

CITY COUNCIL PROCEEDINGS

AGENDA ITEM:

June 20, 2011

1. Following the Pledge of Allegiance, a regular meeting of the City Council of the City of St. Cloud, Minnesota, was held on June 20, 2011, at 6 p.m. in the City Council Chambers.
2. A Moment of Silence was observed for our men and women serving in the Armed Forces.
3. All City Council members were present: Sonja Berg, Jeff Goerger, Nancy Gohman (arrived at 6:20 p.m.), George Hontos, Jeff Johnson, John Libert and Dave Masters.

CONSENT AGENDA:

4. **APPROVAL OF AGENDA.** ACTION TAKEN: Approved.
5. **APPLICATION FOR A TRANSIENT MERCHANT'S LICENSE FOR WESLEY ALLAN JAMES CALLAND FOR VIVINT, INC.; 4931 NORTH 300 WEST; PROVO, UTAH.** ACTION TAKEN: Approved.
6. **APPLICATION FOR A SEASONAL OUTDOOR LIQUOR LICENSE FOR OLD CHICAGO FOR AN EVENT TO BE HELD ON JUNE 29TH IN THE RESTAURANT PARKING LOT AT 4040 2ND STREET SOUTH.** ACTION TAKEN: Approved.
7. **APPLICATION FOR AN EXEMPTION FROM THE NOISE ORDINANCE FOR SHEILA AND MATT KOST FOR A WEDDING TO BE HELD JUNE 25, 2011 AT THEIR HOME AT 32027 NORTHWOOD LANE.** ACTION TAKEN: Approved.
8. **APPLICATION FOR AN EXEMPTION FROM THE CITY'S NOISE ORDINANCE FOR ANGUSHIRE GOLF COURSE FOR NIGHT GOLFING EVENTS TO BE HELD ON JULY 15TH AND AUGUST 19TH FROM 9:30 P.M. UNTIL MIDNIGHT.** ACTION TAKEN: Approved.
9. **RESOLUTION AUTHORIZING SPONSORSHIP OF CROSS-COUNTRY SKI TRAILS OPERATED BY THE NORDIC SKI CLUB OF CENTRAL MINNESOTA.** ACTION TAKEN: Resolution adopted and assigned number 2011-6-73.
10. **AUTHORIZE THE FIRE DEPARTMENT TO SOLICIT QUOTES AND PURCHASE A REPLACEMENT VEHICLE FOR THE FIRE PREVENTION DIVISION AND TO DISPOSE OF THE EXISTING FIRE PREVENTION VAN. TOTAL PROJECT NOT TO EXCEED \$28,000.** ACTION TAKEN: Approved.
11. **RESOLUTION APPROVING APPLICATION FOR A \$195,470.00 GRANT FUNDED BY THE US/DOT NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION THROUGH THE DEPARTMENT OF PUBLIC SAFETY'S OFFICE OF TRAFFIC SAFETY FOR A PROJECT ENTITLED C.R.A.S.H. TASK FORCE(CENTRAL MINNESOTA REDUCTION OF ACCIDENTS FOR SAFE HIGHWAYS FROM**

OCTOBER 1, 2011 THROUGH SEPTEMBER 30, 2012 AT NO COST TO THE CITY OF ST. CLOUD.) ACTION TAKEN: Resolution adopted and assigned number 2011-6-74.

12. RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR PHASE 1 OF THE DUAL FORCEMAIN INTEGRITY AND ASSESSMENT PROJECT (BLACK & VEATCH INC.). ACTION TAKEN: Resolution adopted and assigned number 2011-6-75.

13. RESOLUTION ACCEPTING LOW BID FOR RIVER BLUFFS REGIONAL PARK "LEGACY" IMPROVEMENT PROJECT, CONTRACT 2011-04. ACTION TAKEN: Resolution adopted and assigned number 2011-6-76.

