

**MINUTES OF THE CITY COUNCIL MEETING
950 LOCUST STREET
MONDAY, SEPTEMBER 17, 2018**

Meeting called to order by Mayor Ron Cumberledge at 7:00 p.m.

- I. The meeting opened with the Pledge of Allegiance.
- II. The Mayor called the roll of the Council and all members present.
- III. The Mayor announced the opening of the public hearing to amend the Zoning Code of the City of Carter Lake regarding height restrictions of buildings. No public comments were made or received.

Upon motion of Council Member Wahl and seconded by Council Member Grell, the public hearing was closed. The motion to close the public hearing passed unanimously.

- IV. The Mayor announced the opening of public hearing for vacating a portion of 17th Street. No public comments were made although Council Member Paterson indicated he had received comments from individuals wondering why the abutting property owners were not required to purchase the 40 feet of City right-of-way from the City since it is going to be added to their real estate.

Upon motion made by Council Member Gundersen and seconded by Council Member Grell, the public hearing was closed. The motion to close the public hearing passed unanimously.

- V. Approval of Agenda - The Agenda was reviewed with no additions or deletions, however upon the request of Council Member Gundersen, the item regarding the Ponca Tribe was moved from the Mayor's portion of the Agenda and placed under "New Business."

Upon motion duly made by Council Member Gundersen, and seconded by Council Member Corcoran, the Agenda was approved with the order of business altered. The motion was passed unanimously.

- VI. Upon motion of Council Member Paterson and seconded by Council Member Corcoran, the Consent Agenda was approved unanimously.

- VII. New Business

- A. Ponca Tribe Chairman Larry Wright appeared who presented a check to Mayor Ron Cumberledge and the City for the sum of \$250,000.00 as their first installment on their payment agreement to the City of Carter Lake for the operation of their casino. The Ponca Tribe wanted to express its thanks to the Mayor and Council, to the City

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of Carter Lake, the staff and the citizens for their support. Several tribal representatives were also present. The Mayor accepted the check on behalf of the City of Carter Lake and expressed support and appreciation to the Ponca Tribe, stating that the City was pleased to be in partnership with the Ponca Tribe for the use of their property as a casino. It was announced also that a public job fair for employment possibilities at the casino would be held from 10:00 a.m. to 4:00 p.m., this Saturday, September 22nd, 2018, at Candlewood Suites in Carter Lake, Iowa. The tribe is wanting to invite citizens who are interested to make application to be employed at the casino.

- B. Spearmint Rhino Liquor License. Upon motion made by Council Member Gundersen and seconded by Council Member Grell to approve the liquor license for Spearmint Rhino. City staff notes no objections being raised by any party or by any inspector. The motion was passed unanimously.
- C. Membership in the fire department. Upon motion made by Council Member Gundersen and Council Member Corcoran to add Rusty Sutton, Nicholas Francis and Tim Walton as members in the Carter Lake City Volunteer Fire Department. The motion passed unanimously.
- D. W. H. Ferer & Company. A representative of the company appeared to discuss the refacing of their current sign on their property. The Planning Board had denied their request and had suggested the Council review it. After much discussion, it was moved by Council Member Corcoran and seconded by Council Member Grell that the planned refacing of the sign proposed by W.H. Ferer & Company should be approved. The motion was passed unanimously.
- E. Mowing bill - Carl Wilson. Carl Wilson appeared personally and discussed the mowing bill on his property. City Building Inspector, Lem Sheard indicated that he has no obligation and has never been directed to notify a property owner of the need to mow their lawns before the City intervenes. The weeds on this property were very high and Carl Wilson had owned this property for some time but it needed to be mowed. The cost to the City of mowing was \$200.00 and an additional administrative fee of \$85.00 is added by the City. Some Council Members felt it was unfair to charge Mr. Wilson anything because he had not been given written prior notice and some Council Members felt perhaps that the cost was too high. Upon motion made by Council Member Gundersen and seconded by Council Member Wahl, the City agrees to reduce Carl Wilson's mowing bill to \$200.00 and waive the City's administrative fee. Roll call was made by the Mayor, Council Members

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950 LOCUST STREET
MONDAY, SEPTEMBER 17, 2018**

Gundersen, Wahl, and Paterson voted “yes,” and Council Members Corcoran and Grell voted “no.” The resolution passed.

