

CITY COUNCIL PROCEEDINGS

AGENDA ITEM:

JULY 15, 2013

1. Following the Pledge of Allegiance, a regular meeting of the City Council of the City of St. Cloud, Minnesota, was held on July 15, 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.

CONSENT AGENDA:

4. **APPROVAL OF AGENDA.** ACTION TAKEN: Approved.
5. **APPROVAL OF THE CITY COUNCIL MEETING MINUTES OF THE REGULAR MEETING HELD JUNE 10, 2013.** ACTION TAKEN: Approved.
6. **APPLICATION FOR A SPECIAL EVENT OUTDOOR LIQUOR LICENSE FOR HOWIE'S SPORTS BAR AND GRILL, 101 9TH AVE N, FOR USE ON SATURDAY BEAN BAG TOURNAMENT DATES FROM JULY THRU SEPTEMBER.** ACTION TAKEN: Approved.
7. **APPLICATION FOR A TOBACCO LICENSE FOR JM COMPANIES DBA LAKE GEORGE PANTRY, 701 9TH AVENUE SOUTH.** ACTION TAKEN: Approved.
8. **APPLICATION FOR TEMPORARY ON-SALE INTOXICATING LIQUOR LICENSE FOR MUNSINGER/CLEMENS BOTANICAL SOCIETY FOR AN EVENT TO BE HELD ON AUGUST 20, 2013 IN THE GREENHOUSE AT MUNSINGER GARDENS.** ACTION TAKEN: Approved.
9. ~~**IMPLEMENTATION OF BENETRAC SOFTWARE.**~~ ACTION TAKEN: This item was withdrawn by Administration.
10. **RESOLUTION APPROVING A SPECIAL LAW AUTHORIZING A ONE-HALF PERCENT LOCAL OPTION SALES AND USE TAX FOR ST. CLOUD AREA CITIES.** ACTION TAKEN: Resolution adopted and assigned number 2013-7-88.
11. **RESOLUTION APPROVING LAWS OF MINNESOTA 2013, CHAPTER 143, ARTICLE 9, SECTION 14 (REGARDING TAX INCREMENT FINANCING DISTRICT NO. 2)** Councilmember Johnson removed agenda item for discussion. Economic Development Director Cathy Mehelich gave a brief overview on the oldest TIF district in downtown St. Cloud known as the Norwest District. The district expired in 2008. The excess cash balance from this district will be remitted to Stearns County for distribution to the respective taxing jurisdictions. The resolution provides certainty to the State Auditor's office that state requirements being met. Johnson/Masters moved approval of the resolution. The motion unanimously carried. The adopted resolution was assigned number 2013-7-87.
12. **RESOLUTION AMENDING THE NU WAY MISSIONARY BAPTIST CHURCH PLANNED UNIT DEVELOPMENT (PUD) TO ALLOW INDUSTRIAL, MANUFACTURING, AND**

**PROFESSIONAL SERVICES WITHIN THE EXISTING STRUCTURE(LOCATION: 616 21ST AVENUE NORTH) (DPA-2013-03)** ACTION TAKEN: Councilmember Lewis removed this item and asked for clarification. Libert responded that the applicant is proposing to change the existing General Development Plan to expand the permitted uses on the property to include industrial, manufacturing, and professional services. Lewis/Libert moved approval of setting a public hearing for July 29, 2013. The motion unanimously carried.

**13. ORDINANCE VACATING 19TH AVENUE NORTH FROM 1ST STREET NORTH TO THE DIVISION STREET (HIGHWAY 23) RIGHT-OF-WAY. (VAC-2013-05).** ACTION TAKEN: Councilmember Masters removed this agenda item. Councilmember Libert noted his intent to abstain due to conflict of interest with his employment. Masters/Gohman moved to set a public hearing for July 29, 2013. The motion carried by a 6-0-1 vote with Libert abstaining. (Proposed Ordinance #2013-14)

**14. AFFIRM FINAL PLAT APPROVAL OF BEAR RIDGE 3RD ADDITION.** ACTION TAKEN: Approved.

**15. APPROVAL OF LOW QUOTE FROM DESIGN ELECTRICAL CONTRACTORS, INC. FOR 7TH AVENUE STREET LIGHTING PROJECT, CONTRACT 2013-15.** ACTION TAKEN: Approved.

**16. A. RESOLUTION ACCEPTING LOW BID FOR 9TH/10TH AVENUE NORTH BITUMINOUS STREET RESURFACING IMPROVEMENTS, CONTRACT 2013-05, S.A.P. 162-145-009.** ACTION TAKEN: Resolution adopted and assigned number 2013-7-89; 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 2013-05, S.A.P. 162 145-009.** ACTION TAKEN: Resolution adopted and assigned number 2013-7-90.

**17. APPLICATIONS FOR RENEWAL OF LOADING ZONE PERMITS IN DOWNTOWN METERED PARKING AREA AND IN THE "E" AND "G" PARKING PERMIT ZONES FOR JULY 1, 2013, THROUGH JUNE 30, 2014.** ACTION TAKEN: Approved.

