

CITY COUNCIL PROCEEDINGS

AGENDA ITEM:

JUNE 10, 2013

1. Following the Pledge of Allegiance, a regular meeting of the City Council of the City of St. Cloud, Minnesota, was held on June 10, 2013, at 6:00 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. All Council members were present: Goerger, Gohman, Hontos, Johnson, Lewis, Libert, and Masters.

SPECIAL RECOGNITION:

4. Mayor Dave Kleis proclaimed the month of June 2013 as St. Cloud Historic Preservation Month. Community Development Director Matt Glaesman highlighted the upcoming events of the month, noting that the historic home award ceremony will take place at the June 24, 2013 Council meeting. Council President Goerger recognized and thanked those individuals who serve on the Heritage Preservation Commission.

CONSENT AGENDA:

5. **APPROVAL OF AGENDA.** ACTION TAKEN: Approved with the addition of three requests under Open Discussion: Masters request to discuss letter from Dave Mehoves; Hontos request to discuss recent MnDOT meeting; and Johnson's request to discuss police patrol at SCSU.
6. **MAYOR'S APPOINTMENT OF MOHAYADIN MOHAMED TO THE PARK & RECREATION ADVISORY BOARD (TERM OF JULY 1, 2013 TO JUNE 30, 2016).** ACTION TAKEN: Approved.
7. **MAYOR'S REAPPOINTMENTS OF TROY FRITZ, JAMIE HENKEMYER, AND MARY GRUENES TO THE PARK & RECREATION ADVISORY BOARD (TERMS OF JULY 1, 2013 TO JUNE 30, 2016.)** ACTION TAKEN: Approved.
8. **MAYOR'S APPOINTMENT OF TOM HANNON AND REAPPOINTMENT OF LYNN WILLIAMS TO THE CIVIL SERVICE BOARD (TERMS TO EXPIRE ON JUNE 30, 2016).** ACTION TAKEN: Approved.
9. **APPLICATION FOR THE TRANSFER OF AN OFF-SALE INTOXICATING LICENSE FROM JM PEQUOT, LLC, DBA SUNRISE LIQUOR TO SUNRISE LIQUOR, LLC, DBA SUNRISE LIQUOR AT 20-14TH AVENUE NE EFFECTIVE JULY 1, 2013.** ACTION TAKEN: A public hearing was set for June 24, 2013.
10. **APPLICATION FOR SEASONAL OUTDOOR SALES OF LIQUOR FOR THE VFW POST 428, 9 -18TH AVENUE N.** ACTION TAKEN: A public hearing was set for June 24, 2013.
11. **APPLICATION FOR A WINE AND 3.2 PERCENT MALT LIQUOR FOR CENTRAL PERK, LLC, DBA CENTRAL PERK WINE AND COFFEE BAR, 912 WEST ST. GERMAIN STREET.** ACTION TAKEN: A public hearing was set for June 24, 2013.

12. **TOBACCO LICENSE APPLICATIONS FOR CAMPUS MART, 1100 4TH AVENUE; VAPERS WAY, 22 WILSON AVENUE NE; SMOKIN' MONKEY, 4132 2ND STREET S., AND THE E-CIG EMPORIUM, 202 WAITE AVENUE SO.** ACTION TAKEN: Approved.

13. **APPLICATION FOR A SPECIAL EVENT OUTDOOR LIQUOR SALES LICENSE FOR OLD CHICAGO, 4040 2ND STREET SOUTH, FOR AN EVENT TO BE HELD IN THE PARKING LOT ON JUNE 26, 2013.** ACTION TAKEN: Approved.

14. **RENEWAL OF 3.2 PERCENT MALT LIQUOR LICENSES FOR THE PERIOD OF JULY 1, 2013 TO JUNE 30, 2014.** ACTION TAKEN: Councilmember Hontos removed the item for separate discussion. City Clerk Gregg Engdahl spoke to the food to liquor ratio requirement for 3.2 percent malt liquor licenses. Hontos/Masters moved approval with conditions as noted. The motion unanimously carried.

15. **A FIVE-YEAR AGREEMENT WITH THE PARAMOUNT RESOURCE ARTS TRUST (P.A.R.T.) TO MANAGE THE PARAMOUNT THEATRE.** ACTION TAKEN: Approved.

16. **RESOLUTION AUTHORIZING SPONSORSHIP OF CROSS-COUNTRY SKI TRAILS OPERATED BY THE NORDIC SKI CLUB OF CENTRAL MINNESOTA.** ACTION TAKEN: Resolution adopted and assigned number 2013-6-70.

17. **RESOLUTION IN SUPPORT OF A COMMUNITY APPLICATION TO HOST HOCKEY DAY MINNSOTA 2015.** ACTION TAKEN: Resolution adopted and assigned number 2013-6-71.