14. UNIVERSITY DRIVE AND 5TH AVENUE SOUTH INTERSECTION IMPROVEMENTS, CONTRACT 2011-07, S.P. 162-101-12: (A) RESOLUTION ACCEPTING LOW BID FOR UNIVERSITY DRIVE AND 5TH AVENUE SOUTH INTERSECTION IMPROVEMENTS, CONTRACT 2011-07, S.P. 162-101-12; AND (B) RESOLUTION DECLARING THE OFFICIAL INTENT OF THE CITY OF ST. CLOUD, MINNESOTA, TO REIMBURSE CERTAIN EXPENDITURES FROM THE PROCEEDS OF BONDS TO BE ISSUED BY THE CITY, CONTRACT 2011-07, S.P. 162-101-12. ACTION TAKEN: Resolutions adopted and assigned number 2011-6-77 and 2011-6-78 respectively.

15. APPROVAL OF LOW QUOTE FOR DEMOLITION OF HOUSE AT 2438 - 1ST STREET SOUTH. ACTION TAKEN: Approved.

16. REQUEST FROM PUBLIC WORKS DEPARTMENT TO PURCHASE (A) A BUDGETED TANDEM REFUSE TRUCK CHASSIS; AND (B) A BUDGETED REFUSE PACKER. ACTION TAKEN: Approved.

17. RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE TERMS AND CONDITIONS OF ACCEPTING AIRPORT IMPROVEMENT PROGRAM GRANT AGREEMENTS BETWEEN THE CITY OF ST. CLOUD AND THE FEDERAL AVIATION ADMINISTRATION. ACTION TAKEN: Resolution adopted and assigned number 2011-6-79.

18. AN ORDINANCE AMENDING MULTIPLE SECTIONS OF THE ST. CLOUD LAND DEVELOPMENT CODE RELATED TO FLOODPLAIN REGULATIONS: ARTICLE 3 - RESIDENTIAL DISTRICTS, SECTION 3.3 PUBLIC NOTICE, D. MAILED NOTICE, 2.; ARTICLE 4 - LAND USE APPLICATIONS AND ENFORCEMENT, SECTION 4.1 TEXT AMENDMENT AND REZONING, C. AUTHORITY, 3.; ARTICLE 5 - SUBDIVISION APPLICATION AND APPROVAL, SECTION 5.11 ADDITIONAL ENVIRONMENTAL REGULATIONS, C., 1.; ARTICLE 6 - ZONING DISTRICTS, SECTION 6.4 ANNEXATIONS AND SECTION 6.6 BOUNDARY LINES; ARTICLE 12 - OVERLAY DISTRICTS AND DESIGNATED AREAS, SECTION 12.1 FLOODPLAIN OVERLAY DISTRICT; ARTICLE 20 - NONCONFORMITIES, SECTION 20.2 GENERAL STANDARDS OF APPLICABILITY

AND SECTION 20.4 NONCONFORMING STRUCTURE; ARTICLE 21 - DEFINITIONS, SECTION 21.5 GENERAL TERMS DEFINITIONS. ACTION TAKEN: A reading and public hearing was set for July 11, 2011. (Proposed Ordinance 2011-17)

18A. **ADD-ON: RESOLUTION OF THE CITY OF ST. CLOUD, MINNESOTA, DECLARING THAT THE CITY WILL ADOPT THE PERFORMANCE MEASURES DEVELOPED BY THE STATE OF MINNESOTA FOR 2011 RESULTS.** ACTION TAKEN: City Administrator Mike Williams gave a brief overview of the newly created state performance measures programs for Cities and Counties. As a participant, St. Cloud must file a report with the Office of the State Auditor by July 1, 2011, with declaration approved by the City Council that the City has adopted the corresponding ten performance measures (developed by the Council of Local Results and Innovation) for 2011. It was moved by Berg, seconded by Masters, to adopt the resolution declaring the City of St. Cloud will adopt the performance measures developed by the State of Minnesota for 2011 Results and the 10 Model Performance Measures for Cities for 2011. The motion unanimously carried. The adopted resolution was assigned number 2011-6-80.

OPEN FORUM:

Joanne Hatten, 1281 15th Street NE, #201; Sauk Rapids; expressed her concern that bicyclists are using the new Skate Park Plaza, which is prohibited. She has an autistic son who is taking skateboarding lessons and is intimidated by the bikers using the ramps and rails. She asked for better law enforcement at the park for public safety.

