

**CITY OF ALTOONA COUNCIL MEETING  
MONDAY, JANUARY 21, 2008, 6:30 P.M.  
AT THE ALTOONA CITY HALL**

**1. CALL TO ORDER**

Roll Call at 6.36 p.m.

Mayor Burget-present      Conkling- present      Nolin- present  
Riding- present      Sloan- present      Warren- present

**City Officials Present:** Jeff Mark, Randy Pierce, Vern Willey, John Shaw, John Gray, Jerry Whetstone, Jody Evans, Attorney Bob Laden

**Audience Present:** Dennis Keller, Coleen Stewart, Stephen and Florence Sexton, Scott Jones, Ashley Jones, Chris Stewart, Kandall Mauch, Aly Merschman, Carley Johnston, Beth A. Davis, Brent Culp, Eric Eshelman, Mike Van Fossen, Victoria Carrington, Ed Skinner.

**2. Perfecting and approval of the agenda**

Roll Call Vote:

  Y   Conkling   1   Sloan   Y   Riding   2   Y Nolin (5-0)

**3. Approval of January 7 and 14, 2008 Council Minutes**

Motion to approve minutes as presented.

Roll Call Vote:

  Y   Conkling   Y   Sloan   Y   Riding   1   Warren   2   Nolin (5-0)

**4. Citizens request to address council**

No one came forward to speak

**5. Public Hearing for January 21, 2008, at 6:30 pm to consider a rezoning request from Stephen and Florence Sexton to rezone 13.6 acres from A-1 (Agricultural) to Conditional M-1 (Limited Industrial)**

This property is located north of I-80 and east of 34<sup>th</sup> Avenue NW (known as 5699 NE 56<sup>th</sup> Street). The property is not adjacent to the interstate. The property is comprised of a one-acre residential lot and 12.6 acres of agricultural row crop. The applicants are Stephen and Florence Sexton and they are requesting to rezone the 13.6 acres from A-1 (Agricultural) to Conditional M-1 (Limited Industrial). A list of the conditional uses is included in staff's memo. The Sexton's are planning to sell the property to Douglas and Jill Leonard who are proposing to own and operate Midwest Wholesale Nursery.

Open Hearing at 6:33 pm

Public Comment: No one came forward to speak

Close Hearing at 6:34 pm

**6. Ordinance to approve rezoning from A-1 (Agricultural) to Conditional M-1 (Limited Industrial) (1<sup>st</sup> reading)**

Mayor Burget stated that approval of this resolution would approve rezoning from A-1 to Conditional M-1.

**ORDINANCE NO. 1-21-2008 #01 (273) AN ORDINANCE TO APPROVE REZONING FROM A-1 (AGRICULTURAL) TO CONDITIONAL M-1 (LIMITED INDUSTRIAL)**

Roll Call Vote: (1<sup>st</sup> reading)

  2   Conkling   Y   Sloan   Y   Riding   Y   Warren   1   Nolin (5-0)

Roll Call Vote: (waive 2<sup>nd</sup> and 3<sup>rd</sup> reading)

2 Conkling Y Sloan 2 Riding Y Warren Y Nolin (5-0)

Roll Call Vote: (to publish)

Y Conkling Y Sloan Y Riding 2 Warren 1 Nolin (5-0)

**7. Public Hearing for January 21, 2008, at 6:30 p.m. to consider annexation petitions (area located north of NE 54<sup>th</sup> Avenue and west of NE 80<sup>th</sup> Street)**

The City of Altoona has received voluntary annexation requests from two landowners for land east of Altoona. The annexation area is shown on the map attached to staff's memo. The reason for the annexation is the planned rail spur and future development of the NE industrial park. This is an 80/20 annexation because not all of the territory to be annexed is voluntarily doing so. The property shown on the map, which is owned by Lawrence R. Eshelman, has declined efforts to voluntarily annex. Staff has offered incentives has discussed previously with council. The Eshelman property cannot be omitted from the annexation petition because doing so would create an island. The total annexation includes 101.4 acres with 79 acres (82.62%) consenting and 16.63 acres (17.38%) non-consenting. The difference of 5.74 acres represents railroad ROW and county road by fee title.