18. **RESOLUTION IN SUPORT OF MINNESOTA HOUSING APPLICATON FOR REHABILITATION OF WIMBLEDON GREEN APARTMENTS, 401 33RD AVENUE NORTH.** ACTION TAKEN: Resolution adopted and assigned number 2013-6-72.

19. **RESOLUTION DECLARING THE CITY'S INTENT TO COMPLETE THE ST. CLOUD REGIONAL AIPORT HANGAR PROJECT AND PARTICIPATE IN MINNESOTA DEPARTMENT OF TRANSPORTATION - OFFICE OF AERONAUTICS AIRPORT CONSTRUCTION GRANT PROGRAM.** ACTION TAKEN: Resolution adopted and assigned number 2013-6-73.

20. **APPROVAL OF LOW QUOTE FROM HARDRIVES, INC. FOR RELOCATION OF DRIVEWAY AT 3820 ROOSEVELT ROAD AS REQUIRED FOR CSAH 75 IMPROVEMENTS FROM 33RD TO 41ST STREET SOUTH.** ACTION TAKEN: Councilmember Hontos pulled item for discussion. City Engineer Steve Foss gave a brief overview of the Stearns County project noting that the City will cost share on the new driveway relocation to be constructed at 3820 Roosevelt Road. Hontos/Libert moved approval of the low quote by Hardrives, Inc. The motion unanimously carried.

21. **RESOLUTION RECEIVING CITY ENGINNER'S REPORT AND SETTING A PUBLIC HEARING FOR JUNE 24, 2013, TO CONSIDER SEBERGER NEIGHBORHOOD IMPROVEMENTS.** ACTION TAKEN: Resolution adopted and assigned number 2013-6-74.

OPEN FORUM: No one spoke.

22. (A) AN ORDINANCE AMENDING CHAPTER 5, SECTION 500, OF THE CODE OF ORDINANCES ENTITLED “FEES, CHARGES AND RATES ESTABLISHED.” AND

(B) AN ORDINANCE REPEALING CHAPTER 5, SECTION 545, OF THE CODE OF ORDINANCES ENTITLED “CIVIC CENTER RATES, FEES AND CHARGES ESTABLISHED.”

Tony Goddard, Interim Community Facilities Director, reviewed the recommendation (coming forward from the Rivers’ Edge Convention Center Advisory Board and administration) that would allow the Rivers Edge Convention Center management to set the River’s Edge’s facility’s fees, commission rates, and other charges. Currently the fees and rates are set by city ordinance. The proposed ordinance (A) officially reads: *“fees, charges, and rates for the River’s Edge Convention Center will be set by City Administration with input and recommendations from the River’s Edge Convention Center Advisory Board.”* The second proposed ordinance (B) *repeals the old language of Section 545:00 – Civic Center Rates, Fees, and Charges.* Council President Goerger opened the public hearing on the two ordinances. The following person spoke:

Julie Lunning, Executive Director of Convention and Visitors Bureau, 15702 County Road 2, Cold Spring, expressed support for both ordinances, which will benefit the facility and help it run more efficiently.

The public hearing was closed. It was moved by Councilmember Hontos, seconded by Councilmember Gohman, to adopt the ordinance (Item A) as presented. The motion unanimously carried. The adopted ordinance was assigned number 2555. It was then moved by Councilmember Masters, seconded by Councilmember Lewis, to adopt the ordinance (Item B) as presented. The motion unanimously carried. The adopted ordinance was assigned 2556.

23. (A) RESOLUTION AMENDING THE DISTRICT SQUARE PLANNED UNIT DEVELOPMENT (PUD) TO CONSTRUCT A 43,000 SQ.FT. OFFICE BULDING.

(Location: 628 Roosevelt Road) (DPA-2013-01) and (B) AN ORDINANCE VACATING A 30’ WIDE DRAINAGE AND UTILITY EASEMENT THAT BISECTS LOT 1, BLOCK 1, DISTRICT SQUARE PLAT TWO. (LOCATION:

622, 626, 630, AND 632 ROOSEVELT ROAD) Community Development Director Matt Glaesman explained that the applicant requests a modification to the PUD approved site plan to accommodate the construction of single, centralized office building to be built upon the southern property line. Schematics were displayed on the overhead. The second issue is the vacation of an easement to relocate the water main. Glaesman further noted that the Planning Commission recommended approval of both issues with requested conditions. Council President Goerger opened the public hearing. The following individuals spoke:

Roger Gillson, 2109 13th Street S., said his property is directly south of the proposed site. He addressed the parking proposal by use of the overhead to depict the current parking lot. He estimated the lot to be only 30% full on a daily basis

during the three week period that he counted vehicles three times a day. With a 240-vehicle parking capacity proposal, he suggested it would only create surplus parking and an empty parking lot. He suggested it would be a better alternative to preserve the natural woodlands and wildlife in that area.