**18. APPROVAL OF A CONTRACT EXTENSION WITH REPUBLIC SERVICES FOR THE DISPOSITION OF RECYCLABLE MATERIALS.** ACTION TAKEN: Approved.

**19. AUTHORIZE THE MAYOR AND CITY CLERK TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF ST CLOUD AND SHERBURNE COUNTY GRANTING A PERMANENT EASEMENT TO SHERBURNE COUNTY.** ACTION TAKEN: Approved.

**20. RESOLUTION ACCEPTING LOW BID RECEIVED FROM KNIFE RIVER IN THE AMOUNT OF \$920,594.35 FOR THE RECONSTRUCTION OF CROSSWIND RUNWAY 5-23 AT THE ST. CLOUD REGIONAL AIRPORT.** ACTION TAKEN: Councilmember Johnson removed the item for discussion. St. Cloud Regional Airport Director Bill Towle gave a brief overview of the project that should be completed by the end of October. Johnson/Libert moved approval of the resolution. The motion unanimously carried. The adopted Resolution was assigned number 2013-7-91.

20.A. **ADD-ON** - **RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR CLEARWATER ROAD REALIGNMENT – PHASE 1, CONTRACT 2013-01.** ACTION TAKEN: Resolution adopted and assigned number 2013-7-92.

**OPEN FORUM:**

**Dexter Stanton, 1109 31<sup>st</sup> Avenue N.** spoke to the City Ordinance relating to Rental Dwelling Licensing – Section 300:40, Subd. 8. entitled, Background Checks. He is experiencing difficulty in finding rental housing in St. Cloud due to his past criminal background. He made the following personal recommendations to the Council: (1) Only trained investigators should do the criminal background checks to verify the history as correct and recent. He suggested that NCIC records can be incorrect and the untrained researcher can be misled on actual number of incidents/convictions; and (2) An investigation should look only at recent history...last two-year period after a release from probation or institution to show individual's stabilization, suggesting that old records do not show individual's character of today.

**PUBLIC HEARINGS:**

21. **(A) RESOLUTION AMENDING THE WESTWOOD PARKWAY PLANNED UNIT DEVELOPMENT (PUD) TO CHANGE THE DENSITY OF SINGLE FAMILY HOMES AND INTERIOR SIDE YARD SETBACK WITHIN WESTWOOD PARKWAY PLAT 10. (LOCATION: 6501 - 6699 WESTWOOD PARKWAY) (DPA-2013-02); and (B) ORDINANCE VACATING ALL INTERIOR SIDE YARD DRAINAGE AND UTILITY EASEMENTS, EXCEPT FOR THE EASEMENTS FOUND ON LOTS 3, 4, 5, AND 6 OF WESTWOOD PARKWAY PLAT 10. (VAC-2013-04)** Dave Broxmeyer, Senior Planner, gave a brief overview of the applicant's request to increase lot sizes within the Westwood Parkway Plat 10. The originally platted 33 lots would be reduced to 23 lots ranging from 55' to 70' in width. The Planning Commission recommended approval. Council President Goerger opened the public hearing. The following person spoke:

**Rick Dingmann of Berscheid Builders (applicant)**, 8558 1<sup>st</sup> Avenue N., Rice; noted there is a demand for 1800 ft. patio homes with three-stall garages. He has found that residents do not like to share driveways. The proposed development would be in an association area. He asked for the Council's approval.

There being no one else wishing to speak, the public hearing was closed. It was moved by Liberts, seconded by Gohman, to adopt the resolution (Item A) to amend the PUD as presented. The motion unanimously carried. It was moved Lewis, seconded by Masters, to adopt the ordinance (Item B) as submitted. The motion unanimously carried. The adopted resolution was assigned number 2013-7-93 and the adopted ordinance was assigned number 2558.

22. **ORDINANCE AMENDING ARTICLE 19 - OFF-SITE DEVELOPMENT STANDARDS, SECTION 19.4 - SIDEWALK IMPROVEMENTS, TO CREATE A COMPREHENSIVE AND FULLY INTERCONNECTED PUBLIC PEDESTRIAN SYSTEM CONSISTENT WITH THE COMPREHENSIVE PLAN AND COMPLETE STREETS POLICY. (LDC-2013-03)** City Engineer Steve Foss gave a brief overview of the proposed language for Article 19, Section 19.4 of the St. Cloud Land Development Code. He noted that the Planning Commission has recommended approval. The proposed ordinance clarifies (A. –F.) “when, where, and how” sidewalks will be installed. There are no proposed changes with regard to new developments; however, where there is existing sidewalk or reconstruction of sidewalk, there will be no assessment to the neighborhood. Council President Goerger opened the public hearing. The following people spoke:

**Jeff Bulka, 720 14<sup>th</sup> Street SE**, spoke against the ordinance stating that it will not give the public a voice in neighborhood projects.

**Jodi Gertken, Sartell resident**; representing BLEND (Better Living: Exercise & Nutrition Daily) spoke to the importance for a community to have sidewalks for health, safety, and a community investment.

**Charlotte Stephens, 23 Pandolfo Place**; spoke to the importance of sidewalks throughout a community as a health and safety benefit.