Craig S. (no address given); said he is traveling throughout the United States to express his concern about harmful chemicals, radiation, and drugs being exposed daily to the public.

PUBLIC HEARINGS:

19. **2011 BITUMINOUS STREET RESURFACING IMPROVEMENTS: (A) CONSIDERATION OF RESOLUTION ORDERING 2011 BITUMINOUS STREET RESURFACING IMPROVEMENTS; AND (B) RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR 2011 BITUMINOUS STREET RESURFACING IMPROVEMENTS, CONTRACT 2011-13, S.A.P. 162-143-004.** City Engineer Steve Foss reviewed the seal coat and bituminous resurfacing program for 2011, noting it is limited to Municipal State Aid roadways (no local streets at this time due to budget constraints). The improvements under consideration include resurfacing Kilian Boulevard from University Drive S.E. to 7th Street S.E. Council President Libert opened up the public hearing. No one spoke. The public hearing was closed. It was

moved by Goerger, seconded by Masters, to approve (A) Resolution order 2011 Bituminous Street Resurfacing Improvements. The motion unanimously carried. The adopted resolution was assigned #2011-6-81. Hontos noted that residents have shown concern about the many potholes needing patching and local roads needing overlays. Both the mayor and city engineer confirmed that funding for such projects has been drastically reduced. After discussion, it was moved by Masters, seconded by Johnson, to approve (B) Resolution approving plans and specifications and authorizing advertisement for bids on the 2011 Bituminous Street Resurfacing Improvements, Contract 2011-13; S.A. P. 162-143-004. The motion unanimously carried. The adopted resolution was assigned #2011-6-82.

20. (A) ORDINANCE VACATING 42ND AVENUE SOUTH, EAST OF 41ST AVENUE SOUTH AND 25TH STREET SOUTH, SOUTH OF 42ND AVENUE SOUTH, ADJACENT TO OUTLOT A SUN VILLA ESTATES AND LOT 1, BLOCK 2, BURNS ESTATES. (VAC-2011-01); FOLLOWED BY ACTION ON (B) PRELIMINARY AND FINAL PLAT OF SUN VILLA PLAT THREE.

Community Development Director Matt Glaesman gave a brief overview of the application coming forward from Torborg Construction. The applicant's request is to vacate and create a single platted lot to accommodate a previously approved 100-unit apartment building (Council approved February 2011). There was brief dialogue regarding the discussions between the City, Stearns County, and the applicant on the matters of wetland delineation/mitigation. A mitigation plan was reached and the City's plat will be contingent upon Stearns County's approval of the plan at the end of June. The applicant has proposed to satisfy the parkland dedication requirement through dedication of land within the vicinity to accommodate a pocket park facility. City Council President Libert opened the public hearing. No one spoke. The public hearing was closed. It was moved by Hontos, seconded by Goerger, to approve (A) the Ordinance vacating 42nd Avenue South, East of 41st Avenue South and 25th Street South, South of 42nd Avenue South, adjacent to Outlot A Sun Villa Estates and Lot 1, Block 2, Burns Estates (VAC-2011-01). The motion carried by a vote of 6-1 with Berg voting against (noting consistency with her February vote). The adopted Ordinance was assigned number 2504. It was then moved by Goerger, seconded by Hontos, to approve the preliminary and final plat of Sun Villa Plat Three. The motion carried by a vote of 6-1 with Berg voting against.

21. **(A) RESOLUTION BY THE CITY OF ST. CLOUD, MINNESOTA AUTHORIZING THE ABATEMENT OF TAXES PURSUANT TO MINNESOTA STATUTES, SECTION 469.1812 THROUGH 469.1815(MARCO, INC. PROJECT); FOLLOWED BY (B) RESOLUTION BY THE CITY OF ST. CLOUD, MINNESOTA AUTHORIZING THE APPROVAL OF A CONTRACT FOR PRIVATE DEVELOPMENT WITH THE ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF ST. CLOUD, HEATHERWOOD DEVELOPMENT, LLC AND MARCO, INC.** Community Development

