

CITY OF ST. CLOUD CITY COUNCIL PROCEEDINGS
Monday, March 25, 2019
6:00 PM
City Council Chambers

1. **PLEDGE OF ALLEGIANCE**
2. **MOMENT OF SILENCE FOR OUR MEN AND WOMEN SERVING IN THE ARMED FORCES**
3. **ROLL CALL: Councilmembers Present:** Carol Lewis, Mike Conway, Jeff Goerger, George Hontos, Steve Laraway, Paul Brandmire, Dave Masters

CONSENT AGENDA:

4. **APPROVAL OF AGENDA**
ACTION TAKEN: LEWIS/BRANDMIRE/APPROVED 7-0
5. **APPLICATION FOR A TEMPORARY ON-SALE INTOXICATING LIQUOR LICENSE FOR CATHEDRAL HIGH SCHOOL FOR A FUNDRAISING BEAN-BAG TOURNAMENT EVENT TO BE HELD ON MARCH 30TH, 2019 AT THE SCHOOL GYMNASIUM.**
ACTION TAKEN: BRANDMIRE/CONWAY/APPROVED 7-0

Councilmember Brandmire pulled item for further discussion. It was moved by Councilmember Brandmire, seconded by Councilmember Conway to approve. Inquired why Council received less than 30 days prior to event. City Clerk Seth Kauffman commented that the application was submitted more than 30 days prior, approved by all departments accordingly. Staff recommends approval. Councilmember Brandmire commented that application was submitted on March 7th. Kauffman commented that the city has been working with group for past 5-6 years on exact event and nothing has changed. Councilmember Brandmire commented on missing amount of liability insurance.

- ~~6. **APPLICATION FOR A TEMPORARY INTOXICATING LIQUOR LICENSE FOR THE SCSU FOUNDATION FOR AN ENGLISH LEARNERS EVENT TO BE HELD ON APRIL 10, 2019.**~~
7. **APPLICATIONS FROM ST KATHARINE DREXEL SCHOOL FOR THEIR ANNUAL FUNDRAISER TO BE HELD ON MAY 17, 2019**
ACTION TAKEN: LEWIS/BRANDMIRE/APPROVED 7-0
8. **APPLICATION FOR AMUSEMENT DEVICE LICENSE FOR WEAVER HOLDINGS, INC. DBA MIDTOWN BAR & GRILL, 3333 WEST DIVISION STREET, SUITE 120**
ACTION TAKEN: CONWAY/MASTERS/APPROVED 7-0

Councilmember Conway pulled item for further discussion. It was moved by Councilmember Conway, seconded by Councilmember Masters to approve. Councilmember Conway inquired on clarification on types of machines. City Clerk Seth Kauffman commented that they are coin operated machines. Will discuss further in Public Hearing for property.

9. **APPLICATION FOR A TEMPORARY ON-SALE INTOXICATING LIQOR LICENSE TO BE USED IN CONJUNCTION WITH THE EARTH DAY RUN EVENTS ON APRIL 19 & 20.**
ACTION TAKEN: LEWIS/BRANDMIRE/APPROVED 7-0
10. **CONTINUE BANKING SERVICES RELATIONSHIP WITH US BANK**
ACTION TAKEN: LEWIS/BRANDMIRE/APPROVED 7-0
11. **(A) APPROVE A REQUEST FOR THE 9TH ANNUAL SUMMERTIME BY GEORGE FESTIVAL FROM THE ST. CLOUD ROTARY CLUB; (B) PROVIDE AN AUTOMATIC EXEMPTION TO THE ST CLOUD CITY NOISE ORDINANCE; AND (C) APPROVE A TEMPORARY ON-SALE LIQUOR LICENSE**
ACTION TAKEN: LEWIS/BRANDMIRE/APPROVED 7-0
12. **RESOLUTION APPROVING A REGIONAL TRAIL LEGACY GRANT APPLICATION TO THE GREATER MINNESOTA REGIONAL PARKS & TRAILS COMMISSION AND MINNESOTA DEPARTMENT OF NATURAL RESOURCES FOR THE BEAVER ISLAND REGIONAL TRAIL PHASE 8 CONSTRUCTION PROJECT AND BEAVER ISLAND REGIONAL TRAIL RESTORATION PROJECT**
ACTION TAKEN: LEWIS/BRANDMIRE/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-03-31
- ~~13. **RESOLUTION ACCEPTING BIDS FOR WHITNEY SENIOR CENTER PHASE II KITCHEN REMODEL**~~
14. **ACCEPTANCE OF 2018-19 HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS GRANT IN THE AMOUNT OF \$30,955.00**
ACTION TAKEN: LEWIS/BRANDMIRE/APPROVED 7-0
15. **RESOLUTION ACCEPTING ASSIGNMENT AGREEMENT FOR DRAINAGE SYSTEM FROM HAVEN TOWNSHIP TO CITY OF ST. CLOUD**
ACTION TAKEN: LEWIS/BRANDMIRE/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-03-33
16. **RESOLUTION APPROVING COUNTY PROJECT WITHIN MUNICIPAL CORPORATE LIMITS**
ACTION TAKEN: LEWIS/BRANDMIRE/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-03-32

