FILED
APR 30 1985
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

FREDERICK M. SAUL,

Plaintiff-Appellee,

vs.

CITY OF EVANSDALE, IOWA,

Defendant,

and LEO GAGE,

Intervenor-Appellant.

Filed April 30, 1985

5-57
84-982

Appeal from the Iowa District Court for Black Hawk County - Roger F. Peterson, Judge.

Intervenor appeals from a judgment for plaintiff in a declaratory judgment action seeking to establish the invalidity of a city ordinance. REVERSED AND REMANDED.

Stephen J. Rapp, Waterloo, Iowa, for intervenor-appellant.

C. A. Frerichs of Fulton, Frerichs, Martin & Andres, Waterloo, Iowa, for plaintiff-appellee.

Jay P. Roberts of Swisher & Cohrt, Waterloo, Iowa, for defendant.

Heard by Oxberger, C.J., Donielson, and Hayden, JJ.

HAYDEN, J.

Intervenor appeals from a judgment for plaintiff in a declaratory judgment action seeking to establish the invalidity of a city ordinance.

On September 6, 1983, the city council of defendant city approved the following ordinance:

> ORDINANCE NO. 389
> AN ORDINANCE ABOLISHING A FULL-TIME MAYOR'S SALARY
>
> BE IT ENACTED by the City Council of the City of Evansdale, Iowa, that the salary established for the position of full-time Mayor be hereby abolished.
>
> Be it further enacted that all ordinances or parts thereof in conflict are hereby repealed to the extent of such conflict.

At the subsequent September 13 and September 20 meetings the city council considered and approved ordinance 389 in the following form:

> ORDINANCE NO. 389
>
> AN ORDINANCE REPEALING SECTION 2-49, SUBSECTION 2 OF THE MUNICIPAL CODE OF THE CITY OF EVANSDALE, IOWA: THEREBY ABOLISHING A FULL-TIME MAYOR'S SALARY
>
> BE IT ENACTED by the City Council of the City of Evansdale, Iowa as follows:
>
> (1) Subsection (2) of Section 2-49 of the Municipal Code of the City of Evansdale, Iowa is hereby repealed, thereby abolishing a full-time Mayor's salary.
>
> and
>
> (2) All ordinances or parts thereof in conflict are hereby repealed to the extent of such conflict.

There was no formal amendment substituting the second form of the ordinance for the first. Plaintiff filed the present action seeking to have the ordinance declared invalid. The trial court granted plaintiff's motion for summary judgment on the ground that the city council had not complied with Iowa Code section 380.3.

Our review of this proceeding in equity is de novo. Iowa R. App. P. 4.

Iowa Code section 380.3 provides in part:

> A proposed ordinance or amendment must be considered and voted on for passage at two council meetings prior to the meeting at which it is to be finally passed . . . .

Plaintiff argues that the city council in this case did not comply with this requirement because the ordinance voted upon at the September 6 meeting was not the same ordinance which was voted upon at the September 13 and 20 meetings.

We reject this contention. The two forms of the ordinance reflect an identical purpose and intent. The second form is merely reworded to be more specific by referring to the exact section of the municipal code being repealed by the new ordinance. Changes may be made in an ordinance prior to its third reading as long as they do not affect the general purpose of the ordinance. Brackett v. City of Des Moines, 246 Iowa 249, 257, 67 N.W.2d 542, 546 (1954).

It is clear that the same ordinance was considered three times in accordance with the statute, even though the ordinance was reworded without a formal amendment. Failure to observe strict parliamentary procedure does not invalidate an ordinance. McGraw v. Whitson, 69 Iowa 348, 350, 28 N.W. 632, 633 (1886).

The trial court's grant of summary judgment for plaintiff is reversed. Since plaintiff's petition alleges other arguments contending that the ordinance is a nullity which were not considered by the trial court, we remand the case for further proceedings.

REVERSED AND REMANDED.