Open Hearing at 6:36 pm

Public Comment: Eric Eshelman 509 NW Chappell Dr., Ankeny, Iowa 50021(home address) representing Lawrence and Harriett Eshelman. They want to make sure that they and their heirs are protected by the following. 1. Provide tax abatement for 10 years. 2. No special assessments in the future. 3. Existing wells and septic systems be allowed. They can opt to hook up in the future. 4. City will grandfather them in on zoning. 5. Existing home can be rebuilt if ever destroyed in the future if they wish. Councilman Riding reminded him that we can promise these things, but if the DNR or State ever made them change for any reason, the family understands that it is not at fault of the City. If agreement is approved with the prior stipulations Eshelmans will agree to voluntary annexation. Councilman Conkling suggested that Eric get together with staff and Laden and work out a sufficient arrangement. Ed Skinner, 204 8<sup>th</sup> St SE, Altoona, Iowa 50009 came forward and wanted to clarify that delaying this would not delay the annexation request. Council did not feel this would be a problem.

Close Hearing at 6:48 pm

**8. Resolution to consider approval of Voluntary annexation request**

**Resolution #1-21-08 #\_\_\_\_\_ RESOLUTION TO CONSIDER APPROVAL OF VOLUNTARY ANNEXATION REQUEST**

Roll Call Vote:

2 Conkling Y Sloan Y Riding 1 Warren Y Nolin (5-0)

**9. Resolution making award of the contract for I-80 Utility Project (Ambrose)**

This item was tabled at the January 7, 2008, city council meeting. Staff was concerned that the utility easement acquisition costs were higher than budgeted. Vern and I have met with the attorney for the landowners and we have agreed on a fair market price that will allow the city to proceed without going to condemnation. Staff is now prepared to recommend that council consider awarding the contract for the I-80 Utility Project (Ambrose). H&W Contracting, LLC, submitted the low responsible bid. In the amount of \$932,228. The bid amount does not include the land acquisition or the pump house construction. The total budget for this project is \$1,400,000.

**Resolution #1-21-08 #02 RESOLUTION TO AWARD OF THE CONTRACT FOR I-80 UTILITY PROJECT**

Roll Call Vote:

Y Conkling Y Sloan 1 Riding Y Warren 2 Nolin (5-0)

**10. Resolution to approve a final plat for Ironwood South Plat 1**

The property is located in the northeast corner of Ironwood South, west of 1<sup>st</sup> Avenue South and south of 24<sup>th</sup> Street SW. This application proposes to plat 10.228 acres into two lots and street right-of-way. Lot 1 is part of Ironwood Village development and is rezoned R-5 (P.U.D.). Lot 2 is part of a future city park. A northern portion of the park was previously platted in Ironwood Plat 3. The two pieces make this park approximately seven acres in size. The city will be purchasing the park ground.

**Resolution #1-21-08 #03 RESOLUTION TO APPROVE A FINAL PLAT FOR IRONWOOD SOUTH PLAT I**

Roll Call Vote:

1 Conkling Y Sloan Y Riding 2 Warren Y Nolin (5-0)

**11. Resolution to approve a final plat for Wyatt Woods Plat 5**

The property is located south of Adventureland Drive, north of 9<sup>th</sup> Street NW, and west of 5<sup>th</sup> Avenue NW. This application is for a final plat for Wyatt Woods Plat 5, the Wyatt Woods plat. C & J Development is the developer of this six-lot plat. The homes in this plat will not be eligible for tax abatement. Three of the lots are double frontage lots (fronting on two streets) and have to comply with the landscaping ordinance, which also effects fence location. The Planning and Zoning Commission voted 6 to 0 to recommend approval. See John Shaw's memo.

**Resolution #1-21-08 #04 RESOLUTION TO APPROVE FINAL PLAT FOR WYATT WOODS PLAT 5**

Roll Call Vote:

Y Conkling 2 Sloan 1 Riding Y Warren Y Nolin (5-0)

**12. Resolution to approve a Plat of Survey for Iowa Cold Storage**

This is a resolution to consider approval of a plat of survey that will transfer a 50' x 426' area of property to Merchants Distribution from Iowa Cold Storage. Council may recall that the Merchants Distribution site plan required them to acquire additional property to meet zoning and fire safety setback regulations.

**Resolution #1-21-08 #05 RESOLUTION TO APPROVE A PLAT OF SURVEY FOR IOWA COLD STORAGE**

Roll Call Vote:

2 Conkling Y Sloan Y Riding 1 Warren Y Nolin (5-0)

**13. Resolution to approve a Plat of Survey for Shared East Elevated Water Storage Tank**

The City of Altoona and the Des Moines Water Works are jointly constructing a 2.5 million gallon water storage tank east of Altoona near the 8400 block of NE 27<sup>th</sup> Avenue in Polk County. This plat of survey provides a 7.2-acre site for the tower. The reason that the Altoona City Council needs to consider this action is because the property is within the city's two-mile review area.

