

The second meeting of August for the Denver City Council, Bremer County, Iowa was held on Monday August 19, 2019 at the Denver City Hall Council Chambers. Council Members present were Gavin Carman, Sean Hartman, Jeremie Peterson, Mark Richmann, Joel Wikner. There were seventeen people in attendance.

Mayor Diercks called the meeting to order at 7:00 p.m.

Motion Hartman, second Richmann to approve the agenda. AYES: Carman, Hartman, Peterson, Richmann, Wikner. NAYS: None.

Motion Richmann, second Hartman to approve the minutes of August 5, 2019. AYES: Carman, Hartman, Peterson, Richmann, Wikner. NAYS: None.

During Public Forum Arnie Gienau of 1060 S. State Street expressed his dissatisfaction to the Council concerning the South State Street Reconstruction Project. Mr. Gienau wanted to know why there wasn't any curb & gutter in front of his property. Larry Farley explained the existing concrete slab was in front of his property and if curb & gutter was installed the existing street would not drain properly. Mr. Gienau felt that was dumb to design a street without curb & gutter and stated he would not recommend using Snyder & Associates for any more projects.

Motion Richmann, second Peterson to Close the Regular Meeting and Open the Public Hearing to consider the Application for Voluntary Annexation of Territory from Richard & Judy Buss to the City of Denver, Iowa. AYES: Carman, Hartman, Peterson, Richmann, Wikner. NAYS: None. The Public Hearing opened at 7:03 p.m.

During the Public Hearing Larry Farley explained had followed the 100% Voluntary Annexation Not In An Urbanized Area as contained in Iowa Code Chapter 368.7(2) Larry Farley reviewed the timeline of events that has occurred prior to the Public Hearing tonight.

Timeline of Events To Date:

July 15, 2019 City Council approves Resolution No. 57-2019 to Accept the Application for Voluntary Annexation and Set Date for Public Hearing

July 17, 2019 Mail Certified Letter w/Return Receipt to Bremer County Board of Supervisors

July 18, 2019 at 9:09 a.m. Jackie Bohr signed for Certified Letter for the Bremer County Board of Supervisors

July 22, 2019 Received Certified Letter Receipt from Bremer County Board of Supervisors with Received By Signature of Jackie Bohr

July 31, 2019 Public Hearing Notice Publication with map in Denver Forum

August 1, 2019 Public Hearing Notice Publication with map in Waverly Democrat (County Wide Newspaper)

August 6, 2019 Public Hearing Notice Publication with map in Waverly Democrat (County Wide Newspaper)

August 7, 2019 Public Hearing Notice Publication with map in Denver Forum

August 19, 2019 Public Hearing Scheduled for 7:00 p.m. at Denver City Hall Council Chambers

Attorney Bruce Toenjes representing Scott & Julie Buss presented a handout to Mayor Diercks and City Council Members explaining Scott & Julie Buss formal objection to the proposed annexation for Richard & Judy Buss. Bruce Toenjes also presented a letter from Lee & Sally Linderkamp voicing strong objection to the proposed Buss Annexation and a letter from Elaine Kueker representing the Kueker Family Living Trust objected to the proposed Buss Annexation.

Reasons for Scott & Julie Buss objections presented by their Attorney Bruce Toenjes:

1. The procedure in Iowa Code Section 368.7(1) was not followed. Scott does not consent to the annexation. Scott may be a nonconsenting property owner under the law.
2. This annexation is proposed to circumvent the County's limits on development.
3. The proposed drive would be in the flood plain and would need to be elevated with fill, which could also impact the flow of water. The road would likely require a permit. There is no other access to the property through the City.
4. The City will likely be called on to provide services in the future – when property owners become dissatisfied with their private wells, septics, or road.
5. The annexation will create an irregular border with the city, so that the city will bump out into the county.
6. The city annexation will bring residential uses that are incompatible with the agricultural uses we make of our property, including spraying, noise, heavy machinery, and dust.
7. The annexation will make the use of the grain facility nonconforming under the City's zoning ordinance. If the site is substantially damaged it cannot be rebuilt. Continued operation of the site in A1 will require a special exception from the Board of Adjustment under the City's Zoning Ordinance – something the Council cannot grant or guarantee. Continued operation of the site would not be allowed in an R District. Scott has a USDA loan and grant that may have to be repaid if he cannot use the facility. If Scott cannot continue to use the property because of annexation or zoning, it will be a taking.
8. Our neighbors also object.

Attorney Ethan Epley representing Richard & Judy Buss told the Council that the Buss' have no intent on developing the Southern Part of the property, the property would be in the City Limits and under City regulations, all the requirements under Iowa Law regarding Voluntary Annexation have been met and feels the City Council can move forward with approving the Voluntary Annexation, this is not a run around the Bremer County Comprehensive Plan, no need to re-zone for a different zoning classification since the property would come into the City as A-1 Agricultural. Scott & Julie Buss have no interest in the real estate itself, the USDA Grant has a second interest and Scott & Julie Buss can take the grain bins and move the grain facility to their property, Scott & Julie Buss have no record of ownership of the real estate at all, the annexation of the Richard & Judy Buss property would be a benefit to the City, Richard & Judy Buss also pay the entire electric bill and real estate property taxes, Scott & Julie Buss pay the property taxes only on the grain bin facility. City Attorney Pat Dillon spoke next, he informed the Council that in his opinion the City followed the proper procedure under Iowa Law as it pertains to 100% Voluntary Annexation Not in an Urbanized Area, there are two property tax cards, one for the real estate and one for the grain facility, the grain handling facility could be moved although not very practical but keep that in mind, Councilman Carman asked where can Denver grow if it's not in the Bremer County Comprehensive Plan; Pat Dillon felt the City has the right to say Richard & Judy Buss Voluntary Annexation is in the best interest of the City of Denver, Bremer County Supervisor Dewey Hildebrandt was present and provided the Bremer County Board of Supervisors Agenda and Board Minutes from their July 29, 2019 meeting when the Board discussed the proposed annexation, Dewey Hildebrandt informed the Council that the Bremer County Board of Supervisors took no action on the Richard & Judy Buss Voluntary Annexation, Councilman Richmann expressed concern regarding no plan for the land use after the annexation is completed he's heard rumors about what they were going to do with it, have they looked at how it might affect the school, sewer plant, how many homes will be built on the property, Judy Buss informed the Council they have two interested parties that want to build new homes on the North forty acres, Councilman Richmann was concerned about the long-term vision for the property and give that more thought.

