

ITEM NO. **WS 6**

OFFICE OF THE CITY ADMINISTRATOR

Johnston, Iowa

AGENDA COMMUNICATION

April 20, 2009

WORK SESSION

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| SUBJECT: Discussion regarding panhandling | ACTION REQUIRED: <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Approval <input type="checkbox"/> Receive/File <input type="checkbox"/> Attorney Review |
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JPS

SYNOPSIS:

In the fall and early winter of 2008 the city received a number of complaints regarding panhandlers that solicit money from motorists on the west bound exit ramp of Interstate 35/80 at Merle Hay Road. In reviewing the complaints it was determined that the activity occurs outside the Johnston city limits so the city currently has no authority to address the issue (see attached map). After discussions with representatives from Polk County and Urbandale it was determined the best strategy to deal with the issue is for all three jurisdictions to adopt a similar ordinance so the issue can be dealt with consistently and to avoid a situation where the individuals involved move to another jurisdiction that does not regulate the activity.

The City Attorney has completed research regarding how panhandling has been addressed around the country and legal issues to consider in creating an ordinance. Attached is a draft ordinance for council review. At the work session we intend to discuss the issue and determine if the City Council is interested in adopting an ordinance addressing panhandling and encouraging Urbandale and Polk County to adopt a similar ordinance.

FISCAL IMPACT:

RECOMMENDATION:

2/2/11

3RD
DRAFT

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 40 OF THE
CODE OF ORDINANCES OF THE CITY OF JOHNSTON, IOWA, 2007,
BY ADDING THE NEW SECTION 40.6 ENTITLED PANHANDLING

BE IT ENACTED by the City Council of the City of Johnston, Iowa, to amend the Code of Ordinances of the City of Johnston, Iowa, 2007, Chapter 40, as follows:

ESTABLISHMENT AND PURPOSE: The purpose of this ordinance is to adopt a new Section 40.6 Panhandling, of the Code of Ordinances of the City of Johnston, Iowa, 2007 to protect the health, safety and welfare of the citizens of Johnston from aggressive panhandling and protect the health, safety and welfare of all individuals, including the panhandlers and persons being solicited, by restricting panhandling in inherently dangerous and high traffic areas.

Section 1: That the Code of Ordinances of the City of Johnston, Iowa, 2007 be amended by adding the new Section 40.6, as follows:

SECTION 40.6. PANHANDLING.

I. Definitions.

- a) "Panhandling," for the purpose of this chapter, is any solicitation made in person requesting an immediate donation of money or other thing of value. Purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation, is a donation for the purpose of this section. However, panhandling does not include passively standing or sitting with a sign or other indication that one is seeking donations, without addressing any solicitation to any specific person other than in response to an inquiry by that person, as long as said individual maintains the distance set forth in ~~40.61b.~~ 40.6, 1b
- b) "Merle Hay Road, NW 86th Street and Ramp Terminal Zones," for the purpose of this chapter, means an area in the City of Johnston, Iowa and Polk County, Iowa comprised of the following: (i) Ramp Terminal Zones are the off ramp terminals located where Interstate 35-80 exits to and intersects with Merle Hay Road and where Interstate 35-80 exits to and intersects with NW 86th Street, which would include the entire off ramp paved surface and the additional area consisting of sixteen (16) feet from the edge of the paved surface; (ii) Merle Hay Road Zone is the area one hundred fifty (150) feet north and south of the Ramp Terminal Zone (area where Interstate 35-80 intersects with Merle Hay Road) which would include the entire paved surface of Merle Hay Road and the additional area consisting of twelve (12) feet from the edge of the paved surface; and (iii) NW 86th Street Zone means the area in the City of Johnston, Iowa one hundred fifty (150) feet north and south of the Ramp Terminal Zone (area where Interstate 35-80 intersects with NW 86th Street) which would

include the entire paved surface of NW 86th Street and the additional area consisting of twelve (12) feet from the edge of the paved surface.

- c) "Person" means and includes both individual persons and organizations.

2. Place of Panhandling. It shall be unlawful for any person to panhandle when the person solicited is in any of the following places within the City limits of Johnston, Iowa or other areas specifically set forth below:

- a) In any vehicle on the street;
- b) On public property in the "Merle Hay Road, NW 86th Street and Ramp Terminal Zones," as defined in Section 40.6(1)(b).

3. Manner of Panhandling. It shall be unlawful for any person to panhandle in any of the following manners:

- a) By coming within three (3) feet of the person solicited, until that person has indicated that he does wish to make a donation;
- b) By blocking the path of the person solicited along a sidewalk or street;
- c) By following a person who walks away from the panhandler;
- d) By using profane or abusive language, either during the solicitation or following a refusal;
- e) By panhandling in a group of two or more persons;
- f) While under the influence of alcohol or any illegal narcotic or controlled substance; or
- f) By any statement, gesture, or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat.