OLD BUSINESS:

17. **RESOLUTION PROHIBITING CITY COUNCIL MEMBER FROM COLLECTING OR ACCEPTING ADDITIONAL COMPENSATION OR PER DIEM PAYMENTS FOR THEIR ATTENDANCE AT BOARD AND COMMISSION MEETINGS**
ACTION TAKEN: MASTERS/CONWAY/APPROVED 6-1
RESOLUTION ADOPTED AND ASSIGNED 2019-03-34

City Administrator Matthew Staehling introduced item as an item brought back per Council's request. It was moved by Councilmember Masters, seconded by Councilmember Conway to approve.

Councilmember Hontos discussed that background information in packet could have been presented in a more accurate manner. Information should be more objective

rather than biased and one-sided. Requested explanation on resolution. Does this include just city boards or any board and commission? It currently suggests all boards.

Councilmember Masters commented that "city" could be added. Also mentioned that he did serve on the HRA Board for 2 ½ years and wasn't addressed until Mayor commented on practice in Fall. Requested the Mayor provide feedback on why it was brought forward.

Mayor Kleis commented that the issue of per diem was brought up more than once, dating back to 2007. Commented on Councilmember Hontos' comments on it being a "witchhunt" or "vendetta." This is far from that. Rather, it is principle. This has been discussed various times since August with the Mayor not initiating the conversation. The aspect of paying volunteers is a challenge as it is public service. Per diem is a reimbursement of expenses incurred. Mayor Kleis brought this up several years ago about per diem being paid twice in a single day and felt it was wrong. Assumed when brought up years ago that it would be corrected. Rather, per diem increased to maximum amount of \$75 per meeting. Brought up again in budget discussions because payment twice per day is wrong. This is not a vendetta. If not brought up, the practice of paying per diem would still be taking place, the practice of paying twice per day would still be taking place – in violation of state statute in some cases.

As to Councilmember Hontos' comments that Mayor Kleis calling it per diem was "spinning" the word. However, HRA minutes called it per diem; discussion at Council meetings called it per diem; and it was listed as per diem on paychecks. Furthermore, the practice stopped by HRA at the opinion of HRA Attorney. Changed to compensation at that point. If it is compensation, if it was compensation, it is taxable. Just as the Mayor's car allowance is considered taxable income. As also mentioned, if compensation was paid illegally, what happens to those dollars that were incorrectly paid? If is done violating state statute, what happens? And, if it was compensation from the beginning, what happens with the taxable income?

Also, we have an aspect of equity and not providing to all boards and commissions. This is an issue of per diem, not compensation. Compensation is transparent. Per diem is based on the number of meetings attended. Rather, there should be incentive of public service.

Also, this is not a criticism of HRA staff. The Board of the HRA is the responsible entity. When something is wrong, changes need to be made. Mayor Kleis appointed Councilmember Hontos to the HRA 2007 and reappointed twice. This was not vindictive. This is about the principle of the issue. Compensation is fine. Per diem is wrong.

Councilmember Masters commented that the HRA is a well-run organization. This does not reflect on the operation of the HRA. This is simply a policy change.

Councilmember Brandmire commented on HRA minutes and state statute. The statute states that commissioners are only supposed to be reimbursed for expenses.