PG.2040

Motion Richmann, second Wikner to Close the Public Hearing concerning the Application for Voluntary Annexation of Territory from Richard & Judy Buss to the City of Denver, Iowa and Re-Open the City Council Meeting. AYES: Carman, Hartman, Peterson, Richmann, Wikner. NAYS: None. The Public Hearing closed at 8:08 p.m.

Motion Peterson, second Hartman to approve Resolution No. 63-2019 Approving the Application for Voluntary Annexation of Territory from Richard & Judy Buss to the City of Denver, Iowa. ROLL CALL VOTE: AYES: Carman, Hartman, Peterson, Wikner. NAYS: Richmann.

City Attorney Pat Dillon discussed the Memorandum of Understanding between the City of Denver and the Denver Soccer Club. The Council will need to set a Public Hearing and hold a Public Hearing prior to approval of the agreement. Councilman Wikner would like to have Dust Control included in the agreement and Councilman Carman and Hartman expressed concern about the lack of enough parking stalls as based on the area discussed at the last City Council Meeting it would have approximately thirty parking stalls.

Motion Wikner, second Richmann to deny the request to cost share of his sanitary sewer service line repair bill from Rene Valverde. AYES: Carman, Hartman, Peterson, Richmann, Wikner. NAYS: None.

Motion Peterson, second Carman to approve Resolution No. 65-2019 Ordering the Preparation of Final Plat and schedule of Assessments for the F.Y. 2019 Main Street Reconstruction Project. ROLL CALL VOTE: AYES: Carman, Hartman, Peterson, Richmann, Wikner. NAYS: None.

Motion Peterson, second Wikner to approve Resolution No. 66-2019 Accepting the Work for the F.Y. 2019 Main Street Reconstruction Project. ROLL CALL VOTE: AYES: Carman, Hartman, Peterson, Richmann, Wikner. NAYS: None.

Motion Richmann, second Wikner to approve resolution No. 67-2019 Adopting and Levying Final Schedule of Assessments and providing for the Payment Thereof for the F.Y. 2019 Main Street Reconstruction Project. ROLL CALL VOTE: AYES: Carman, Hartman, Peterson, Richmann, Wikner. NAYS: None.

Motion Hartman, second Carman to approve Resolution No. 68-2019 General Vendor Agreement FY 2020 Low-Income Energy Assistance Program between the City of Denver and Northeast Iowa Community Action Corporation. AYES: Carman, Hartman, Peterson, Richmann, Wikner. NAYS: None.

Motion Richmann, second Hartman to approve the Denver Community School District Homecoming Parade on September 22, 2019 at 6:00 p.m. AYES: Carman, Hartman, Peterson, Richmann, Wikner. NAYS: None.

Motion Wikner, second Hartman to approve Halloween Trick or Treat Night on October 31, 2019 between 5:00 p.m. and 7:00 p.m. AYES: Carman, Hartman, Peterson, Richmann, Wikner. NAYS: None.

In Other Business Larry Farley updated the Council on the purchase of a Boom Truck, Larry Zars has inspected a 2013 Ford F-750 with 35,234 miles and an Altec Boom for \$76,841, Councilman Carman and the entire City Council thanked the Denver Breakaway Days Committee for another great event for Denver. Councilman Wikner informed the Council that the existing Denver Breakaway Days Committee will be doing it for two more years and then new volunteers will have to step up to continue the Denver Breakaway Days. The present committee is willing train new committee members. Councilman Peterson is working on the Shipping Container Ordinance revisions. Councilman Hartman has been contacted by

Mike & Judy Tripolino to move the fire hydrant that is in the way of the sidewalk and if we can put Peddler's Permit Notice on Facebook so residents know who might be knocking on their door and what they are selling.

Motion Richmann, second Wikner to adjourn. AYES: Carman, Hartman, Peterson, Richmann, Wikner. NAYS: None. The City Council Meeting adjourned at 8:51 p.m.

Revenues for the Month of July 2019

| | |
|-------------------------------|--------------------|
| General Fund | \$ 73,927.59 |
| Library Savings Fund | \$ 25,004.98 |
| Road Use Fund | \$ 26,655.57 |
| Local Option Sales Tax | \$ 15,367.74 |
| Tax Increment Financing Fund | \$ 887.94 |
| Debt Service Fund | \$ 94.07 |
| Permanent Fund | \$ 750.00 |
| Water Utility Fund | \$ 22,245.22 |
| Sanitary Sewer Fund | \$ 54,062.31 |
| Electric Utility Fund | \$141,947.08 |
| Electric Utility Deposit Fund | \$ 1,450.00 |
| Storm Water Utility Fund | <u>\$ 2,888.94</u> |
| Total | \$365,281.44 |

Rod Diercks, Mayor

ATTEST:

Larry Farley, City Clerk/Admin.