

Committee of the Whole
March 27, 2018

Present: Mayor Vulich, Councilmembers Gassman, Seeley, McGraw (via phone), Allesee, Connell, Schemers, and Odor, City Attorney, City Administrator, City Clerk, Press and interested citizens.

1. Massage Ordinance – City Administrator Matt Brooke

City Administrator Matt Brooke stated the City Council adopted City Code Chapter 115 – Massage Establishments and Technicians in 1999. Administrator Brooke stated as awareness and advocacy regarding human trafficking has spread, Code Chapter 115 has been reviewed. Administrator Brooke stated the changes in the draft Ordinance were made to ensure the Chapter was applicable to the current needs of the City and was current with State laws and regulations. Administrator Brooke recommended that the Council forward the Ordinance Amending Chapter 115 to the next City Council meeting for its first reading.

Mayor Vulich stated he would like to see the subject of massages completed in clients' homes addressed and inquired about the legality of restricting such services. City Attorney Patrick O'Connell stated the Council could change the proposed ordinance. Attorney O'Connell stated the current ordinance states that services cannot be performed at any place other than the massage therapy business covered by the permit issued in accordance with Chapter 115, in accordance with the health standards outlined in said Chapter. Mayor Vulich inquired as to what other cities were doing regarding in-home massage therapy services. Attorney O'Connell stated other municipalities have chosen to eliminate any language in their city code that would restrict massage therapy patrons to receiving services at any other place than the massage therapy business covered by the permit. Attorney O'Connell advised that the Ordinance could be revised to provide standards for the brick and mortar establishment, as well as allowing in-home massage therapy services.

Mayor Vulich noted that in order to obtain a massage therapy license from the State, massage therapists must meet certain criteria. Administrator Brooke added that if a therapist performed massage therapy services at a customer's home and there was an issue, the homeowner could file a complaint with the State.

Councilmember Gassman inquired about Section 115.08 - the requirement to have all patrons sign in when they enter the establishment. Councilmember Connell expressed concerns that this provision could violate HIPAA. Mayor Vulich inquired if this provision corresponded to a state code. Attorney O'Connell stated it did not. Councilmember Seeley requested that item #12 in section 115.9 be removed, as massage therapists recommend that patrons drink water and even offer it to them during their visit. Mayor Vulich stated he would like to have the inspection requirement moved to the beginning of the Ordinance, by the permit fee provision, so that businesses were aware that an inspection would be required each year.

Ms. Kami Schumake, 3128 Cleveland Street, Clinton, Iowa, addressed the Council and stated she was fully supportive of the new ordinance. Ms. Schumake stated she and other professional massage therapists agree the goal was to stop human trafficking and other illegal activities that may take place at unregistered locations. Ms. Schumake added the professionals were on the City's side with the ordinance. Councilmember Connell stated he would like to see the businesses have annual compliance visits.

M/S, Seeley-Schemers moved to revise Section 115.08 of the original ordinance to state the massage therapist will retain a confidential log or record of customers served. On roll call, carried unanimously.

M/S, Seeley-Connell moved to revise Section 115.09, item #12 of the original ordinance to state no person shall consume food or beverages in the massage therapy work areas. On roll call, carried unanimously.

M/S, Seeley-Connell moved to revise Section 115.10 of the original ordinance to not allow alcohol on the premises, and advise against offering any alcohol to patrons. On roll call, carried unanimously.

M/S, Gassman-Schemers moved to forward an Ordinance Amending Chapter 115, Massage Establishments and Technicians, of the Code of Ordinances of the City of Clinton, Iowa to the next City Council agenda for its first reading. On roll call, carried unanimously.

2. Ordinance to Amend Chapter 15 – Mayor’s Compensation – Councilmember Gassman

Councilmember Gassman stated it had been 10 years since the last pay raise for the Mayor’s position and in order to attract qualified individuals to participate in the election, the salary should be comparable to other cities.