Councilmember Hontos commented that he is not interested in discussing this further. Would like to clean the language up.

Councilmember Laraway in agreement that language should be cleared up and make reference to city boards and commissions only.

City Administrator Matthew Staehling commented that inserting the word "city" would take care of the issue. Councilmember Conway commented that the language should also include "created and/or defined by the city." Councilmember Brandmire commented that language should be added to reimburse for expenses, if needed.

Staehling commented that there is another policy in place for city employees to be reimbursed for actual expenses.

Councilmember Hontos inquired on Joint Powers Authority Board and if those appointments would be included. Staehling confirmed that the resolution would encompass those appointments as well.

Councilmember Lewis commented that for ease, the only amendment to the resolution should be adding the word "city."

Council President Goerger commented that he was the one who originally brought up this per diem issue to cover the budget deficit. Also, commented that the HRA staff does a great job. This issue is excluded from that.

City Attorney Cynthia Kirchoff commented on Councilmember Conway's added language and feels inserting the word city is sufficient.

Councilmember Masters amended the motion to add the word "city." Councilmember Laraway seconded the motion to amend. Motion passed 6-1 with Councilmember Hontos opposed.

Motion to approve resolution approved 6-1 with Councilmember Hontos opposed. Resolution adopted and assigned 2019-03-34.

18. CONSIDERATION OF ORDINANCE AMENDING SECTION 2.66 OF THE ST CLOUD HOME RULE CHARTER REGARDING THE CITY COUNCIL'S AUTHORITY TO OVERRIDE THE MAYOR'S VETO

ACTION TAKEN: LEWIS/CONWAY/APPROVED 6-1 TO SEND DOWN (HONTOS OPPOSED)

City Attorney Cynthia Kirchoff introduced item. Based on discussion at March 11, 2019 Council Meeting, staff amended accordingly. Councilmember Hontos commented that the change does not address the issue brought up at the last meeting. The Council should have equal time to respond once notified of the veto. This should be modified again to allow Council a fair amount of time. Councilmember Lewis suggested switching out "earlier" for "later."

Kirchoff suggested this be sent back to the Charter Commission to amend. Councilmember Hontos questions that suggestion as Charter Commission Chair stated it is not required. Council President Goerger agrees with Councilmember Lewis' suggestion. City Administrator Matthew Staehling in agreement with City Attorney

Cynthia Kirchoff that it should go back to Charter Commission to get specific direction. Councilmember Hontos does not believe that is necessary.

Mayor Kleis commented that the Charter is our Constitution and the Charter Commission should present the changes. Councilmember Conway commented that it should be sent back to the Charter Commission. Further comments by Councilmember Hontos. Councilmember Laraway inquired on the veto process. Kirchoff and Council President Goerger provided feedback.

It was moved by Councilmember Lewis, seconded by Councilmember Conway to send back to the Charter Commission. Approved 6-1 with Councilmember Hontos opposed.

19. CONSIDERATION OF ORDINANCE AMENDING SECTION 3.20 OF THE ST. CLOUD HOME RULE CHARTER REGARDING POWERS AND DUTIES OF THE MAYOR TO APPROVE JOB DESCRIPTIONS FOR ADMINISTRATIVE PERSONNEL

ACTION TAKEN: LEWIS/LARAWAY/APPROVED 7-0
ORDINANCE ADOPTED AND ASSIGNED 2774

City Attorney Cynthia Kirchoff introduced item. Same ordinance presented at Public Hearing. It was moved by Councilmember Lewis, seconded by Councilmember Laraway to approve. No discussion. Motion unanimously approved 7-0. Ordinance adopted and assigned 2774.

20. SPECIAL ASSESSMENT ROLL 1 FOR 2018 PUBLIC IMPROVEMENTS

ACTION TAKEN: BRANDMIRE/LEWIS/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-03-35

City Engineer Steve Foss introduced item. At the Public Hearing, the city received testimonies from eleven properties. All addressed. In summary, six of the eleven the city recommends no change. Two are recommended to be amended based on actual lot, not on negotiation. The final three should be placed on a different roll for a later date. These are existing properties that have old water/sewer service and request replacement. No changes made to the Roll. Amendments proposed in Exhibit A but not addressed in Roll. Staff recommends moving forward as is. Two properties still contest.

