay.

Council discussed removing the weight limit on S. 9th Street during harvest to make it easier for the farmers to get to the elevator with Ontario Street closed. Dust control would need to be maintained.

Moved by Council member Wentworth to remove the weight limit on S. 9th Street effective immediately and for 60 days from when the concrete on Ontario is poured, seconded by Council member Struble. Motion carried on a 4-1 vote with Council member Isom voting Nay.

Council discussed disposition of the house on the property at 2213 Hwy 30 with consensus being to offer it for sale or salvage and the structure being removed or demolished with lot leveled by April 30, 2014.

Moved by Council member Struble to approve Resolution 13-17, "Resolution To Declare As Excess Property And To Set Hearing Date On The Proposal To Dispose Of The House Situated At 2213 Hwy 30, Missouri Valley, Harrison County, Iowa", seconded by Council member Wentworth. Motion carried on a 5-0 vote.

RESOLUTION 13-17

RESOLUTION TO DECLARE AS EXCESS PROPERTY AND TO SET HEARING DATE ON THE PROPOSAL TO DISPOSE OF THE HOUSE SITUATED AT 2213 HWY 30, MISSOURI VALLEY, HARRISON COUNTY, IOWA

WHEREAS, the City Council has determined that the house on the following described real property, is not needed for public use by the City of Missouri Valley and should be disposed of:

The house on Lot 'A' of Lot 1, NW1/4 NW1/4 Section 14, Township 78 North, Range 44W, Harrison County, Iowa (2213 Hwy 30, Missouri Valley, Iowa)

AND WHEREAS, the property to be disposed of consists only of the house located upon the above described real estate and not the real estate itself.

AND WHEREAS, the house should be sold and removed from the real estate.

AND WHEREAS, the City Council has determined that the above described property should be disposed of by sealed bid.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Missouri Valley, Iowa:

That the City Clerk be and is hereby instructed to publish notice of hearing on the disposal of the above described property, to wit the house located upon Lot 'A' of Lot 1, NW1/4 NW1/4 Section 14, Township 78 North, Range 44W, Harrison County, Iowa, with the hearing to be held on Tuesday, October 1, 2013 at 6:00 P.M. at the Rand Center in Missouri Valley, Iowa.

PASSED AND APPROVED this 17th day of September, 2013.

CITY OF MISSOURI VALLEY

Clint Sargent, Mayor

ATTEST:

Rita M. Miller
City Clerk/Administrator

Moved by Council member Struble to approve Resolution 13-18, “ Fiscal Year 2012-2013 Street Finance Report”, seconded by Council member Dillinger. Motion carried on a 5-0 vote.

RESOLUTION 13-18

FISCAL YEAR 2012-2013 STREET FINANCE REPORT

BE IT RESOLVED by the City Council of Missouri Valley, Iowa that the Council passed and approved the Fiscal year 2012-2013 Street Finance Report this 17th day of September, 2013.

Clint Sargent, Mayor

ATTEST:

Rita M. Miller
City Clerk/Administrator

Moved by Council member Struble to approve the Missouri Valley Fire Association’s Haunted House fundraiser for October 25, 26, 29, 30, 31 and allow parking on the west side of 3rd Street during that time, seconded by Council member Ratliff. Motion carried on a 5-0 vote.

Council member Isom asked for consensus that the flags in the park be flown 24/7 365 day/yr and that they be replaced twice per year. Council was in agreement.

City Clerk/Administrator Miller gave an update on the Ontario Street project. The street replacement work will begin mid to late next week.

Moved to adjourn by Council member Struble, seconded by Council member Dillinger.
Motion carried on a 5-0 vote. Meeting adjourned at 7:39 p.m.

Clint Sargent, Mayor

Attest:
Rita Miller
City Clerk/Administrator