**McKenna Rohe, Sartell resident**; also representing the BLEND group; she sees the importance of sidewalks, especially for her aging grandparents who live in St. Cloud and need to exercise and walk for maintaining health.

**Patrick Zook, 2445 Marquette Drive**, a family practitioner of 36 years, representing the views of the St. Cloud Medical Group and the Stearns/Benton County Medical Society, stating that sidewalks provide a safe area for walking/exercise for those dealing with obesity, social isolation, and heart disease.

**Richard Brinker, 304 23<sup>rd</sup> Avenue N.**; said that his block does not have sidewalk and it would be shame to lose the trees if sidewalk was installed.

**Gil Otto, 1217 8<sup>th</sup> Avenue SE**; spoke against the proposed ordinance. He agreed with the 2008 MnDOT study done on complete street policies that reports that all modes do not fit all roads/needs. His elderly neighbors and disabled neighbors have indicated that they do not want sidewalks, including W. E. Clemens. The neighbors want and need a voice regarding their own neighborhood and he suggested the health conscious residents use health clubs rather than forcing sidewalks onto others.

**Greg Markfort, 728 8<sup>th</sup> Avenue SE**; was concerned that a City ordinance becomes law, not just a policy, as a law does not allow much leeway. Before this goes into law, he asked for more public participation and suggested that the proposed ordinance be sent to all the neighborhood associations for review and comment. He said that sidewalks are good, but not in all places. He read aloud certain portions from the proposed ordinance and suggested that certain necessary elements were not covered.

**Katy Westlund, 201 16<sup>th</sup> Avenue N.** lives in the St. John Cantius Neighborhood; she does not have sidewalk in front of her home and mentioned that her son has epilepsy and he walks to/from school. She asked that the document be sent to her neighborhood association for discussion and that all core neighborhoods should review the contents before the Council adopts the ordinance.

**Dean Reller, 223 23<sup>rd</sup> Avenue N.;** lives in the Seberger-Roosevelt Neighborhood and is chair of his local neighborhood association. He spoke in support of the proposed sidewalk for his area and supports the complete streets policy.

**Nancy Gunderson, 806 6<sup>th</sup> Avenue S.;** co-chairs the League of Women Voters and was in attendance on their behalf to read a prepared statement indicating support for the complete street policy and the proposed ordinance.

**Pat Morin, 917 13<sup>th</sup> Avenue SE;** general comments in support of sidewalks, noting that her husband has health issues and walks for exercise. He appreciates walking in areas with sidewalks.

**Lisa Guetzko, 193 Glenview Loop;** stated that she favorably agrees with Jodi Gertken and other BLEND members on their comments. She inquired about when sidewalks are constructed in existing neighborhoods, what triggers such a project. She also indicated that she was pleased that those concerned existing neighborhood residents can now be assured they will not be assessed. (City Engineer Steve Foss responded to her comments.)

**Connie Pelzer, 1311 8<sup>th</sup> Avenue SE;** read aloud her personal statement in opposition to the proposed ordinance and suggested a two-fold ordinance. (Said document on file in the Planning Office)

**Dave Smith, 919 Celebration, Sartell,** a pediatrician; he commented that BLEND is a not a corporation but rather a partnership of many organizations promoting good health and well being. They promote sidewalks as sidewalks provide safe walking areas for everyone.

**Andy Vinson, 911 5<sup>th</sup> Place,** Executive Director of HealthPartners Central Minnesota; has recently moved into St. Cloud and supports the sidewalk ordinance. He represented all medical groups in the community in support of this endeavor, not only for the health reasons, but because sidewalks provide for community connection.

**Mark Larkin, 3119 Walden Way,** Vice President of Development @ Centra Care Health; also provided general comments and indicated his support for the proposed ordinance.

There being no one else wishing to speak, Council President Goerger closed the public hearing. It was moved by Libert, seconded by Masters, to approve the ordinance as presented. Council discussion ensued. Councilmember Hontos felt that after the public comments of the evening, the public process should be refined before the ordinance is adopted. It was moved by Hontos, seconded by Gohman, to table this item for further review to establish better language for easier public participation. The motion failed by a 3-4 vote with Goerger, Lewis, Libert, and Masters voting against. City Attorney Matt Staehling explained that the proposed process is very similar to projects of the past. There will be acceptance of petitions, neighborhood public informational meetings, and the public hearing process all to take place as the

current process. The original motion then carried by a 4-3 vote with Gohman, Hontos, and Johnson voting against. The adopted ordinance was assigned number 2559.

**OPEN DISCUSSION:**

Councilmember Johnson announced that the first class of the Youth Initiative Aviation Academy (YIMA) will be graduating on Wednesday, July 17, after the completion of a 13-week aviation camp at the St. Cloud Regional Airport. The event will be held at the airport main airline terminal from 5-7 p.m. The event is free and open to the public.

**ADJOURNMENT:**

There being no further business, Council President Goerger adjourned the meeting at 8:52 p.m.

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City Council President Jeff Goerger

Respectfully submitted by

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Sandy Hilsgen  
Recording Council Secretary