

## OSCEOLA CITY COUNCIL

Tuesday, June 6, 2017

### Regular Meeting

The City Council met on Tuesday, June 6, 2017 at 7:00 p.m. for a Regular scheduled meeting. The meeting was called to order by Mayor Thomas J. Kedley. With the following present: Council Members: George Fotiadis, Dave Walkup, Dan Hooper and Dennis Page. Douglas Gay was absent. City Staff present were Ty Wheeler– City/Administrator/Clerk, Britanee Ward – Accounting Manager/Assistant City Clerk and Marty Duffus – Police Chief. Also present were: Derek Lumsden, John Lloyd, Hilary Ferrand, Bill Trickey, Eric Barr, Ed Stoll, Mason Adams and others that didn't sign in.

Motion by Hooper and second by Page to approve the agenda; roll call vote: Fotiadis, aye; Walkup, aye; Hooper, aye; Page, aye; motion carried.

John Lloyd presented to Council a thank you note from the residents on Lakeview drive. Bill Trickey update the Council on lot sale program. No one else spoke during open forum.

Motion by Hooper and second by Page to approve the appointments for the following boards:

- a. Appoint Fred Wise to the Planning and Zoning Commission through 6/30/18.
- b. Appoint Alex Paul to the Board of Adjustment to complete Mike Henry's term.
- c. Appoint Mike Miller to the Park and Recreation Board to complete Eric Zoske's term.

Roll call better: Fotiadis, aye; Walkup, aye; Hooper, aye; Gay, aye; motion carried.

Mayor update Council on the Rec Center proposal, the inaugural ball for Senator Kim Reynolds, and presented Spirit of Osceola to 805 E Clay Deschel and Shirley Pennock.

Mason Adams with Alliant Energy update Council on their programs.

Motion by Fotiadis and second by Walkup to give permission to discharge BB Guns and Pellet gun for training purposes with a trained expert at the Clarke County Fair Grounds until August 30, 2017. Roll call vote: Fotiadis, aye; Walkup, aye; Hooper, aye; Page, aye; motion carried.

Motion by Fotiadis and second by Hooper to approve the second reading of the ordinance adopting the Natural Gas Franchise fee, roll call vote: Fotiadis, aye; Walkup, aye; Hooper, aye; Page, aye; motion carried. Motion by Page and second by Hooper to waive the third reading;

CITY OF OSCEOLA, IOWA NATURAL GAS FRANCHISE ORDINANCE NO. 574  
AN ORDINANCE REPEALING ORDINANCE NO.442 AND GRANTING TO  
INTERSTATE POWER AND LIGHT COMPANY, ITS SUCCESSORS AND  
ASSIGNS, A NON-EXCLUSIVE TWENTY-FIVE YEAR FRANCHISE TO ERECT,  
CONSTRUCT, RECONSTRUCT, MAINTAIN, AND OPERATE PLANT AND  
SYSTEMS FOR THE DISTRIBUTION OF NATURAL GAS IN THE CITY OF  
OSCEOLA, IOWA AND TO SELL, DISTRIBUTE, AND SUPPLY NATURAL GAS  
TO SAID CITY AND ITS INHABITANTS, AND REQUIRING SAID COMPANY TO  
PAY A FRANCHISE FEE TO THE CITY. BE IT ORDAINED BY THE City Council of  
the City of Osceola, Clarke County, Iowa, hereinafter referred to as the "City": Section 1.  
There is hereby granted to Interstate Power and Light Company, hereinafter referred to as  
the "Company," its successors and assigns, the right, privilege and non-exclusive  
franchise for the term of twenty-five (25) years from and after the passage, adoption,  
approval and acceptance of this Ordinance, to lay down, maintain and operate the  
necessary pipes, mains and other conductors and appliances in, along and under the  
streets, avenues, alleys and public places in the City as now or hereafter constituted, for  
the purpose of distributing, supplying and selling gas to said City and the residents  
thereof and to persons and corporations beyond the limits thereof; also the right of  
eminent domain as provided in Section 364.2 of the Code of Iowa. The term "gas" as  
used in this franchise shall be construed to mean natural gas only. Section 2. The mains  
and pipes of the Company must be so placed as not to interfere unnecessarily with water  
pipes, drains, sewers and fire plugs which have been or may hereafter be placed in any