4. Penalties. Except as otherwise specifically provided in this Section 40.6, any person who violates any of the provisions of Section 40.6 shall be guilty of a misdemeanor as provided for in the Code of Ordinances of the City of Johnston, Iowa, 2007.

Section 2: All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 3: If any section, provision, or part of this Ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this Ordinance as a whole or any section, provision, or part thereof not adjudged as provided by law.

BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE CITY OF JOHNSTON, IOWA, that the above stated ordinance shall be in effect from and after its passage by the City Council and upon publication as required by law.

PASSED AND APPROVED by the City Council of the City of Johnston, Iowa this ____ day of _____, 2009.

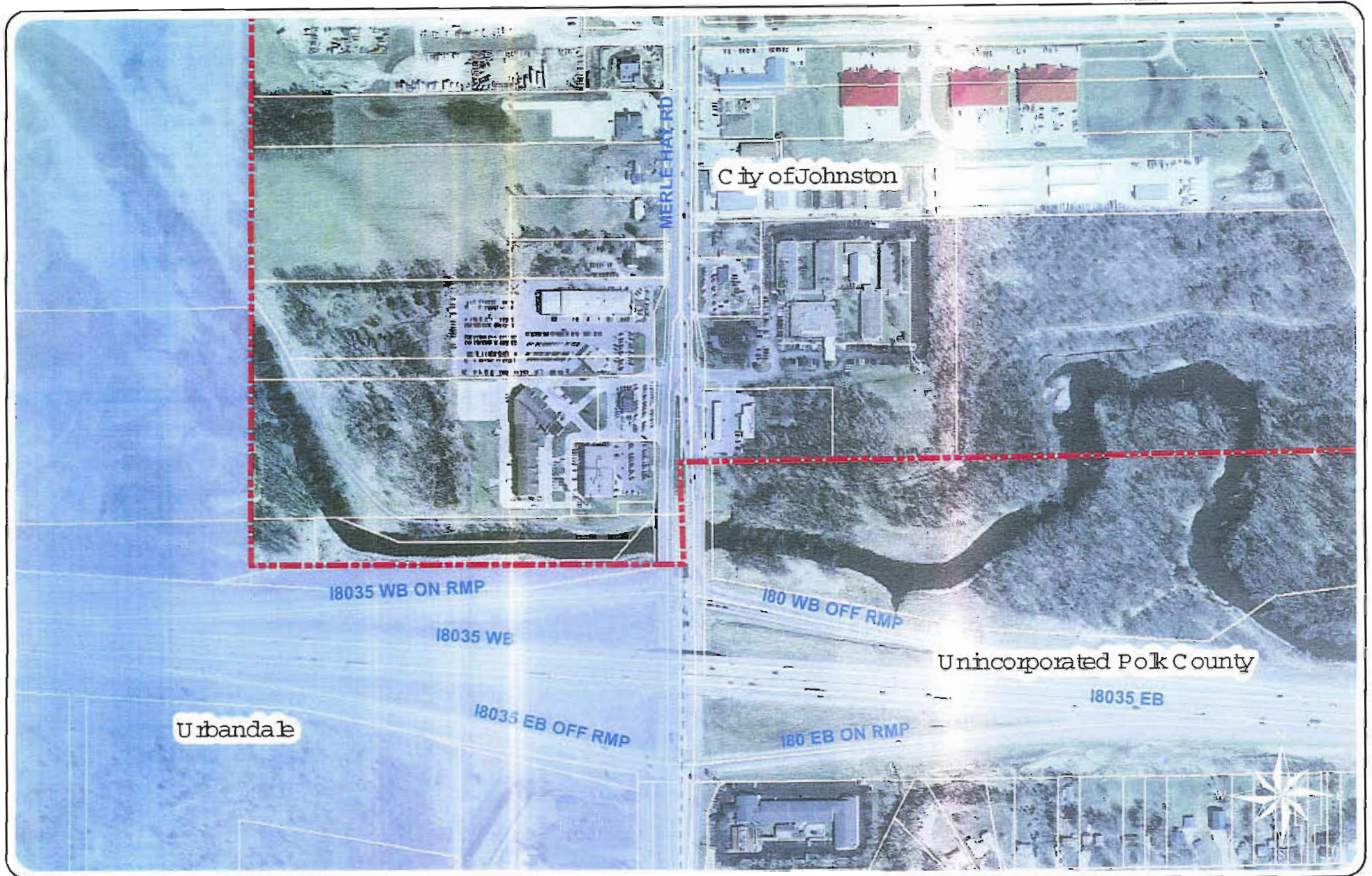
Paula Dierenfeld, Mayor

Attest: _____
Cyndee Rhames, City Clerk

Published: _____, 2009.

Merle Hay Road and Corporate Boundaries

- Legend**
-  Johnston Corporate Limits
 -  Urbandale
 -  Property Parcels



0 325 650 1,300 1,950 2,600 Feet

1 inch equals 400 feet