Director Matt Glaesman provided an introduction of Marco's request to build its corporate headquarters and distribution facility on 6.5 acres of property located in south St. Cloud near Interstate 94/CSAH75. The property is owned by the Rice family. The new facility will provide a desirable professional entrance/gateway to south St. Cloud. Because of high costs associated with relocation and construction, Marco has applied for tax increment financing to make this project feasible. The proposed project would result in the retention/creation of 150 jobs in our community. Glaesman noted that Stearns County conducted a public hearing to consider the abatement of real estate taxes generated by the Marco project and denied the request. However, ISD 742 did agree to a full abatement at its recent school board meeting. The EDA Board also conducted a public hearing and approved the creation of Economic Development District No.1 and the Development Contract with Marco/Heatherwood LLC, the two entities involved in the I94/75 project. Glaesman further explained that Section 6 of the Tax Abatement Agreement includes terms to protect the City in case of default of obligations by Marco within the first five years (a claw back clause). City Council President Libert opened the public hearing. The following individuals spoke:

JEFF GAU, PRESIDENT AND CEO OF MARCO, 2512 HALLIDAY ROAD; expressed his pride for the Marco company as he explained how it has grown from its small retail store in 1987 to employing 450 people today. Marco is a 100% employee-owned company that provides good paying jobs in our community. The business serves customers across five states and has 21 locations. The current facility (headquarters) no longer supports the continued growth of the company. A new facility would provide Marco with contiguous distribution, warehouse, and office operations, etc., while keeping its roots in St. Cloud. He cited the many awards and achievements bestowed on Marco over the past years, as well as the philanthropic practices of the company. The company researched other locations, but felt that building/construction in this location was the best option and would bring more development into that corridor. He confirmed that the company agrees to the 5-year claw back clause.

ANN NOLAN, 1940 30TH STREET S.; agreed that Marco is a great corporate citizen and would make a wonderful gateway to south St. Cloud. She was concerned, however, that the focus seems to be on the retention of jobs rather than providing for new jobs. She suggested that a public hearing should have been held prior to the EDA Board voting for public input.

DAVE GRUENES, VOLUNTEER CHAIR OF THE EDA BOARD; expressed the importance of keeping Marco in our community, noting that the EDA Board voted unanimously to approve the request (June 15, 2011). He corrected the previous speaker's comments by stating that a public hearing was held prior to the EDA Board taking its vote. He highlighted the many positives of having Marco's headquarters remain in our community and serve as a gateway to south St. Cloud. He added that this project will bring an estimated 200 construction jobs to our community. He requested City Council approval.

DR. EARL POTTER, PRESIDENT OF SCSU AND VICE CHAIR OF GREATER ST. CLOUD ECONOMIC DEVELOPMENT CORPORATION; referenced a recent TIMES news article that asked why more SCSU graduates weren't staying in St. Cloud. He said it is a community priority to address this issue and employment opportunities/job development play a major role. He stated that Marco is a good employer and has employed many area graduates from entry level to executive level positions. He was pleased that Marco makes it a priority to provide quality jobs for its community and respectfully requested the Council's support for the project.

WAYNE SCHLUCHTER, 7130 43RD AVENUE SE, had no objection to Marco expanding and was pleased with the company's success. However, he was opposed with it being a tax abatement project. He was disappointed that the school district was asked to participate in economic development. He suggested that the tax burden shift should be shared with other businesses, and not the school district. Maintaining a good school system will help attract businesses to the community. He suggested that it was not good policy for a local business to not contribute to its local school. He challenged the city to find incentives and funding mechanisms in the future that would attract and retain businesses and eliminate the involvement of the school district.