street, alley and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City. The Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the laying down, operation and maintenance of said natural gas distribution system. Section 3. In making any excavations in any street, alley, or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, and shall back fill all openings in such manner as to prevent settling or depressions in surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition. Section 4. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City requires the Company to relocate facilities in the public right of way that have been relocated at Company expense at the direction of the City during the previous ten years, the reasonable costs of such relocation will be paid by the City. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request for a commercial, private or other non-public development, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request. Section 5. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has gas facilities, the City shall grant the Company a utility easement for said facilities. If the City does not grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public place, the City shall at its cost and expense obtain easements for existing Company facilities. Section 6. Said Company, its successors and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, that any prevention of service caused by fire, act of God or unavoidable event or accident shall not be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption. Section 7. There is hereby imposed a franchise fee of one percent (1%) upon the gross revenue generated from sales of natural gas by the Company within the corporate limits of the City. The Company shall begin collecting the franchise fee upon receipt of written approval of the required tax rider tariff from the Iowa Utilities Board. The amount of the franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit franchise fee receipts to the City no more frequently than on or before the last business day of the month following each calendar year quarter. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information. Section 8. The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of twenty five (25) years from and after its written acceptance by the Company. The acceptance shall be filed with the City Clerk within ninety (90) days from passage of this Ordinance. Section 9. If any section or provision of this ordinance is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of any other provisions of this ordinance which can be given effect without the invalid portion or portions and to this end each section and provision of this ordinance is severable. Section 10. The expense of the publication of this Ordinance shall be paid by the Company. Section 11. This Ordinance sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be supplemented, superseded, modified or otherwise amended without the approval and acceptance of the Company. Notwithstanding the

foregoing, in no event shall the City enact or maintain any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company, or which delay utility operations. Roll Call vote: Fotiadis, nay; Walkup, aye; Hooper, aye; Page, aye; motion carried.

Motion Fotiadis and second by Walkup to approve the second reading of ordinance adopting the Electric franchise fee; roll call vote: Fotiadis, aye; Walkup, aye; Hooper, aye; Page, aye; motion carried. Motion by Page and second by Hooper to waive the third reading;

**CITY OF OSCEOLA, IOWA ELECTRIC FRANCHISE ORDINANCE NO. 575  
AN ORDINANCE REPEALING ORDINANCE NO.443, AND GRANTING TO  
INTERSTATE POWER AND LIGHT COMPANY, ITS SUCCESSORS AND  
ASSIGNS, A NON-EXCLUSIVE TWENTY-FIVE YEAR FRANCHISE TO  
ACQUIRE, CONSTRUCT, ERECT, MAINTAIN AND OPERATE AN ELECTRIC  
SYSTEM IN THE CITY OF OSCEOLA, IOWA AND TO FURNISH AND SELL  
ELECTRIC ENERGY TO THE CITY AND ITS INHABITANTS, AND  
REQUIRING SAID COMPANY TO PAY A FRANCHISE FEE TO THE CITY.**

BE IT ORDAINED BY THE City Council of the City of Osceola, Clarke County, Iowa, hereinafter referred to as the "City": Section 1. There is hereby granted to Interstate Power and Light Company, hereinafter referred to as the "Company," its successors and assigns, the right and non-exclusive franchise to acquire, construct, reconstruct, erect, maintain and operate in the City, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, alleys and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power for the period of twenty-five (25) years; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa. Section 2. The poles, lines, wires, circuits, and other appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City. The said Company, its successors and assigns shall hold the City free and harmless from all damages to the extent arising from the negligent acts or omissions of the Company in the erection or maintenance of said system. Section 3. In making any excavations in any street, alley, or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, and shall back fill all openings in such manner as to prevent settling or depressions in surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition. Section 4. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient

operation of any such improvement. If the City requires the Company to relocate facilities in the public right of way that have been relocated at Company expense at the direction of the City during the previous ten years, the reasonable costs of such relocation will be paid by the City. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request for a commercial, private or other non-public development, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request. Section 5. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has electric facilities, the City shall grant the Company a utility easement for said facilities. If the City does not grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public place, the City shall at its cost and expense obtain easements for existing Company facilities. Section 6. The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company. The pruning and removal of trees shall be performed in accordance with Company's then current line clearance vegetation plan as filed and approved by the Iowa Utilities Board, as well as all applicable codes and standards referenced therein. Section 7. During the term of this franchise, the Company shall furnish electric energy in accordance with the applicable regulations of the Iowa Utilities Board and the Company's tariffs. The Company will maintain compliance with Iowa Utilities Board regulatory standards for reliability. Section 8. Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible. Section 9. There is hereby imposed a franchise fee of one percent (1%) upon the gross revenue generated from sales of electricity by the Company within the corporate limits of the City. The Company shall begin collecting the franchise fee upon receipt of written approval of the required tax rider tariff from the Iowa Utilities Board. The amount of the franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit franchise fee receipts to the City no more frequently than on or before the last business day of the month following each calendar year quarter. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses

incurred by the Company to provide such data or information. Section 10. The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after written acceptance by the Company. The acceptance shall be filed with the City Clerk within ninety (90) days from passage of this Ordinance. Section 11. If any section or provision of this ordinance is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of any other provisions of this ordinance which can be given effect without the invalid portion or portions and to this end each section and provision of this ordinance is severable. Section 12. The expense of the publication of this Ordinance shall be paid by the Company. Section 13. This Ordinance sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be supplemented, superseded, modified or otherwise amended without the written approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact or maintain any Ordinance or place any limitations, either operationally or through the assessment of fees other than those approved and accepted by the Company within this Ordinance, that create additional burdens upon the Company, or which delay utility operations. Roll call vote: Fotiadis, nay; Walkup, aye; Hooper, aye; Page, aye; motion carried.

Motion by Fotiadis and second by Walkup to approve the third reading of ordinance rezoning of 2315 North Main from I-1 Light Industrial to B-2 Highway Commercial:

**ORDINANCE NO. 576** AN ORDINANCE CHANGING THE ZONING OF CERTAIN PROPERTY FROM "I-1" LIGHT INDUSTRIAL TO "B-2" HIGHWAY COMMERCIAL. Be It Enacted by the City Council of Osceola, Iowa: Section I. Property described as follows: 2315 North Main Said property is currently zoned "I-1" Light Industrial and is hereby rezoned "B-2" Highway Commercial. Section II. Severability Clause If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional. Roll call vote: Fotiadis, aye; Walkup, aye; Hooper, aye; Page, aye; motion carried.

Motion by Hooper and second by Walkup to open public hearing regarding the vacation of the South Half of the North/South Alley in Block 13 of West Osceola; roll call vote: Fotiadis, aye; Walkup, aye; Hooper, aye; Page, aye; motion carried. There were no public or written comments during the public hearing. Motion by hooper and second by Walkup to close the public hearing.

Motion by Fotiadis and second by Walkup to approve the first reading; roll call vote; Fotiadis, aye; Gay, aye; Walkup, aye; Hooper, aye; Page, aye; motion carried.

Motion by Fotiadis and second by Walkup to open public hearing regarding Fiscal year 2017 Budget Amendment; roll call vote: Fotiadis, aye; Gay, aye; Walkup, aye; Hooper, aye; Page, aye; motion carried. There were no public comments regarding the budget amendment. Motion by Fotiadis and second by Walkup to close the public hearing.

Motion by Fotiadis and second by Walkup to approve the budget amendment as presented; roll call vote: Fotiadis, aye; Walkup, aye; Hooper, aye; Page, aye; motion carried.

Motion by Fotiadis and second by Walkup to refer to planning and zoning commission regarding the parcel in 600 block of E Webster; roll call vote: Fotiadis, aye; Walkup, aye; Hooper, aye; Page, aye; motion carried.

Motion by Fotiadis and second by Hooper to accept and move forward with the derelict grant for 118 West Jefferson; roll call vote: Fotiadis, aye; Gay, aye; Walkup, aye; Hooper, aye; Page, aye; motion carried.

Motion by Fotiadis and second by Walkup to approve the special events permit for Bark for Life; roll call vote: Fotiadis, aye; Walkup, aye; Hooper, aye; Page, aye; motion carried.

Ty Wheeler – City administrator/clerk updated council on various activities and projects within the city.

Fotiadis had nothing to report. Walkup reminded council of Fred Deihl day on August 24<sup>th</sup>. Hooper had nothing to report. Page had some mowing questions.

