

CITY COUNCIL PROCEEDINGS

NOVEMBER 21, 2011

AGENDA ITEM:

1. Following the Pledge of Allegiance, a regular meeting of the City Council of the City of St. Cloud, Minnesota, was held on November 21, 2011, at 6 p.m. in the City Council Chambers.
2. A Moment of Silence for our men and women serving in the Armed Forces.
3. All Council members were present: Berg, Goerger, Gohman, Hontos, Johnson, Libert, and Masters.

SPECIAL RECOGNITION:

Mayor Dave Kleis announced that two department heads will be retiring. Community Services and Facilities Director Lyle Mathiasen will be retiring in December and has worked for the City for 38 years. Police Chief Dennis Ballantine will be retiring at the end of January. Ballantine has been with the St. Cloud Police Department for 10 years. Mayor Kleis thanked both men for their dedicated service and outstanding leadership.

Councilmember Berg acknowledged the Cub Scout Troop #106 members who were in attendance in the audience.

CONSENT AGENDA:

4. **APPROVAL OF AGENDA.** ACTION TAKEN: Approved with the addition of an Open Discussion item requested by Councilmember Hontos (Conflict of Interest issue).

5. **APPOINTMENT AND RE-APPOINTMENT TO THE CIVIL SERVICE BOARD.** ACTION TAKEN: Goerger/Masters moved approval of confirming the Mayor's appointment of Thomas Dougherty to his first term to commence immediately and expire June 30, 2014; and confirmed the Mayor's re-appointment of Rob Ruprecht to his second term to commence immediately and expire June 30, 2014. The motion unanimously carried. Mr. Dougherty was in attendance and was introduced.

6. **UPGRADE TO PARK MAINTENANCE SUPERVISOR POSITION.** ACTION TAKEN: Approved.

7. **RESOLUTION RELATING TO A FINANCING UNDER MINNESOTA STATUTES, CHAPTER 462C AND SECTIONS 469.152 THROUGH 469.165, AS AMENDED, ON BEHALF OF CENTRACARE HEALTH SYSTEMS AND ITS AFFILIATES; CALLING FOR A PUBLIC HEARING TO BE HELD ON DECEMBER 5, 2011.** ACTION TAKEN: A public hearing was set for December 5, 2011. Resolution setting the public hearing was adopted and assigned number 2011-11-165.

8. **A JOINT RESOLUTION OF THE CENTRAL MINNESOTA CITIES OF ST. CLOUD, SARTELL, SAUK RAPIDS, WAITE PARK, ST. JOSEPH, AND ST. AUGUSTA ADVOCATING SUPPORT FOR CERTAIN LEGISLATIVE ISSUES AND PROPOSALS OF COMMON INTEREST OR CONCERN.** ACTION TAKEN: Adopted resolution assigned number 2011-11-166.

9. **APPROVAL OF TWO AGREEMENTS FOR THE 2012 "4TH OF JULY COMMUNITY FIREWORKS" CELEBRATION.** ACTION TAKEN: Approved.

10. **RESOLUTION ACCEPTING BIDS AND AUTHORIZING CONTRACTS FOR CIVIC CENTER EXPANSION BID PACKAGE #11D, AND APPROVING PROJECT CHANGE ORDERS #143-163.** ACTION TAKEN: Adopted resolution assigned number 2011-11-167.

11. **RESOLUTION AMENDING THE HIGHWAY 15 PLANNED UNIT DEVELOPMENT (PUD) GENERAL DEVELOPMENT PLAN TO ALLOW A 52,000 SQUARE FOOT ADMINISTRATIVE SERVICES BUILDING UPON THE CENTRACARE PLAZA CAMPUS (LOCATION: 1564 & 1586 COUNTY ROAD 134) (DPA-2011-04)** ACTION TAKEN: A public hearing was set for December 5, 2011.