**Resolution #1-21-08 #06 RESOLUTION TO APPROVE A PLAT OF SURVEY FOR SHARED EAST ELEVATED WATER STORAGE TANK**

Roll Call Vote:

Y Conkling 2 Sloan Y Riding 1 Warren Y Nolin (5-0)

**14. Resolution to consider purchase agreement with Ironwood LC (Ironwood Plat 3 Outlots X & Y – north half of Ironwood Park land)**

In your packet is a copy of the resolution and the purchase agreement for the Ironwood Park land. This agreement is for the north portion of the park and the bike trail access to the park and totals 4.56 acres. 2.78 acres are for park development and 1.78 acres are for the bike trail access. The southern portion of the park ground will be purchased after the final plat for Ironwood South (4.70 acres) is recorded. The price of the ground for the northern portion is \$77,193.24 or \$16,885.96 per acre. A map of the proposed park is in your packet.

**Resolution #1-21-08 #07 RESOLUTION TO CONSIDER PURCHASE AGREEMENT WITH IRONWOOD LC**

Roll Call Vote:

N Conkling Y Sloan Y Riding 2 Warren 1 Nolin (4-1)

**15. Consent Agenda**

- a) **Allow Bills**
- b) **Resolution approving temporary easement for construction improvements for 1<sup>st</sup> Avenue South Improvement Project (Thomas and Heidi Goodman)**  
**Resolution #1-21-08 #08 RESOLUTION TO APPROVE TEMPORARY EASEMENT FOR CONSTRUCTION IMPROVEMENTS FOR 1<sup>ST</sup> AVENUE SOUTH IMPROVEMENT PROJECT (THOMAS AND HEIDI GOODMAN)**
- c) **Resolution approving ROW and or easement and permanent underground electric line easement for 34<sup>th</sup> Avenue Overhead Electric Relocation Project (Stubbs and Sons, Inc.)**  
**Resolution #1-21-08 #09 RESOLUTION TO APPROVE ROW AND OR EASEMENT AND PERMANENT UNDERGROUND ELECTRIC LINE EAST FOR 34<sup>TH</sup> AVENUE OVERHEAD ELECTRIC RELOCATION PROJECT (STUBBS AND SONS, INC.)**
- d) **Resolution approving ROW or easement and permanent underground electric line easement for 34<sup>th</sup> Avenue Overhead Electric Relocation Project (Betty Woodard)**  
**Resolution #1-21-08 #10 RESOLUTION TO APPROVE ROW OR EASEMENT AND PERMANENT UNDERGROUND ELECTRIC LINE EASEMENT FOR 34<sup>TH</sup> AVENUE OVERHEAD ELECTRIC RELOCATION PROJECT (BETTY WOODARD)**
- e) **Resolution approving ROW or easement and permanent underground electric line easement for 34<sup>th</sup> Avenue Overhead Electric Relocation Project (Casey's Marketing Company)**  
**Resolution #1-21-08 #11 RESOLUTION TO APPROVE ROW OR EASEMENT AND PERMANENT UNDERGROUND ELECTRIC LINE EASEMENT FOR 34<sup>TH</sup> AVENUE OVERHEAD ELECTRIC RELOCATION PROJECT (CASEY'S MARKETING COMPANY)**
- f) **Resolution authorizing economic development grant**  
**Resolution #1-21-08 #12 RESOLUTION TO AUTHORIZE ECONOMIC DEVELOPMENT GRANT**
- g) **Resolution authorizing public hearing for condemnation of property owned by Rock Creek Partners, L.C.**  
**Resolution #1-21-08 #13 RESOLUTION TO AUTHORIZE PUBLIC HEARING FOR CONDEMNATION OF PROPERTY OWNED BY ROCK CREEK PARTNERS, L.C.**
- h) **Resolution authorizing public hearing for condemnation of property owned by Mid Iowa Land Company, L.C.**  
**Resolution #1-21-08 #14 RESOLUTION TO AUTHORIZE PUBLIC HEARING FOR CONDEMNATION OF PROPERTY OWNED BY MID IOWA LAND COMPANY, L.C.**
- i) **Resolution relating to financing of a proposed project to be undertaken by the City of Altoona, Iowa; establishing compliance with reimbursement bond regulations under the Internal Revenue Code**  
**Resolution #1-21-08 #15 RESOLUTION RELATING TO FINANCING OF A PROPOSED PROJECT TO BE UNDERTAKEN BY THE CITY OF THE ALTOONA, IOWA; ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE**
- i) **Consider correction approval of WRA Tech Committee Alternate Mayor Appointment from Vern Willey II to Karen Oppelt**