F. Communications from the Public.

1. April Smith spoke to City Council regarding her request that the Council ask the Board of Adjustment to reconsider their decision to deny her proposed detached garage. Most members of the City Council agreed that the Board of Adjustment did apply the current rules correctly but some Council Members questioned the wisdom of the wording of the ordinance rather than the applicability of rules to this situation. Upon motion made by Council Member Grell and seconded by Council Member Corcoran, the City Council requests the Board of Adjustment to review once again April Smith’s plans for her proposed attached garage on her real estate. Roll call was made, Council Members Gundersen, Grell and Corcoran voted in favor of the request for reconsideration. Council Members Wahl and Paterson voted against the request for reconsideration. The resolution was passed. The matter shall be returned to the Board of Adjustment for their determination. It was further commented by the Council that perhaps the Council needs to review the ordinance itself for clarity and consistency.

G. Communication from Departments.

1. Department supervisors. The Mayor indicated that he had not asked any department supervisors to appear but did note that there were reports prepared by them attached to the Agenda. No questions of these reports were voiced by the Council.
2. Council Member Paterson
 - A. Wetlands issue - Council Member Paterson indicated that the issue of wetlands and the regulation by the government has been changed and that property in Carter Lake previously considered wetlands might not be able to be developed through the purchase of wetland credits by the developers to support other wetlands projects. He believes that cost is approximately \$1.00 per square foot. He did not ask and the

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950 LOCUST STREET
MONDAY, SEPTEMBER 17, 2018**

Council did not commit any action by the City to develop any wetland properties or place any City infrastructure to those properties at this time.

- B. Handicap facilities at Maybrey Park - Council Member Paterson pointed out that the need for handicap facilities at the park are needed because there are not adequate concrete pads for free and unimpeded flow of pedestrian traffic especially people in wheelchairs. He suggested the City consider some improvements.

VIII. Resolution and Ordinances

- A. Upon motion made by Council Member Gundersen and seconded by Council Member Grell, the resolution to amend height restrictions in the City of Carter Lake retaining a 35-foot high restriction in residential districts and allowing 55 foot height restrictions in all other districts was unanimously approved on its first reading.
- B. Upon motion made by Council Member Gundersen and seconded by Council Member Corcoran, the City of Carter Lake vacates a 40-foot right-of-way on the east side of North 17th Street. Roll call was taken and Council Members voting in favor of the resolution were Council Members Gundersen, Corcoran, Grell and Wahl. Voting against the resolution was Council Member Paterson. This ordinance was passed on its first reading.

IX. Comments

- 1. Jeannine Callan of 3714 Neptune Circle, Carter Lake, Iowa, the City informed the Council of at least one annoying light which is being illuminated next door to her property. The light is bright that it interferes with her quiet peace and enjoyment of her house. She has indicated that she had spoken to the police officers about enforcing a nuisance charge against the neighbor but the nuisance charge has not been pursued. She reviewed other ordinances from other municipalities and compared it to the Carter Lake City ordinance and indicated that perhaps the City should adopt a lighting provision especially as it relates to being defined as a nuisance. City Attorney Mike O’Bradovich indicated that nothing currently prohibits Ms. Callan from applying for a private nuisance enforcement against her neighbor. Extended family of Ms. Callan indicated that it would be unfair to have her do it itself because it would be too expensive. The City Attorney replied it would be inappropriate for the City to prosecute one particular case until an ordinance had been addressed and adopted. The Council confirmed that it should review a

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950 LOCUST STREET
MONDAY, SEPTEMBER 17, 2018**

proposed ordinance. As such, the Council thanked Ms. Callan for her information and then voted to schedule a workshop for Monday, September 24, 2018, at 6:00 p.m., at City Hall with, among other things, the issue of a proposed lighting ordinance to be considered.

2. Comments were taken by the Mayor, City Council and the public and many of the those commenting dealt with whether or not the property owners along North 17th Street who are gaining the 40 foot City's right- of- way should not have to purchase the property.

X. The meeting was adjourned at approximately 8:30 p.m.

Respectfully submitted,

Michael J. O'Bradovich
City Attorney for the City of Carter Lake, Iowa

MJO/rm