12. **AN ORDINANCE REZONING PROPERTY LOCATED AT 1988 COUNTY ROAD 134 FROM R1, SINGLE FAMILY RESIDENTIAL DISTRICT TO C1, BUSINESS OFFICE DISTRICT. (REZ-2011-08)** ACTION TAKEN: A reading and public hearing was set for December 5, 2011. (Proposed Ordinance #2011-31)

13. **AN ORDINANCE AMENDING SECTION 14, SUBDIVISION 3, USE STANDARDS, OF THE LAND DEVELOPMENT CODE TO INCREASE THE MAXIMUM LENGTH OF STAY PERMITTED FOR TEMPORARY SHELTER FACILITIES (LDC-2011-06)** ACTION TAKEN: A reading and public hearing was set for December 5, 2011. (Proposed Ordinance #2011-32)

14. **RESOLUTION AUTHORIZING THE PURCHASE OF UP TO 760,000 REFUSE BAGS FROM WASTE ZERO AND 170,000 YARD WASTE BAGS FROM WASTE ZERO FOR THE REFUSE DIVISION OF THE PUBLIC WORKS DEPARTMENT.** ACTION TAKEN: Resolution adopted and assigned number 2011-11-168.

15. **RESOLUTION ESTABLISHING THE POLICY FOR GRANTING CREDITS AGAINST SPECIAL ASSESSMENTS TO LOW INCOME PROPERTY OWNERS FOR**

2012 IMPROVEMENTS. ACTION TAKEN: Resolution adopted and assigned number 2011-11-169.

16. **RESOLUTION AUTHORIZING EXECUTION OF MNDOT AGREEMENT NO. 99920 AUTHORIZING MNDOT TO ACT AS THE CITY'S AGENT IN ACCEPTING FEDERAL AID FOR TRANSPORTATION IMPROVEMENTS.** ACTION TAKEN: Resolution adopted and assigned number 2011-11-170.

17. **APPROVAL OF CHANGE ORDER #8 FOR THE WASTEWATER TREATMENT FACILITY REHABILITATION, UPGRADE AND EXPANSION PROJECT.** ACTION TAKEN: Approved.

18. **ACCEPT PROPOSAL IN THE AMOUNT OF \$3,250.00 FROM DANIEL A. GILL TO PURCHASE AND RELOCATE THE HOME OWNED BY THE CITY OF ST. CLOUD LOCATED AT 2494 45TH AVENUE SE, ST CLOUD, MN.** ACTION TAKEN: Approved.

19. (Item withdrawn prior to meeting.)

OPEN FORUM:

David Laliberte, 1108 7th Avenue N. referenced the September action taken by the City Council on the preferred alignment of the Beaver Island Trail. He then expressed his disappointment to the Council for reconsidering the issue and reversing its action in October.

PUBLIC HEARINGS:

20. **RESOLUTION ESTABLISHING COMBINED TIME LIMIT PARKING AND RESIDENT PARKING-BY-PERMIT ZONE ALONG THE EAST SIDE OF EAST LAKE BOULEVARD FROM 4TH STREET SOUTH TO THE NORTH.** Steve Foss, City Engineer, gave a brief overview on the request from affected property owners to establish combined time-limit parking and resident parking-by-permit zone along the East Lake Boulevard from 4th Street South to 150 feet north. Council President Libert opened the public hearing. No one spoke. The public hearing was closed. Berg/Goerger moved approval of the resolution as presented. The motion unanimously carried. The adopted resolution was assigned number 2011-11-171.

21. **AN ORDINANCE AMENDING ARTICLE 4 – LAND USE APPLICATIONS AND ENFORCEMENT, SECTION 4.2 – VARIANCE, A. PURPOSE AND E. FINDINGS OF FACTS; ARTICLE 21 – DEFINITIONS, 21.5 – GENERAL TERMS DEFINITIONS, OF**

THE ST. CLOUD LAND DEVELOPMENT CODE UPDATING THE LANGUAGE TO REFLECT RECENT CHANGES IN MINNESOTA STATE LAW.

Community Development Director Matt Glaesman reviewed the recommendation by the League of Minnesota Cities (LMC) to comply with the Minnesota State Supreme Court's interpretation of the definition of "undue hardship" with regard to Land Use Variances. The new law renames the municipal variance standard from "undue hardship" to "practical difficulties," but otherwise retains the three-factor test of reasonableness, uniqueness, and essential character. Council President Libert opened the public hearing. No one spoke. The public hearing was closed. Councilmember Goerger commented that the Planning Commission had extensive discussion on this language change and ultimately supported the change. Following a brief discussion, Goerger/Berg moved approval of the ordinance. The motion unanimously carried. The adopted Ordinance was assigned number 2516.