Motion by Fotiadis and second by Gay to approve the consent agenda: Council Minutes: May 2<sup>nd</sup> & 16<sup>th</sup> ; Liquor License: None and following claims: Check Numbers: 287807-287880:

Agrivision,Supplies,20.73; Alliant Energy,Utilities,2171.71; Andrew Construction Co.,Supplies,7650; Atlantic Bottling Co.,Supplies,1017.07; Barco Mun. Products,Supplies,542.45; Batteries Included,Supplies,272.03; Blakely Tree Service,Services,810; Bobs Auto Supply,Supplies,165.89; Bsn Sports Inc,Supplies,115.37; Bud Jones Construction,Services,8266.65; Carpenter Uniform& Promotional,Supplies,66.49; Casey's General Stores, Inc.,Fuel,2455.2; Clarke County Animal Shelter,Services,2000; Clarke County Sheriff,Services,18; Construction & Aggregate Products,Supplies,138.77; Continental Research Corp.,Supplies,263.04; Creston Publishing Company,Publication,479.36; Culligan,Supplies,161.06; D & D Pest Control,Services,55; Diamond Oil Co.,Fuel,2392.78; Don's Jons,Services,280; Ed Fickes,Services,75; Electrical Engineering,Services,546.91; Esther Malson,Services,60; Fareway Stores,Services,79.88; Farner-Bocken Co.,Services,1837.49; Friday Ins. Co.,Insurance,1217; Gilbert Home Comfort,Services,230; Gilberts True Value Home Center,Supplies,106.49; Glen's Refrigeration,Services,212.5; Hach Company,Services,324.88; Hard Rock Car Wash,Services,125; Hd Supply Waterworks,Supplies,574.76; Highway Lumber,Supplies,184.68; Ideal Ready Mix Co.,Supplies,4439.68; Idnr/Operator Certification,Services,360; Interstate Chemical Company Inc.,Services,210; Invinci Graphics,Services,142.5; J P Auto,Supplies,143.17; J P Auto - Street,Supplies,7.44; J P Auto - Waste Water,Supplies,223.41; Jetco Inc,Services,849.3; Jmk Lawn Care,Services,1500; Kd Tires, Llc,Services,15; Keystone Laboratories, Inc,Services,2206.79; Lcal Equipment Inc.,Services,657.35; Lyle Persels,Reimb,54.61; Marc Elcock,Services,4290; Mediacom,Utilities,69.95; Mutual Of Omaha Bank Atracredit,Supplies,947.15; Myron Graff,Insurance,50; Nichols Equipment,Services,150; O'reilly Automotive Inc.,Services,424.07; Osceola Farm & Home - P&R,Supplies,413.77; Osceola Farm & Home - Street,Supplies,3.79; Osceola Farm & Home - Wwtp,Supplies,122.58; Petty Cash Library,Petty Cash,136.6; Pool Tech,Supplies,2909.35; Robin Olsen,Reimb,40; Robinsons Co.,Supplies,77.94; Rueter's Red Power,Supplies,1.76; Rusty's Auto Sales & Ser,Services,67.16; Schildberg Const. Co.,Services,6317.43; Seneca Companies,Services,750.38; Solutions,Supplies,785.26; Storey Kenworthy /Matt Parrott & Sons,Supplies,673.27; Superior Construction Services,Supplies,286.19; T&S Industries, Inc,Supplies,450; Trenton Denney,Services,2925; Ty Wheeler,Reimb,35.24; Tyler Technologies, Inc.,Services,1733.07; U.S. Post Office,Services,116; Us Cellular,Utilities,358.58; Usa Bluebook,Services,699.44; Van Meter Inc,Services,7.92; Veenstra & Kimm Inc.,Services,25573.27; Wash & Weigh,Services,47.5; Windstream,Utilities,1031.17; ,Grand Total ,97219.28; Check Numbers: 287895-287973;

Fund Recap: 1,General,40076.59; 101,Insurance,1217; 110,Road Use Tax,9869.94; 331,Old Plant Main,22558.8; 336,CIP ,2388.07; 610,Sewer ,21108.88; ,Grand Total ,97219.28;

Roll call vote: Fotiadis, aye; Walkup, aye; Page, aye; Hooper, aye; motion carried.

There being no further business, motion by Hooper and second by Page to adjourn the meeting at 8:10 PM. All voting aye, motion carried.

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Thomas J. Kedley – Mayor

Attest:

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Britanee Ward – Accounting Manager/ Assistant City Clerk