M/S, Odor-Gassman moved to forward an Ordinance Amending Chapter 15 – Mayor’s Compensation to the next City Council agenda for its first reading. On roll call, Gassman, McGraw, Allesee, Schemers, Odor – Yes; Seeley, Connell – No. Motion carried.

3. Ordinance to Amend Chapter 17 – Council Compensation – Councilmember Gassman

Councilmember Gassman stated that the proposed increase was very small compared to the requirements of Councilmembers. Councilmember Connell inquired as to when the proposed pay increase would take effect. Mayor Vulich stated it would be January 15, 2020 before any increase would be in effect. Councilmember Seeley inquired if the issue could be placed on the ballot for public input. Mayor Vulich stated it could not and that it must be completed by an ordinance. Councilmember Seeley stated he did not believe that the Council salaries needed to increase, and noted that sewer rates were just increased. Councilmember Schemers stated Councilmembers could chose to donate all or a portion of their salary to a 501(c) or other charity. Councilmember Connell stated he did not choose to serve for the compensation and would not support a salary increase for Councilmembers. Councilmember Odor concurred and stated he chose to serve in order to attempt to make a difference in the community. Councilmember Odor stated while he was supportive of the salary increase for the Mayor, he was not supportive of an increase in salary for Councilmembers.

M/S, Gassman-Allesee moved to forward an Ordinance Amending Chapter 17 – Council Compensation to the next City Council agenda for its first reading. On roll call, Gassman, McGraw, Allesee, Schemers – Yes; Seeley, Connell, Odor – No. Motion carried.

4. Ordinance to Amend Chapter 31.003 – City Administrator Matt Brooke

Administrator Brooke stated City Code Chapter 31.003(B), together with City Code Chapter 30.51, outlined conflicts of interest guidelines for board, commission, committee and agency members. Administrator Brooke stated in particular, these chapters specify that members

shall not participate in the selection or awards of contracts if a conflict of interest, real or apparent, would be involved. Administrator Brooke stated Section 31.003(B)(4) specifically excludes City employees and spouses or partners of an elected City of Clinton officer or official from being appointed to any board, committee, commission or agency. Administrator Brooke stated despite advertising and outreach, difficulty existed in procuring individuals to be appointed to boards, commissions, committees and agencies and even greater difficulty existed in achieving gender balance. Administrator Brooke stated spouses and partners of City staff have expressed interest in serving on boards, commissions, committees and agencies. Administrator Brooke stated the majority of boards, commissions, committees and agencies do not regularly (or ever) award contracts to complete work and if such a conflict of interest were to exist, whereby a member had a financial or other interest, said member would be required to recuse themselves from voting on such an item.

Administrator Brooke recommended that the Council consider amending City Code Chapter 31.003(B)(4) to allow spouses and partners of City employees and elected City of Clinton officers or officials to serve on City boards, commissions, committees and agencies and that the Ordinance Amending Chapter 31.003(B)(4) be forwarded to the next City Council meeting for its first reading.

Councilmember Seeley inquired whether other cities allow spouses and other relatives of employees to be on committees. Attorney O'Connell answered in the affirmative. Attorney O'Connell stated in instances where business of that committee comes before the Council in which a councilmember was married to a spouse that serves on the committee, any issue could be resolved with full disclosure. Attorney O'Connell further stated that if a situation arose where conflict of interest was a continuing problem, the member could resign from the Committee to resolve any potential issues.

M/S, Allesee-Seeley moved to forward and Ordinance Amending Chapter 31.003 to the next City Council agenda for its first reading. On roll call, carried unanimously.

5. Ordinance to Amend Chapter 32 – City Administrator Matt Brooke
 - a. Formation of Monument Committee
 - b. Addition for Hometown Pride Committee

City Administrator Matt Brooke requested that a Monument Committee be formed to create and maintain monuments in the City. Administrator Brooke advised that Resolution No. 2017-408 granted membership with the Midwest Art Conservation Center (MACC) and approval to receive a proposal for an onsite examination of the Leonard Crunelle Statue by MACC. Administrator Brooke stated membership with MACC also included free consultation and information, as well as free grant preparation assistance.