It was moved by Councilmember Brandmire, seconded by Councilmember Lewis to approve as recommended by City Engineer Steve Foss. Councilmember Brandmire inquired on response to property owner located at 5805 River's Edge Drive. No attachments provided. Was property owner provided full disclosure at auction of assessments? Foss suggested moving this property to Roll 2 as well.

Councilmember Conway inquired on two properties that are contesting assessments. These two properties were on wells and should have been warrantied by placing them back on well once construction at Tech HS completed. Assessed for the whole line knowing that when the rest of the line goes in, no further assessments will occur. Councilmember Conway would like it still to move to next Roll.

Councilmember Laraway commented that three properties should be removed for further review including the property with the damaged sprinkler system and the two properties that Councilmember Conway brought up.

Councilmember Lewis inquired on the two properties with wells. Eleven properties had wells. Three switched over. Only two contesting assessment although they never went back on their well so unsure if well was not working. Property owners not contesting sewer/water, they are contesting the assessment based on the amount of feet the city had to go to add the sewer/water.

1) Dr. Phil Godding Property, 3624 Cty Rd 74; 2) Baron VanBuren Property, 3644 Cty Rd 74; 3) Kathryn Thiesen Property, 838 30th Ave N; 4) Dave Hinman Property, 843 30th Ave N; 5) Amy Ylinen Property, 5805 River's Edge Drive; 6) Kevin Carpenter Property, 2919 Veterans Drive; 7) Dan Feneis Property, 3110 7th Street North; 8) 3000 – 7th Street North Property

Councilmember Brandmire amended motion to removing a total of 8 properties listed above and transferring to Roll 2. Councilmember Conway seconded the motion. Motion unanimously passed. Resolution adopted and assigned 2019-03-35.

~~21. **ORDINANCE AMENDING THE ST. CLOUD LAND DEVELOPMENT CODE REGARDING REVISED SIGN REGULATIONS FOR INSTITUTIONAL USES LOCATED WITH THE CITY'S RESIDENTIAL DISTRICTS**~~

PUBLIC HEARINGS:

22. APPLICATION FOR AN ON-SALE INTOXICATING AND SPECIAL SUNDAY LIQUOR LICENSE FOR WEAVER HOLDINGS, INC. DBA MIDTOWN BAR & GRILL, 3333 WEST DIVISION STREET #120

ACTION TAKEN: HONTOS/LARAWAY/APPROVED 7-0

City Clerk Seth Kauffman introduced item. Boundaries of liquor service area modified to conform to state statute. Prorated fees paid for all license fees. Council approving for this license period only. Will return for annual reviews in June.

Council President Goerger opened the Public Hearing.

Steve Sorenson, 102 34th Ave N, St. Cloud – concerned about the traffic as 35th Ave N is shut off. Requested 35th Ave N be re-opened as he'd like relief from the traffic.

Council President Goerger closed the Public Hearing. It was moved by Councilmember Hontos, seconded by Councilmember Laraway to approve. Councilmember Conway inquired on if Tuscan Lounge included. Owner Mr. Weaver indicated that it is not. Councilmember Conway inquired on what gaming machines are in the restaurant. Per Mr. Weaver, dart boards and various video games. Councilmember Conway requested city to look at parking restrictions and proactive on impact of neighborhood. Councilmember Masters requested City Engineer Steve Foss to provide feedback on 35th Ave N. Foss did consider history of closure and was not able to determine why it is closed and remains closed. Foss will consider re-opening and recommend to Council to re-open, if feasible. Councilmember Hontos commented that 35th was closed due to traffic concerns with the goal that everything will flow on 1st St N. Councilmember Conway requested the City look into encouraging

traffic to flow a certain accordingly and be cognizant of the neighborhood. Councilmember Brandmire commented on potential conflict with added crosswalk on 34th Ave N. Foss commented that 33rd should be the major thoroughfare and does not see a conflict. Councilmember Brandmire commented that staff should re-consider re-opening 35th. Foss will re-evaluate consider re-opening 35th. Motion unanimously passed.