22. AN ORDINANCE AMENDING SECTION 810:35 OF THE ST. CLOUD CODE OF ORDINANCES OF THE CITY OF ST. CLOUD ENTITLED "TIME WHEN SALES ARE PROHIBITED."

City Attorney Matt Staehling said that the City was approached by one of our intoxicating liquor license holders asking permission to sell on-sale liquor after 8 p.m. on December 24, 2011 (Christmas Eve) for a private party. Minnesota Statutes Chapter 340A restricts off-sale of alcohol after 8 p.m. on Christmas Eve, but not the on-sale of alcohol after 8 p.m. The proposed ordinance amendment would now allow the on-sale of liquor after 8:00 p.m. on December 24, Christmas Eve. Council President Libert opened the public hearing. No one spoke. The public hearing was closed. Goerger/Masters moved approval of the ordinance as presented. Councilmember Berg suggested making a one-time exception rather than changing City ordinance and moved to allow this request as a variance to the ordinance. Councilmember Masters seconded the motion. The motion failed by a 2-5 vote with Berg and Masters voting in the affirmative and Goerger, Gohman, Johnson, and Libert voting in the negative. The original motion then carried by a 6-1 vote with Berg voting against. The adopted Ordinance was assigned number 2517.

OLD BUSINESS:

23A RESOLUTION OFFERING MUNICIPAL CONSENT FOR TRUNK HIGHWAY 15 AND CSAH 120 INTERCHANGE LAYOUT (ITEM 21, TABLED ON 11-7-11.)

Hontos/Berg moved to remove this agenda item from the table for discussion and approval. The

motion unanimously carried. City Engineer Steve Foss gave a review of the final layout for T.H. 15 and CSAH 120 interchange to be constructed in 2013. He summarized the options, the concerns, and the costs. MnDOT Engineering Specialist Claudia L. Dumont and Assistant Stearns County Engineer Jodi L. Teich were in attendance and addressed the City Council on the proposed project. They discussed the fourth leg of the round-about and the traffic counts that have been conducted in the affected areas. Councilmember Hontos spoke to concerns of the Tilden Woods residents and the newly proposed preliminary access layout (Exhibit A). Although a reasonable solution for the Tilden Woods residents, he asked who would pay for the proposed improvements. The response was that the City of St. Cloud would be responsible for the cost. The topic of a frontage road for the Hennen's property was also discussed. City Engineer Foss reviewed the two existing entrances for the business. Hennen's business owner Dick Hennen addressed the Council (under Council Rule No.16) noting that CentraCare wouldn't object to a frontage road; however, it would be at his cost to build and maintain the road and that would be unfair. Masters suggested that City staff, the owners of Hennens and representatives from CentraCare meet to discuss share-cost of a private driveway. Goerger asked why the Diamond Interchange and County Road 120 projects were linked together. City Engineer Foss suggested moving forward with the proposed diverging Diamond Interchange project and to table the CSAH 120 (from Connecticut Avenue to Dolores Drive) improvements. The motion to approve the resolution offering Municipal consent for Trunk Highway 15 and CSAH 120 Interchange Layout carried by a 5-2 vote with Hontos and Johnson voting against. The adopted resolution was assigned number 2011-11-172.

23B **APPROVAL OF CSAH 120 SAFETY IMPROVEMENTS.** It was moved by Masters/Berg moved to table the approval of CSAH 120 Safety improvements agenda item. The motion unanimously carried. (No motion on the floor for approval.)

OPEN DISCUSSION & ANNOUNCEMENTS:

Councilmember Hontos suggested that the City of St. Cloud's Conflict of Interest policy be modified to correspond with Minnesota State Statutes. He recommended a public hearing be conducted. Hontos/Johnson moved that administration bring this issue to the Council to set a public hearing within the next 30 - 45 days. The motion carried by a 5-2 vote with Berg and Masters voting against.

ADJOURNMENT:

There being no further business to discuss, the meeting was adjourned at 7:31 p.m.

City Council President John Libert

Respectfully submitted by:

Sandy Hilsgen
Recording Council Secretary