Administrator Brooke stated for FY2019, \$50,000.00 was budgeted for monument restoration and Freedom Rock installation. Administrator Brooke stated it was recommended that a Committee be formed to plan usage of the funding for monument creation and maintenance. Administrator Brooke stated said Committee could work on the following items for the upcoming fiscal year: statue maintenance and the overseeing of \$36,000.00 in funding (including finalizing with MACC group for restoration of WWI statue (Leonard Crunelle) and based on funds availability working 911 statue upkeep and then downtown statues and others, as required) and creation of a Freedom Rock for up to \$14,000.00 (including procuring a granite rock, determining a location and site preparation for the rock, and coordinate work with an artist to design the rock).

Administrator Brooke recommended that the Council consider amending Chapter 32 to create a Monument Committee and that Committee members includes a representative from the Historic Preservation Commission, an area veteran, a local student, one or two councilmembers and interested community members. Mayor Vulich stated the ordinance stated the Committee would consist of 5 members and suggested the ordinance should include seven members with 2 of the members coming from the Council. Councilmember Allesee stated a Councilmember usually acts as liaison to a Committee. Mayor Vulich stated the Councilmembers on this Committee would actually be voting members.

M/S, Seeley – Connell moved to forward an Ordinance Amending Chapter 32 to include the formation of a Monument Committee and the addition for Hometown Pride Committee to the next City Council agenda for its first reading. On roll call, carried unanimously.

6. Disposition of City-Owned Lot on Roosevelt Street (Parcel 86-28390000) – City Administrator Matt Brooke

City Administrator Brooke advised that the City acquired Parcel 8628390000 on November 9, 2017 via assignment of a County-held tax certificate. Administrator Brooke stated the parcel was a good-sized, buildable lot. Administrator Brooke stated excluding the portion of the lot that would not be buildable in accordance with the levee easement (approximately the north 84' of the lot), a 75' x 132' buildable lot would remain. Administrator Brooke stated this lot was discussed at the January 30, 2018, Committee of the Whole meeting and the Council provided direction to place this lot out for bid. Administrator Brooke stated bid notice and publication was completed but no bids were received for the parcel. Administrator Brooke stated at the March 13, 2018, City Council meeting, a public hearing was held and the Council provided direction to refer this matter back to the March 27, 2018, Committee of the Whole meeting.

Administrator Brooke stated the recommendation would be that the Council consider the possibility of donating the buildable portion of the lot to Habitat for Humanity. Administrator Brooke stated as the City was required to replant trees that are removed in the course of City projects, the City could plant 10-11 trees on the site once the home was completed by Habitat for Humanity.

M/S, Connell-Gassman moved to forward a resolution regarding the disposition of a City-Owned lot on Roosevelt Street (portion of Parcel 86-28390000) be forwarded to the next City Council agenda. On roll call, carried unanimously.

7. Request for Assignment of County-Held Tax Certificate for 215 South 3rd Street (Parcel 80-13310000) – City Administrator Matt Brooke

Administrator Brooke recommended assignment of the County-Held Tax Certificate for 215 South 3rd Street. Administrator Brooke advised the property was vacant and was owned by End of the Road LLC. Administrator Brooke stated the parcel would be placed on the demolition list and the City had incurred numerous expenses for the parcel in the last two years. Administrator Brooke stated the parcel was zoned R-4 and was not a buildable lot.

M/S, Gassman-Seeley moved to forward a resolution for a request for Assignment of County-Held Tax Certificate for 215 South 3rd Street (Parcel 80-13310000) to the next City Council agenda. On roll call, carried unanimously.

8. Mayor and Council Updates

Mayor Vulich welcomed Captain Raaymakers to the Council meeting. Administrator Brooke stated he appreciated the outstanding professionalism and cooperation from the Firefighters Union as well as from the Police and AFSCME Unions.

M/S, Gassman-Connell moved to adjourn. All in favor.

Respectfully Submitted,

Teresa Lindstrom
Deputy City Clerk