23. CONSIDERATION OF ORDINANCE AMENDING SECTION 540 OF THE 2007 CODE OF ORDINANCES FOR THE CITY OF ST CLOUD TITLE MUNICIPAL ATHLETIC COMPLEX (MAC) FEES

ACTION TAKEN: MASTERS/BRANDMIRE/APPROVED 7-0
ORDINANCE ADOPTED AND ASSIGNED 2775

Tony Goddard introduced item. Adjustment of fees at MAC after speaking with users and tracking rates at other facilities. An adjustment of fees for ice rental and golf course. No change to baseball rental rates. Increases anticipated and included in the approved 2019 budget. The facility runs primarily on earned revenue.

President Goerger opened the Public Hearing. No one spoke. President Goerger closed the Public Hearing. It was moved by Councilmember Masters, seconded by Councilmember Brandmire to approve. No discussion. Motion unanimously passed. Ordinance adopted and assigned 2775.

**24. 2019 SEAL COAT IMPROVEMENTS:
A. CONSIDERATION OF RESOLUTION ORDERING 2019 SEAL COAT IMPROVEMENTS**

ACTION TAKEN: MASTERS/LEWIS/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-03-36

B. RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE 2019 SEAL COAT IMPROVEMENTS, CONTRACT 2019-11.

ACTION TAKEN: MASTERS/LEWIS/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-03-37

City Engineer Steve Foss introduced item. Seal coat on Northway Drive/12th Street North and various neighborhood roads in area. This is a recently re-constructed area and seal coat is maintenance.

President Goerger opened the Public Hearing. No one spoke. President Goerger closed the Public Hearing. It was moved by Councilmember Masters, seconded by Councilmember Lewis to approve Item A. No discussion. Roll Call Vote. Motion unanimously passed.

It was moved by Councilmember Masters, seconded by Councilmember Lewis to approve Item A. No discussion. Motion unanimously passed.

OPEN DISCUSSION/ANNOUNCEMENTS

Councilmember Lewis commented on Women's History Month, specially Sooyoung Chang, Mathematician.

Councilmember Hontos commented on Shopper's News and several complaints from residents on the papers being thrown in yards. Still delivered after requesting they be stopped. City Administrator Matthew Staehling commented that this is a common concern and he will contact the St. Cloud Times.

Councilmember Hontos commented in response to radio show's grandstanding of himself at previous Council Meeting. Councilmember Hontos requested that the parameters of Open Forum be discussed and feels that the radio show's personality should have been held out of order. Council President Goerger commented that the council cannot limit free speech. It was not mean spirited and vulgar and was acceptable speech.

Councilmember Hontos requested clarification on Skatepark. Final bid was for part of project. Three exclusions separate. Total project cost \$1,417,836. Requested public record be corrected. City Administrator Matthew Staehling addressed Councilmember Hontos' concerns and commented that the original cost was \$1.1 million. Excluded items an additional \$300,000 (approximately) with total budget of \$1.4 million (approximate). This budget was approved by Council. Final bid came in \$250,000 below this approved amount. Councilmember Hontos commented further on discrepancies and feels that presentation by staff was misleading. Staehling offered to sit down with Councilmember Hontos and explain further.

Council President Goerger commented on change to HRA Board to appoint board member that is a user of the HRA, decreasing the number of councilmembers to two rather than three. Mayor Kleis commented that the decision is the Council's decision. Councilmember Hontos commented that the number of board members should remain at seven. Council Goerger commented that the intention is not to decrease the number of board members, but rather change the makeup of the group. Councilmember Hontos feels that there should be no change. Councilmember Laraway believes that there should be only two councilmembers on the HRA Board. Councilmember Conway also in favor of two councilmembers – the HRA is community driven and elected oversight is no longer needed. Councilmember Masters also in favor. Councilmember Lewis feels changing to adding another person who uses the services to the board is good for the HRA.

Mayor Dave Kleis shared information regarding property valuation statements and property valuation.

OPEN FORUM

CeCe Terlouw, Executive Director, Terebinth Refuge, 1904 27th St SE – spoke regarding Terebinth Refuge, a new St. Cloud shelter for victims of sex-trafficking and women in need.

ADJOURNMENT:

It was moved by Councilmember Lewis, seconded by Councilmember Masters to adjourn. Motion unanimously passed. Meeting adjourned at 7:29 PM.


Seth Kauffman, Recording Secretary


Jeff Goergen, Council President