Philip Royce, 2108 13th Street S. concurred with the previous speaker and hoped the wildlife and woodlands would be preserved. He also noted that the developer has not rectified the lighting issue for the past five years.

Duane Fischer, 2205 13th Street S. commented that the proposed building will be 100 feet from his property line and the loss of privacy in his home could be an issue. He and his neighbors would like the building moved as far north as possible as the residents built their homes first. The pine trees that were planted a few years ago to serve as a berm haven't grown to maturity yet. His preference would be for more trees to be planted and the previously constructed fence be continued all the way to the east. He also discussed nearby roadway traffic concerns and asked that 22nd Street S. not be opened.

Brady Hickcox, 12093 County Road 3, Avon; represented the builder; clarified that the lighting issue had been studied by engineers and results were just received. The proposed lighting was similar to that of candlelight and would not reach the homes in the area. He also spoke to the issue of the high number of parking spaces, noting that high number is typical for "call centers" along with the longer business hours.

James Kowitz, 1240 22nd Avenue S. said his home will be in the shadow of the proposed building. He asked that the building be constructed as far north as possible so he does not have to give up his privacy. The neighbors have concern regarding the builder's construction of an acceptable buffer/berm. He was also concerned about the loss of trees and wildlife.

There being no one else wishing to speak, Council President Goerger closed the public hearing. It was moved by Councilmember Masters, seconded by Councilmember Libert, to approve the two requests as submitted. Councilmember Masters concurred that the loss of woodlands would be a significant loss to the neighborhood. He also asked for specifics about the berms/buffers that would be established and asked about the high number of parking spaces. Community Development Director Glaesman referred to the 2008 approved site plan and explained the increase in parking spaces is allowed and necessary for a call center. He also suggested that a landscaping plan be established for approval by the Council or by administration. Councilmember Lewis asked what kind of call center was being constructed. The applicant, Nicholas Gaetz, 318 Jasmine Lane, St. Joseph, addressed the Council. He said he represented the main tenant of the building, Preferred Credit, a finance company that has been in St. Cloud for 30 years. There will be two separate call centers—an inbound and an outbound. Currently there are 270 total employees. The company staffs approximately 150/160 people on any given shift. Council discussion ensued. Community Director Glaesman said that the applicant has been working with the neighborhood. Both Councilmember Hontos and Council President Goerger asked about the landscaping issues and hoped to resolve past issues and those of the future. It was then moved by Councilmember Masters, seconded by Councilmember Libert, to table both request items for two weeks to the June 24, 2013 City Council meeting. The motion unanimously carried.

24. **AN ORDINANCE VACATING A 10' WIDE DRAINAGE AND UTILITY ESEMENT THAT IS CENTERED ON THE COMMON PROPERTY LINE BETWEEN LOTS 3 AND 4, BLOCK 5, SOMMERSBY PLAT 2. (LOCATION: 3698 AND 3706 21ST AVENUE SOUTH. Vac-2013-02)** Community Development Director Matt Glaesman gave a brief overview of the request. The applicant acquired to adjacent parcels within Sommersby with the intention of combining those parcels into a larger single building site. Council President Goerger opened the public hearing. The following person spoke:

Kyle McCall, 4625 42nd Street, Clear Lake; said he was in attendance to represent the property owner.

There being no one else wishing to speak, Councilmember Goerger closed the public hearing. It was moved by Gohman, seconded by Lewis, to adopt the ordinance as submitted. The motion unanimously carried. The adopted ordinance was assigned number 2557.

OLD BUSINESS:

25. **APPLICATION FOR AN AMUSEMENT DEVICE LICENSE FOR BLIZZARD HOSPITALITY CORP. DBA BIOLOGY, 701 WEST ST. GERMAIN, SUITE 100.** Councilmember Lewis had requested to hold over this item from a previous meeting with the concern that periodically a white sectional sofa had been placed outside the business with patrons seen sleeping on the sofa. She noted that the business has since refrained from that practice. City Attorney Matt Staehling said administration checked on the issue and the business's use and placement of furniture are in compliance with our City's Ordinance Section 635.30. It was moved by Councilmember Lewis, seconded by Councilmember Hontos, to approve the application for the amusement device license for the business as submitted. The motion unanimously carried. Councilmember Hontos suggested that the current City Ordinance Section 635.30 be revisited with regard to placing furniture outside on public right of way. He also inquired about the previous owner's involvement with the new business. City Clerk Gregg Engdahl noted it was not a liquor license transfer, but a new liquor license application under the new business name **Biology**. City staff does not have information about financial involvement of any partners or employees other than what is disclosed on the application form. Engdahl stated that the new license holder had indicated at the public hearing that the previous owner would be involved in the business for a short period of time to assist getting things up and running.