- j) **Set Monday, January 28, 2008 for City Budget Retreat at Holiday Inn Express at 6:00pm**  
Roll Call Vote:  
Y Conkling Y Sloan 1 Riding 2 Warren Y Nolin (5-0)

**16. Beer and Liquor Permits**

- a) **Old Town Tap – Class C (Commercial Liquor License)**  
Police Chief John Gray stated that there were no violations at this establishment.  
Roll Call Vote:  
1 Conkling Y Sloan 2 Riding Y Warren Y Nolin (5-0)
- b) **Kum & Go – Class C (Commercial Liquor License - Beer)**  
Police Chief John Gray stated that there were no violations at this establishment.  
Roll Call Vote:  
Y Conkling 2 Sloan 1 Riding Y Warren Y Nolin (5-0)
- c) **Wal-Mart – Class E (Carry-out Liquor License)**  
Police Chief John Gray stated that there were no violations at this establishment.  
Roll Call Vote:  
Y Conkling 1 Sloan Y Riding Y Warren 2 Nolin (5-0)
- d) **Anthony’s – Class C (Commercial Liquor License)**  
Police Chief John Gray stated that there were no violations at this establishment.  
Roll Call Vote:  
Y Conkling 1 Sloan Y Riding 2 Warren Y Nolin (5-0)

**17. General Business Items/Reports and Updates – at this time to Mayor skipped to #18.**

**18. Hearing to determine the disposition of an impounded dog.**

Police Chief John Gray and Officer Mike Van Fossen addressed the Council concerning facts on Dante the impounded dog. There were two instances that the dog had bitten children. Once on July 13, 2007 where the bite was on the hand of the child. On January 11, 2008 the dog again bit a child on the arms and the chest. The child had gone onto the property and up to the doghouse to try to retrieve a glove that the dog had taken from the child. The property has invisible fencing, and the dog wears a collar with a battery, and the dog will not pass through the fence. Both bites happened when the children went into the invisible fencing in the front yard. The landowner also has invisible fencing in the backyard; there have been no problems when the dog is in the back yard. Attorney Robert Laden asked the following questions to Mike Van Fossen, the officer who handled the case. 1. Was the collar on the dog? Officer – yes. 2. Was the collar turned on? Officer – yes. Who owns the dog? Officer – Christopher Stewart. Where does Christopher live? 206 15<sup>th</sup> Ave SW; Altoona, Iowa 50009. Was the dog in the front yard? Officer – yes. Is their invisible fencing in the front yard, which goes to the sidewalk within three feet? Officer – yes. How did the dog get the mitten? Officer - did not know. Laden asked what Chief Gray’s recommendation was, and Chief Gray stated that we need to follow the ordinance, have them provide proof of insurance, and use the necessary restrictions that the ordinance states. Coleen Stewart of 206 15<sup>th</sup> Ave SW; Altoona, Iowa 50009 came forward and apologized to for what had happened. She indicated that the dog has had cataracts in Dante’s eyes. She showed a picture of what the cataract’s look like from the dog’s eye. There is a blurry haze, and does not look like the dog can focus well on objects. She then stated that the dog could be startled when someone approaches the dog. Coleen stated that she has personal insurance of \$300,000.00 and \$2,000.00 medical insurance. Beth A. Davis of 115 15<sup>th</sup> Ave SW; Altoona, Iowa 50009, came in front and indicated that she have never had any problems with Dante in the past. A motion was made by Councilman Riding to leave the dog in the

back yard, unhook the invisible fencing in the front yard and show proof of this being done by the invisible fencing company, Check with the insurance Company and make sure that the Coleen can have the insurance in her name, if not Christopher Stewart needs to show proof of proper insurance, and pay for the impounding and dismissal of the dog through ARL.

Roll Call Vote:

2 Conkling Y Sloan 1 Riding Y Warren Y Nolin (5-0)

**19. Adjourn**

Roll Call Vote: at 7:35 p.m.

Y Conkling Y Sloan 2 Riding 1 Warren Y Nolin (5-0)

Attest to:

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**Jody Evans, Secretary**

\_\_\_\_\_  
**Timothy J. Burget, Mayor**