THE CITY COUNCIL OF WATERLOO, IOWA
WORK SESSION TO BE HELD AT
Harold E. Getty Council Chambers
Monday, February 20, 2023
4:10 PM

RULES FOR WORK SESSION PUBLIC COMMENT

Iowa Code Chapter 21 gives the public the right to attend council meetings, but it does not require cities to allow public participation except during public hearings.The city council shall not receive any public comment during a work session.

Roll Call

Agenda, as proposed or amended

Approval of Minutes

4:10 p.m. - Discussion of amendments to the noise variance ordinance.

Submitted by: Kelley Felchle, City Clerk

Approx. 4:25 p.m. - Discussion of amendments to the automated traffic enforcement ordinance.

Submitted by: Martin Petersen, City Attorney

Approx. 4:40 p.m. - Update from Grout Museum District.

Submitted by: Billie Bailey, Executive Director, Grout Museum District

ADJOURNMENT

Kelley Felchle
City Clerk

Roll Call

Members present: Mayor Hart in the Chair, Boesen, Nichols, Grieder, and Feuss. Absent: Ms. Wilder and Mr. Chiles.

Agenda, as proposed or amended

Boesen/ Grieder

that "Agenda, as proposed or amended", be approved. Voice vote-Ayes: Four. Motion Carried.

Discussion of amendments to the sidewalk ordinance.

Jamie Knutson, City Engineer, provided an overview of amendments to the ordinance.

Mr. Boesen questioned lowering the interest rate for sidewalk assessments, and compared it to the nine percent the Water Works uses.

Jamie Knutson commented that of course would be at the council's pleasure and explained the decision to lower the rate was an effort to help our citizens.

Kelley Felchle, City Clerk, explained how the sidewalk assessment differs from what the delinquent fees that Water Works assesses for.

Jamie Knutson explained that they also plan to change the dollar amount required for the bond and that the repayment schedule is being extended to allow people more time to pay for the repair over time.

Discussion of ban on conversion therapy.

Mr. Grieder provided an overview of the ordinance. He shared that the state of Iowa has not done anything to pass legislation at the state level.

Damian Thompson, Director of Public Policy and Communication at Iowa Safe Schools, spoke about the work they have done to make sure LGBTQ youth are being protected.

Mr. Grieder explained that people in the LGBTQ community have asked for this ban and that this practice is happening in Waterloo. He commented that people have said this is not something we should spend time on. To that he says the largest mental health provider in the community is the Police Department. He believes, as a result, that this is a city issue. People in the state of Iowa do not feel safe because this practice is allowed and part of the reason why he ran for office is because children need to be protected. He addressed concerns from the legal department on preemption. He stated that he disagrees with a memo produced by the legal department explaining that this ordinance is preempted and listed his reasons.

Mr. Boesen shared that he wants to hear from the city attorney.

Martin Petersen, City Attorney, explained that he distributed a memo to council prepared by a law firm in Des Moines. He explained there have been no eighth circuit cases, no supreme court cases and no recordable decisions that would directly affect our state, though there is guidance in other parts of the country. The main case dealing with a local ordinance affecting these providers that came out of the eleventh circuit in Florida. The court there found that the local ordinance prohibiting the practice of conversion therapy was preempted. The other cases around the country deal mainly with state laws that ban the practice and challenges by providers based on the interference with the provider's first amendment right. Florida adopted a strict scrutiny analysis and struck down the applicable local ordinance. He expressed that his concern is with field preemption. His belief is that if the ordinance is adopted by Waterloo it may not survive a challenge based on a field preemption basis.

Mr. Grieder explained that Linn County and Davenport have both adopted ordinances and have not seen challenges.

Mr. Nichols questioned if Davenport chose human rights for the enforcement portion.

Mr. Grieder confirmed. In our ordinance, complaints would go to the city attorney, but in Davenport, they would go through the human rights commission who would either do the investigation or pass it on up to the state level.

Mr. Boesen clarified that Davenport handles their complaints strictly as a human rights issue and questioned if Iowa City does the same.

Mr. Grieder explained that Iowa City has not passed an ordinance, they passed a resolution similar to the one that Waterloo adopted, arguing for the state to take more action.

Mayor Hart clarified that we passed a resolution in 2020 asking the state take more action.

Mr. Boesen commented that the phone calls and emails he received from constituents were against the ordinance.