NEW BUSINESS:

26. **RESOLUTION ESTABLISHING PARKING RESTRICTIONS ALONG THE WEST SIDE OF 22ND AVENUE NORTH FROM 7TH STREET NORTH TO 8TH STREET NORTH/VETERANS DRIVE.** City Engineer Steve Foss gave a brief overview of the petitioned request to install "No Parking" restrictions in the area listed. Notification was sent to the affected property owners. It was moved by Hontos, seconded

by Gohman, to adopt the resolution as submitted. The motion unanimously carried. The adopted resolution was assigned number 2013-6-75.

27. APPEAL OF THE ZONING BOARD OF APPEALS' DENIAL OF THE REQUEST OF JOHN PFEFFER FOR A VARIANCE FROM ARTICLE 15, SECTION 15.5.A.6 (ACCESSORY BUILDING HEIGHT) TO CONSTRUCT A DETACHED GARAGE MEASURING 19.5 FEET AT THE LOCATION OF 2109 PLEASANT AVENUE. (VAR-2013-3).

Community Development Director Glaesman gave a brief overview of the applicant's variance request. The applicant intends to construct a 33 ft by 40 ft detached garage to store recreational vehicles. The Land Development Code allows a maximum height of 17 ft for detached accessory structures. The applicant asked for a variance to allow for 19.5 feet in height and the ZBA denied the request. It was noted that the applicant has since changed his request to seek a building height of 18.6 feet. Glaesman explained the three options available to the Council for the appeal process were: (1) to affirm the ZBA's decision by adoption of attached resolution (denying the 19.5 ft request); (2) to affirm the ZBA's decision and table item to request a revised findings and conclusions for final action; or (3) to set a public hearing to hear the applicant's appeal and the neighborhood's comments to consider overruling the ZBA's denial of the variance and allow a new height. Council discussion ensued. Hontos suggested sending the new height request back to the ZBA for its consideration to eliminate extra fees for the applicant. However, Glaesman said the action at this meeting was to select one of the three "appeal process options." Councilmember Lewis supported Mr. Pfeffer's variance request noting that she appreciated his desire to make property improvements to store his over-sized vehicles. After discussion, it was moved by Masters, seconded by Libert, to select Option #1 – the adoption of the Resolution affirming the decision of the Zoning Board of Appeals that denied the requested variance. The motion carried by a 6-1 vote with Councilmember Lewis voting against. Hontos requested that the zoning administrator work with the applicant on a reduced fee when reapplying to the ZBA. The adopted resolution was assigned number 2013-6-76.

OPEN DISCUSSION AND ANNOUNCEMENTS:

Councilmember Hontos reported that he attended a recent meeting with Community Development Director Matt Glaesman, Transportation Infrastructure Advisory member Joan Vincent, and APO Executive Director Scott Mareck as MnDOT discussed its 2033 Minnesota State Highway Investment Plan (MnSHIP). He attended with hopes for an update on MnDOT's I-94 Corridor plans. Mayor Kleis reported that he and APO Executive Director Scott Mareck met with the new MnDOT Commissioner in Washington DC. They asked MnDOT to place into their 20-year transportation plan an additional lane (in each direction) for the I-94 West Corridor.

Councilmember Johnson asked about the agreement between the City and St. Cloud State University for the assignment of three St. Cloud police officers to patrol the SCSU campus area and SCSU neighborhood to help reduce crime and criminal activity. Mayor

Kleis reported the City is in the process of creating a Memorandum of Understanding agreement with St. Cloud State University for an initial three-year period for the three police officers.

Councilmember Masters read aloud a letter the Council received from Dave Mehoves, 726 8th Avenue S. Mr. Mehoves had provided several photos taken on June 9th (two weeks after SCSU students move-out) of garbage/debris/old furniture placed in two alleys (four block stretch – 17 different addresses) in south St. Cloud. His letter asked why there has been a repeated lack of citations and enforcement of our city's ordinances. After considerable discussion, it was moved by Masters, seconded by Hontos, to review a shorter timeframe (e.g. 24-hours) to issue citations and enforcement. This item is to be placed for discussion on a future Study Session. The motion carried by a 5-1 vote with Goerger voting against. (Lewis left at 8:20 p.m.) It was then moved by Hontos, seconded by Masters, that administration draft a proposed ordinance with more specifics for sidewalk cafes and businesses to follow regarding the placement of furniture on the public right of way. This issue is to be placed on a future Study Session. The motion unanimously carried.

ADJOURNMENT: There being no further business to discuss, Council President Goerger adjourned the meeting at 8:25 p.m.

City Council President Jeff Goerger

Respectfully submitted by

Sandy Hilsgen
Recording Council Secretary