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City Council Work Session Minutes
City Code Update

Monday, June 13, 2016
6:00 p.m., Conference Room

***Minutes are unofficial until approved by Council.
Council approved minutes as presented July 11, 2016.***

1. CALLED TO ORDER AND ROLL CALL:

Mayor Peter Truax called the Work Session to order at 6:16 p.m.

CALL: COUNCIL PRESENT: Thomas Johnston, Council President; Richard Kidd; Victoria Lowe; Ronald Thompson; Elena Uhing; Malynda Wenzl; and Mayor Peter Truax.

STAFF PRESENT: Jesse VanderZanden, City Manager; Paul Elsner, City Attorney; Paul Downey, Administrative Services Director; Tom Gamble, Parks and Recreation Director; J. F. Schutz, Police Chief; Kevin Ellingsburg, Police Captain; Sue Hudson-Rau, Municipal Court Supervisor; and Anna Ruggles, City Recorder.

Anne Newkirk Niven and Tim Rippe, Public Safety Advisory Commission (present in the audience).

2. WORK SESSION: CITY CODE UPDATES

Downey, staff noted above, and VanderZanden facilitated the work session, noting the purpose of the work session was to discuss and review the proposed amendments to City Code, Chapter 2, Government and Administration, and Chapter 5, Public Protection. Downey reported, with the advisement of the City Attorney, staff is seeking to make Chapter 5 consistent with Chapter 6, Vehicles and Traffic, by outlining the abatement process through Municipal Court instead of City Council, noting with this effort, new code language is necessary in Chapter 2 for the purposes of delegating jurisdiction to Municipal Court over code violations and certain offenses and authority to implement processes for conduct of hearings, ordering compliance of code provisions and imposing civil penalties on behalf of the City. Downey advised without the proposed amendments to the abatement procedures contained in Chapter 5, persons have no recourse of having abatement notices and matters heard in a court of jurisdiction. In addition, Downey reported staff is also proposing to enact new code provisions authorizing the City the ability to exclude an individual from city parks, city-owned or leased properties and/or city-sponsored events for a period of up to 90 days, if the individual is engaging in conduct made criminal or in violation of city code provisions or adopted rules of conduct. Downey advised the proposed exclusion authority is due to increased criminal activities and behaviors that disrupt or create a risk of harm to other users, particularly children and families, who are using city facilities, such as parks and recreational areas, and officers having no authority to exclude individuals who are engaging in such criminal

activities while on city-owned properties, noting the code provision allows individuals to appeal exclusion notices through Municipal Court, similar to other cities who have adopted similar ordinances. In addition, Downey and Hudson-Rau presented a PowerPoint presentation overview of the proposed code amendments as outlined in the staff report, noting Chapter 5 and Chapter 6 deal with nuisance violations and abatements. Downey and Hudson-Rau reported Chapter 6 was updated in 2013, which requires abatement of discarded vehicles to be abated through Municipal Court instead of City Council, noting staff is proposing to update only those pertinent sections in Chapter 5 that contain nuisance abatement procedures so the procedures are consistent with Chapter 6, noting Chapter 5 contains Nuisances Affecting Public Health, Safety or Welfare, i.e., accumulations of debris and rubbish, unsanitary conditions or premises, attractive nuisances, sidewalk nuisances, noxious vegetation, etc. Staff is also proposing to declare graffiti as a public nuisance, which would allow abating graffiti through Municipal Court. In conclusion of the above-noted staff report, Downey advised the Parks and Recreation Commission and Public Safety Advisory Commission reviewed and supported the proposed code amendments with an immediate implementation of the proposed code amendments and 90-day exclusion authority. In addition, Downey advised the City Attorney conducted a legal review and/or drafted language pertaining to the code amendments proposed in Chapter 2 and 5.

Council Discussion:

Mayor Truax opened the floor and roundtable discussion ensued pertaining to the procedural changes to City Code, Chapter 2, Government and Administration, and Chapter 5, Public Protection, pertaining to abatement procedures and other minor proposed amendments. Downey, staff and VanderZanden addressed various Council concerns, inquiries, and scenarios posed by Council pertaining to the 90-day exclusion authority and what types of criminal conduct and which rules of conduct would apply, noting the exclusion would only apply to individuals engaging in conduct made criminal as either a misdemeanor or felony under state law, in violation of City Code or in violation of an adopted rule of conduct, such as park regulations adopted in City Code, and if an individual violates a notice of exclusion that is in effect, the individual commits the crime of criminal trespass. Gamble addressed park regulations, noting city parks close at dusk pursuant to adopted regulations found in City Code. Captain Ellingsburg addressed city facility or property, which includes the watershed, noting officers can cite and/or arrest individuals for criminal acts, but officers currently do not have authority to exclude individuals who are engaging in criminal acts while on city-owned properties. City Attorney Elsner advised on case laws pertaining to exclusion authority, noting other cities are dealing with similar situations. Police Chief Schutz added the Police Department uses extreme discretion, and she entrusts police officers to do the right thing and understand when a person is down on their luck, noting exclusion authority is another tool officers can use for repeated criminal activities. In conclusion of the above-noted Council discussion, Downey advised staff is proposing to bring back an ordinance

adopting the procedural changes set forth in Chapter 2 and Chapter 5 and new code provisions relating to exclusion from city facility or property and staff is seeking Council consensus to consider adopting the proposed ordinance with an immediate effective date after second reading of the ordinance, so the nuisance abatement procedures can be administered in an efficient and effective manner consistent with Chapter 6 and the exclusion authority can be effective immediately due to it is increasingly difficult to enforce due to summer being underway and increased criminal activities occurring on city-owned properties and officers having no authority to exclude individuals who are engaging in such criminal activities, to which no objections were heard; however, a majority of the Councilors voiced concerns that the ordinance did not warrant an emergency clause. In addition, VanderZanden added staff is also pursuing, with the advisement of the City Attorney, to conduct a comprehensive legal review and recodification of the entire City Code, noting the City Code has not had legal review or technical codification since 1988.

Council took no formal action nor made any formal decisions during the above-noted work session.

3. ADJOURNMENT:

Mayor Truax adjourned the work session at 7:00 p.m.

Respectfully submitted,



Anna D. Ruggles, CMC, City Recorder