There being no one else wishing to speak, the public hearing was closed. Berg/Masters moved approval of (A.) "The Resolution authorizing the Abatement of Taxes pursuant to Minnesota Statutes, Section 469.1812 through 469.1815" with the inclusion of the five-year claw back clause. During discussion, Councilmember Hontos read a prepared statement asking for an explanation as to why Marco is in need of a public subsidy now and questioned the company's strategy. Jeff Gau responded by saying that Marco is an employee-owned company and investing in business and land doesn't build a company or create jobs. However, putting the company's costs and cash into new business and new markets grows the business overall, as growth creates jobs. When asked how he would feel if a direct competing company would ask for the same, he

responded that it would be up to the Council to make that determination and he would accept the competition. Jennifer Mrozek, Chief Financial Officer for Marco, responded to questions regarding the ownership of Heatherwood Development, LLC. Discussion continued with regard to the length of the claw back clause. Mayor Kleis spoke to the public hearing comments regarding a “shift of tax burden” and clarified that the tax abatement would not raise taxes or cost the school district any money. Hontos concluded his comments by asking administration to develop standards/guidelines/criteria for judging such future requests for public subsidy. The motion (to adopt resolution with the claw back clause) carried by a 6-1 vote with Hontos voting against. The resolution was assigned number 2011-6-83. **(B.)** Goerger/Masters moved to approve the “Resolution by the City of St. Cloud, Minnesota authorizing the approval of a Contract for Private Development with the Economic Development Authority of the City of St. Cloud, Heatherwood Development, LLC and Marco, Inc. Councilmember Hontos referenced the Tax Abatement Agreement, pages 10 & 11, (listed as Council Packet pages 21-38 and 21-39) - under ARTICLE VI, PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER; INDEMNIFICATION: specifically relating to any transfer of benefits/assignment of benefits to a future business. He asked that stronger language be included in the agreement that assures approval be required by the EDA and the City Council prior to any sale/transfer. Following discussion, the council vote on the resolution with the inclusion of attention to language to Section 6.2 (transferable authority) carried by a vote of 6-1 with Hontos voting against. The resolution was assigned number 2011-6-84.

OLD BUSINESS:

22. **RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A JOINT POWERS AGREEMENT WITH ST. CLOUD STATE UNIVERSITY FOR OPERATION OF THE UNDERAGE CONSUMPTION (IMPACT) DIVERSION PROGRAM.** An update was given by Dr. Robb Reff, Ph.D., SCSU Assistant Dean of Students for Chemical Health and Outreach Programming, on the IMPACT Diversion Program that has been in effect for one year. The council members expressed favorable comments and support for the program. Goerger/Masters moved approval of the resolution as presented. The motion unanimously carried. The adopted resolution was assigned number 2011-6-85.

23. 25TH AVENUE IMPROVEMENTS - PHASE 1, CONTRACT 2011-06, S.A.P. 162-132-019 (A) RESOLUTION ACCEPTING LOW BID FOR 25TH AVENUE IMPROVEMENTS - PHASE 1, CONTRACT 2011-06, S.A.P. 162-132-019.; and (B) RESOLUTION DECLARING THE OFFICIAL INTENT OF THE CITY OF ST. CLOUD, MINNESOTA, TO REIMBURSE CERTAIN EXPENDITURES FROM THE PROCEEDS OF BONDS TO BE ISSUED BY THE CITY, CONTRACT 2011-06, S.A.P. 162-132-019.

City Engineer Steve Foss gave a brief overview of the improvement project. Six bids were received on this date (June 20, 2011), all were favorable. The low bid in the amount of \$545,398.72 was submitted by Knife River Corporation of Sauk Rapids. Goerger/Masters moved to approve items A. & B. as presented. The motion unanimously carried. The resolutions were assigned numbers 2011-6-86 and 2011-6-87 respectively.

OPEN DISCUSSION & ANNOUNCEMENTS:

Mayor Kleis spoke to the affects the pending state shut down could have on our current and future transportation projects in St. Cloud.

The Mayor announced the 5th Annual Granite City Days Festival will be June 23-26, 2011. Berg reminded the public about the GCD parade at 10 a.m. on Saturday morning, June 25. It is also the City's "Listening Week" and the Police Department will be giving tours from 5 – 7 p.m. on Tuesday evening, June 21, 2011; and the public can meet with City staff on Sunday, June 26, from noon – 4:30 p.m. at Lake George.

ADJOURNMENT:

There being no further business to discuss, City Council President Libert adjourned the meeting at 8:11 p.m.

Respectfully submitted by

Sandy Hilsgen
Recording Council Secretary

City Council President John Libert