

## CITY COUNCIL PROCEEDINGS

### AGENDA ITEM

February 25, 2013

1. Following the Pledge of Allegiance, a regular meeting of the City Council of the City of St. Cloud, Minnesota, was held on February 25, 2013, at 6 p.m. in the City Council Chambers.
2. A Moment of Silence was held for our men and women serving in the Armed Forces.
3. Members present were: Council members Goerger, Hontos, Johnson, Lewis, Libert and Masters; Councilmember Gohman was absent.

### CONSENT AGENDA:

4. **APPROVAL OF AGENDA.** ACTION TAKEN: Approved.
- 5A. **APPROVAL OF THE REGULAR CITY COUNCIL MEETING HELD JANUARY 28, 2013.** ACTION TAKEN: Approved.
- 5B. **APPROVAL OF MINUTES OF REGULAR CITY COUNCIL MEETING HELD FEBRUARY 11, 2013.** ACTION TAKEN: Approved.
6. **MAYOR'S APPOINTMENT AND REAPPOINTMENTS TO THE ARTS COMMISSION.** ACTION TAKEN: Confirmed the appointment of Lacey Koby to fill a vacant term to commence immediately and expire September 30, 2013, the reappointment of Carolyn Garven for her first full term to commence immediately and expire September 30, 2014, and the reappointment of Dana Drezenovich to her second term to commence immediately and expire September 30, 2015.
7. **RESOLUTION AUTHORIZING THE ISSUANCE OF AN OFF-SITE CHARITABLE GAMBLING PERMIT FOR THE ST. CLOUD ALL CITY MARCHING BAND FOR ACTIVITIES TO BE CONDUCTED MARCH 21-23, 2013, AT THE RIVER'S EDGE CONVENTION CENTER.** ACTION TAKEN: Resolution adopted and assigned number 2013-3-29.
8. **APPLICATION FOR A TEMPORARY ON-SALE INTOXICATING LIQUOR LICENSE FOR THE CHURCH OF ST. PETER FOR ACTIVITIES TO BE CONDUCTED AT THE CHURCH LOCATED AT 930 31ST AVENUE N. ON SATURDAY, APRIL 27, 2013.** ACTION TAKEN: Approved.
9. **GFOA ASSESSMENT REVIEW.** ACTION TAKEN: Councilmember Hontos pulled this item for clarification on the project cost. Information Technology Director Micah Myers confirmed the cost to be \$16,100. Hontos/Johnson moved approval of the agenda item. The motion unanimously carried.

10. **ST. CLOUD HUMAN RIGHTS COMMISSION - LIABILITY INSURANCE.** ACTION TAKEN: Approved.

11. **2013 4TH OF JULY COMMUNITY FIREWORKS CELEBRATION – PYROTECHNICS DISPLAY CONTRACT.** ACTION TAKEN: Approved.

12. **RESOLUTION REQUESTING FUNDING ASSISTANCE FROM THE MNDNR UNDER THE 2013 FEDERAL RECREATIONAL TRAIL GRANT PROGRAM.** ACTION TAKEN: Resolution adopted and assigned number 2013-2-30.

13. **RESOLUTION AUTHORIZING PARTICIPATION IN THE WATER CONTAMINANTS OF EMERGING CONCERN OUTREACH/EDUCATION CAMPAIGN GRANT PROGRAM.** ACTION TAKEN: Resolution adopted and assigned number 2013-2-31.

14. **RESOLUTION AUTHORIZING PARTICIPATION IN THE SHERBURNE COUNTY SOIL AND WATER CONSERVATION DISTRICT'S CLEAN WATER FUND COST-SHARE ASSISTANCE PROGRAM FOR THE CLEAN WATER RETROFIT PROJECT – PHASE II.** ACTION TAKEN: Resolution adopted and assigned number 2013-2-32.