Mr. Nichols shared that his contact from constituents were the opposite and support the ordinance.

Mr. Grieder added that comments he received were in favor of the ordinance.

Mr. Boesen questioned when this would be coming back to council and in its current form he cannot support it.

Mr. Grieder commented he would like to move fast to get this adopted.

ADJOURNMENT

Feuss/ Grieder

that "the meeting adjourn at 4:53 p.m.", be approved. Voice vote-Ayes: Four. Motion Carried.

CHAPTER 5, NOISE CONTROL
OF
TITLE 4, PUBLIC HEALTH AND SAFETY

4-5-5: EXCEPTIONS AND VARIANCES:

A. The provisions of this chapter shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work.

B. The ~~city council~~mayor, or the mayor's designee(s), shall have the authority, consistent with this section, to grant special variances:

1. Any person seeking a special variance pursuant to this section shall file an application with the mayor. The application shall contain information determined by the mayor. The application shall also contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the ~~city clerk~~mayor containing information to support ~~his~~ the claim. If the ~~city council~~mayor finds that a sufficient controversy exists regarding such application, a public hearing may be held with the city council.

2. In determining whether to grant or deny the application, the ~~city council~~mayor shall balance the hardship to the applicant, the community, and other persons of not granting the special variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the special variance. The police department shall review the application to determine whether granting such special variance creates an adverse impact on public safety. Applicants for special variances and persons contesting special variances may be required to submit any information the city council may reasonably require. ~~In granting or denying an application, the city council shall place on public file a copy of the decision and the reasons for denying or granting the special variance.~~

3. Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special variance shall terminate it and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the special variance was granted.

4. Application for extension of time limits specified in special variances or for modification of other substantial conditions shall be treated like applications for initial special variances under this subsection B.

5. The ~~city council~~mayor may issue guidelines defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether to grant a special variance.

~~6. Within thirty (30) days following the effective date of this chapter, the owner of any commercial or industrial source of sound may apply to the city council for a variance in time to~~

~~comply with this chapter. The city council shall have the authority, consistent with this section, to grant a variance, not to exceed ninety (90) days from the effective date of this chapter.~~

C. A person may appeal a decision of the mayor to deny an application by filing a written appeal to the office of the city clerk within fourteen (14) days of the date of the decision. An administrative fee of fifty dollars ($50.00) shall be paid at the time the appeal is filed. Failure to file the appeal and pay the administrative fee shall constitute a waiver of the right to a hearing, and the decision shall thereupon become final. If the written appeal and administrative fee are filed in conformance with this section, a hearing shall be scheduled. the city clerk shall cause a notice to be sent by ordinary mail to the applicant or licensee at the address noted in the application. Said notice shall state that a hearing has been set before the city council not less than thirty (30) days from the date of the notice. The notice shall include the reason and grounds for the hearing, the date and time of the hearing, and the place where the hearing will be conducted.

~~Appeals of an adverse decision of the city council shall be made to the appropriate court of law. Review of the court shall be (de novo) limited to whether the decision is supported by substantial evidence as specified by the judge or magistrate.~~

D. The provisions of this chapter shall not apply to:

1. The unamplified human voice;
2. Interstate railway locomotives and cars;
3. All agricultural activities; and
4. Airports and aircraft. (Ord. 3094, 8-4-1980)

6-1-4

G. Failure To Timely Pay Or Appeal: If the recipient of an automated traffic citation does not either pay the fine by the due date stated in the citation or appeal the citation as provided herein, a m~~M~~unicipal infraction may be filed by the Waterloo Police Department in accordance with 1-3-2 and a fine may be sought in accordance with ~~section 1-3-2(B) of this chapter rather than~~ subsection D of this section. One municipal infraction citation may be issued for multiple automated traffic citations for the same vehicle. If judgement is entered in favor of the city, mandated court costs will be added to the amount of the fine imposed by this section. The city may, subject to applicable law, pursue enforcement of the judgement together with interest as permitted by law. Collection of that judgement may include referral to the State of Iowa Income Offset program administered by the Department of Administrative Services, State Accounting Enterprise. Notwithstanding the city's right to file a municipal infraction, the city may first seek voluntary payment of the fine by sending a written request for payment to the vehicle owner and/or referring the matter to a private service agent to conduct collection in accordance with all applicable law. (Ord. 5411, 8-7-2017; amd. Ord. 5607, 7-6-2021)