15. **ORDINANCE REZONING PROPERTY LOCATED AT 712 17TH AVENUE SOUTH AND 1602 7TH STREET SOUTH FROM R2, SINGLE FAMILY AND TWO FAMILY RESIDENTIAL DISTRICT TO PLANNED UNIT DEVELOPMENT (PUD). (LOCATION: 712 17TH AVENUE SOUTH AND 1602 7TH STREET SOUTH) (REZ-2013-01)** ACTION TAKEN: A reading and public hearing was set for March 11, 2013.

16. **RESOLUTION AUTHORIZING THE CITY TO PARTICIPATE IN GOVDEALS AUCTION SERVICES.** ACTION TAKEN: Resolution adopted and assigned number 2013-2-33.

**OPEN FORUM SPEAKERS:**

1. **GWEN GARERI, 721 11<sup>TH</sup> STREET SE;** spoke against the sidewalk installation as part of the 8<sup>th</sup> Avenue SE project.
2. **JOHN JEFFREY BULKA, 720 14<sup>TH</sup> STREET SE;** asked the Council to reconsider its vote with regard to the sidewalk installation in the 8<sup>th</sup> Avenue SE project.
3. **WILLIAM RIES, 1417 8<sup>TH</sup> AVENUE SE;** spoke against sidewalk installation in the 8<sup>th</sup> Avenue SE project.
4. **MICHAEL OLINGER, 806 8<sup>TH</sup> AVENUE SE;** spoke against installation of sidewalk in his neighborhood (8<sup>th</sup> Avenue SE project).
5. **JOHN TENNYSON, 805 14<sup>TH</sup> STREET SE;** stated he agreed with the previous comments regarding the opposition to sidewalk installation (8<sup>th</sup> Avenue SE project).

**PUBLIC HEARINGS:**

**17. APPLICATION FOR AN ON-SALE INTOXICATING LIQUOR LICENSE FOR MIDTOWN FITNESS OF ST. CLOUD, LLC DBA THE TUSCAN CENTER AT MIDTOWN SQUARE, 3333 WEST DIVISION ST, #116A AND #116C.**

City Clerk Gregg Engdahl explained the application request for an on-sale intoxicating liquor license for the Tuscan Center at the Midtown Square. The applicant proposes using defined space for social events, ballroom dance classes, business meetings, weddings, retirement dinners, etc. The center would be open only during scheduled events and liquor would be served only in conjunction with the service of food at the center. All departmental reviews were favorable; he noted that the certificate of occupancy was still pending. Council President Goerger opened the public hearing. The following person spoke:

**Diane Cash, 309 1<sup>st</sup> Avenue N. Sartell (applicant);** requested approval of the on-sale intoxicating license. Her immediate plans include a food prep license to provide meat and cheese trays at events with future plans to design a kitchen area.

There being no one else wishing to speak, the public hearing was closed. Johnson/Masters moved approval of the application for the on-sale intoxicating liquor license. The motion unanimously carried.

**18. (A.) ORDINANCE AMENDING SECTION 810:30 OF THE 2007 CODE OF ORDINANCES OF THE CITY OF ST. CLOUD ENTITLED, "CONDITIONS OF LICENSE" BY ADDING A NEW SUBDIVISION 15 ENTITLED, "UNDERAGE PRESENCE IN LICENSED PREMISES." and (B.) ORDINANCE AMENDING CHAPTER 810 OF THE 2007 CODE OF ORDINANCES OF THE CITY OF ST. CLOUD ENTITLED, "INTOXICATING LIQUOR" BY AMENDING SECTION 810:70 ENTITLED, "PENALTIES FOR VIOLATIONS."**

Mayor Dave Kleis gave opening remarks in support of the proposed ordinances, noting that the draft ordinances were reviewed by the Council at the February Study Session. He explained that metro and local bar establishments have been offering "under 21 social nights," which are legal by state law. However, such events can require extra police protection and have been problematic when underage drinking violations occur. The proposed Ordinance A. requires that liquor license holders who host a social function open to under-aged persons must provide a physical separation/barrier of the 18-20 year olds

from those areas of the licensed premise that serves alcohol. City Attorney Matt Staehling spoke to the Social Host ordinance that was adopted in 2010 and provided details of the proposed ordinances being considered. He explained that state law allows persons in the age group of 18 to 20 to legally enter a bar area for employment, for consuming a meal, and as a guest/attendee of a social event. The proposed ordinance also provides an exception for private parties, entertainment, theater and sporting events. He also spoke to Ordinance B. as what could constitute a strike against a liquor establishment. Following the presentation, Council President Goerger opened the public hearing. The following people spoke:

**Justin Lewandowski, 126 Riverside Drive SE.,** spoke to the local Biology 701 establishment as being a safe haven for many at-risk people in the 18-20 year old age group who represent the LGBT community. He has many friends who enjoy spending time together at the establishment and who enjoy the business's Sunday and Wednesday evening social events geared towards the 18+ crowds. Unfortunately, the layout of the bar area/lounge does not allow for a physical barrier to be constructed. He also asked the Council to look into creating safe places for young people to gather.

**Charles Severson, Biology 701 owner; 701 W. St. Germain;** said his 18+ social nights are his slower nights-Sundays and Wednesdays. He was concerned with the proposed ordinance as his floor plan doesn't allow for a barrier to be built as the bar/restaurant/lounge area is all one together. He uses stamps and wristbands to signify underage patrons and uses different containers for their beverage service. He wants to continue to encourage a safe atmosphere for the 18-20 year old crowd at his business.

**Beau Jacobson, SCSU Student Urban Affairs and Hannah Muerhoff, SCSU Student Government President;** confirmed that SCSU Student Government supports the proposed ordinances. The organization adopted Student Government Resolution 2012/13-002 on February 22, 2013. (Said document on file with City Attorney).

**Jennifer Sue Matzke, SCSU Interim Assistant Dean of Students for Chemical Health and Outreach Programming;** expressed thanks to the many organizations who combined efforts in partnering with SCSU on curbing underage drinking and excessive drinking. She spoke to the success of the city's Social Host ordinance and expressed full support for the proposed ordinances.

**Ryan Satterberg, 3432 Deer Creek Trail;** is a current SCSU senior and a past employee of a local liquor establishment. During his employment he witnessed bouncers allowing underage females into the bar service area, and referred to the situation as the "broken window theory." Suggested that the age group of 18-20 need something better to do and didn't think that a physical barrier placed in an establishment would deter underage drinking.

**Alyssa Anderson, 314 4<sup>th</sup> Avenue So.;** disagreed with the proposed ordinances noting that co-mingling of students ages 18+ is important and if physical barriers are set at establishments, the students will have house parties to be together.

**Nick Barth, 1020 12<sup>th</sup> Avenue S., Vice President of the Hospitality Association;** spoke on behalf of the Hospitality Association noting the Association's support for the proposed ordinances. He cited Subsection 2 (E) of Ordinance B. and asked what constitutes a "strike," noting the language was vague. He further requested the Council's consideration of amending the 24 month time period for violations to a 12 month time period.

**James Gacksteiner, 1406 19<sup>th</sup> Street SE;** a member of the Downtown Hospitality Association; stated that he agreed with previous speaker's comments. He questioned costs with regard to a permit process.

**Olivia Hunter, 1216 35<sup>th</sup> Avenue N.;** indicated support of the LGBT community.

**Nicole Hunter-Severson, Biology 701 owner; 701 W. St. Germain St;** sees her business as a home for at-risk youth. She doesn't see the separation/barrier as a possibility in her establishment.

**Miles J. Heckendorn III, SCSU Public Safety; 1704 13<sup>th</sup> Avenue SE;** spoke in support of the proposed ordinances and provided data/statistics compiled by the SCSU Community Crime Impact Team involving criminal cases involving 18-20 year olds during the hours of 10 p.m. to 3 a.m. – highlighting the comparisons of the south side of St. Cloud to other areas of the city.

**Nathan Kroll, 708 6<sup>th</sup> Street S.;** spoke in support of the proposed ordinances noting that barriers are built to protect people from violence, harm, and destruction. He feels that the 18-20 year old age group is a vulnerable population.

**Jason Bernick, 40494 Co. Road 1, Rice;** asked about "exceptions" as it relates to "Entertainment Venues" and how the bowling alleys and pool halls would be affected.

**Mary Mathews, 315 3<sup>rd</sup> Avenue S.,** serves on the Neighborhood University Community Council (NUCC) and spoke in full support of the proposed ordinances and urged the Council's adoption.

**Andy Welsh, 10448 345<sup>th</sup> Street, St. Joseph;** suggested that existing laws must be followed by proprietors and bars in violation should be held responsible for underage liquor service.

There being no one else wishing to speak, Council President Goerger closed the public hearing. Council discussion ensued. The suggestion of holding 18+ events and not serving alcohol on

those designated evenings was offered as a viable option. City Attorney Staehling suggested that bowling alleys be listed as an “exception” noting that bowling is an entertainment venue for all ages and bar service is secondary. He suggested, however, that a pool/billiard hall is more of an adult venue with alcohol service. Hontos disagreed. Police Chief Blair Anderson also addressed the Council noting that the adoption of the proposed ordinances is a proactive approach. Currently, the 18+ events require extra law enforcement detail and monitoring due to assaults, property damage, and underage drinking. He suggested that the police department will work in good faith with establishments on creating workable separation barriers. It was moved by Libert, seconded by Masters, to adopt Ordinance A. Councilmember Hontos suggested that Ordinance A. is unfair for certain businesses, and wouldn’t support it. He did, however, support Ordinance B. Mayor Kleis noted that the challenge falls with existing state law. He suggested that the Council could consider a permit fee to help recoup the costs for public safety. Councilmember Lewis made a motion to amend the ordinance to include a clause to sunset the ordinance in one year. Hontos seconded the motion. The amendment motion unanimously carried. The original motion as amended carried by a 5-1 vote with Hontos voting against. The adopted Ordinance was assigned number 2548.

A motion was made by Masters, seconded by Hontos, to adopt Ordinance B. as submitted. The motion carried unanimously. The adopted Ordinance was assigned number 2549.

**19. RESOLUTION ORDERING BEAVER ISLAND TRAIL PHASE 4 IMPROVEMENTS.**

City Engineer Steve Foss gave a brief overview of the Beaver Island Trail Phase #4 extension project. The City of St. Cloud will be receiving Federal and State funding for the construction of the project. The city’s cost would be for acquisition of the right-of-way. Council President Goerger opened the public hearing. The following person spoke:

**Lowell Olson, 23 Pandolfo Place; representative of the Natural Parks and Trails Coalition.** He read the following statement in support: “The proposed project makes a desirable connection between the current Beaver Island trail and the new trail through River Bluffs Regional Park. The trail segment is an important link in the city’s non-motorized transportation system and also will provide recreational opportunities and better access to River Bluffs Park. We congratulate the City on receiving federal and state funds that cover more than half the cost of the project and we look forward to the completion of this trail. Members of the Natural Parks and Trails Coalition are Central

MN Audubon Society, League of Women Voters of the St. Cloud Area, Nordic Ski Club of Central Minnesota, St. Cloud Area Environmental Council, Sierra Club-Big River Group, and other interested citizens. We thank you for your continuing support for natural parks and trails.”

There being no one else wishing to speak, the public hearing was closed. It was moved by Masters, seconded by Lewis, to move approval of the resolution as presented. Hontos was supportive but questioned the rationale for two trail heads in a five-block area. Park Director Scott Zlotnik responded to questions and concerns. The new trail head will provide not only parking but other amenities. Following discussion, the motion unanimously carried. The adopted resolution was assigned number 2013-2-34.

**Open Discussion & Announcements:** No announcements.

**Adjournment:** There being no further business to discuss, Council President Goerger adjourned the meeting at 8:31 p.m.

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City Council President Jeff Goerger

Respectfully submitted by

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Sandy Hilsgen  
Recording Council Secretary