

CITY COUNCIL PROCEEDINGS

AGENDA ITEM:

AUGUST 12, 2013

1. Following the Pledge of Allegiance, a regular meeting of the City Council of the City of St. Cloud, Minnesota, was held on August 12, 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, Johns, Lewis, Libert and Masters.
4. Mayor Dave Kleis presented an introduction to the 2014 City of St. Cloud Budget.

CONSENT AGENDA:

5. **APPROVAL OF AGENDA.** ACTION TAKEN: Approved.
6. **APPROVAL OF THE CITY COUNCIL MEETING MINUTES OF THE REGULAR MEETING HELD JULY 15, 2013.** ACTION TAKEN: Approved.
7. **APPLICATION FOR AN ON-SALE INTOXICATING AND SPECIAL SUNDAY LIQUOR LICENSE FOR MMRB, LLC DBA THE PICKLED LOON, 715 WEST ST. GERMAIN.** ACTION TAKEN: Item was pulled by Councilmember Hontos for discussion. He cited inaccuracies within the application and asked staff to have applicant resubmit new information prior to the public hearing. Hontos/Gohman moved to set a public hearing for August 26, 2013. The motion unanimously carried.
8. **APPLICATION FOR TOBACCO LICENSE FOR THE GOLD SHOP, INC. DBA THE GOLD SHOP, 3700 WEST DIVISION STREET, SUITE 105.** ACTION TAKEN: Approved.
9. **RESOLUTION SETTING PUBLIC HEARING FOR SEPTEMBER 9, 2013, TO CONSIDER CERTIFICATION OF DELINQUENT SNOW REMOVAL CHARGES TO THE COUNTIES FOR COLLECTION.** ACTION TAKEN: Item was pulled by Councilmember Hontos for discussion. Hontos asked about the process regarding “linkage” of unpaid accounts and license renewals. Hontos/Libert moved approval of the resolution. The motion unanimously carried. Resolution adopted and assigned number 2013-8-103.
10. **RESOLUTION SETTING PUBLIC HEARING FOR SEPTEMBER 9, 2013, TO CONSIDER CERTIFICATION OF DELINQUENT SEWER, WATER AND REFUSE ACCOUNTS TO THE COUNTIES FOR COLLECTION.** ACTION TAKEN: Item was pulled by Councilmember Hontos for discussion. Hontos asked about the process regarding “linkage” of unpaid accounts and license renewals. Hontos/Libert moved approval of the resolution. The motion unanimously carried. Resolution adopted and assigned number 2013-8-104.

11. RESOLUTION SETTING PUBLIC HEARING FOR SEPTEMBER 9, 2013, TO CONSIDER CERTIFICATION OF DELINQUENT TREE REMOVAL ASSESSMENTS TO THE COUNTIES FOR COLLECTION. ACTION TAKEN: Item was pulled by Councilmember Hontos for discussion. Hontos asked about the process regarding “linkage” of unpaid accounts and license renewals. Hontos/Libert moved approval of the resolution. The motion unanimously carried. Resolution adopted and assigned number 2013-8-105.

12. RESOLUTION SETTING PUBLIC HEARING FOR SEPTEMBER 9, 2013, TO CONSIDER SPECIAL ASSESSMENT ROLL 2 FOR 2012 PUBLIC IMPROVEMENTS. ACTION TAKEN: Item was pulled by Councilmember Hontos for discussion. Hontos asked about the process regarding “linkage” of unpaid accounts and license renewals. Hontos/Libert moved approval of the resolution. The motion unanimously carried. Resolution adopted and assigned number 2013-8-106.

13. RESOLUTION SETTING PUBLIC HEARING FOR SEPTEMBER 9, 2013 TO CONSIDER CERTIFICATION OF DELINQUENT ADMINISTRATIVE CITATION CHARGES TO THE COUNTIES FOR COLLECTION. ACTION TAKEN: Item was pulled by Councilmember Hontos for discussion. Hontos asked about the process regarding “linkage” of unpaid accounts and license renewals. Hontos/Libert moved approval of the resolution. The motion unanimously carried. Resolution adopted and assigned number 2013-8-107.

14. RESOLUTION SETTING PUBLIC HEARING FOR SEPTEMBER 9, 2013 TO CONSIDER CERTIFICATION OF DELINQUENT WEED REMOVAL/GRASS MOWING CHARGES TO THE COUNTIES FOR COLLECTION. ACTION TAKEN: Item was pulled by Councilmember Hontos for discussion. Hontos asked about the process regarding “linkage” of unpaid accounts and license renewals. Hontos/Libert moved approval of the resolution. The motion unanimously carried. Resolution adopted and assigned number 2013-8-108.

15. RESOLUTION SETTING PUBLIC HEARING FOR SEPTEMBER 9, 2013 TO CONSIDER CERTIFICATION OF DELINQUENT NUISANCE ABATEMENT CHARGES TO THE COUNTIES FOR COLLECTION. ACTION TAKEN: Item was pulled by Councilmember Hontos for discussion. Hontos asked about the process regarding “linkage” of unpaid accounts and license renewals. Hontos/Libert moved approval of the resolution. The motion unanimously carried. Resolution adopted and assigned number 2013-8-109.

16. LAKE GEORGE PERFORMANCE STAGE – NEW CONSTRUCTION APPROVAL. ACTION TAKEN: Councilmember Lewis pulled this item for separate discussion. Mayor Kleis recognized and expressed gratitude to the Rotary Club of St. Cloud for its partnership with the City to establish the permanent entertainment/performance stage at Lake George. Schematics of the proposed location and proposed design were provided. Lewis/Hontos moved approval of the approving the preliminary concept plans for the stage, authorizing \$130,000 of local sales tax to

support the project budget, and authorized the mayor and city clerk to execute all agreements. The motion unanimously carried.

17. RESOLUTION CALLING FOR A PUBLIC HEARING ON SEPTEMBER 9, 2013, ON A PROPOSED MODIFICATION TO THE ENABLING RESOLUTION OF THE ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF ST. CLOUD. ACTION TAKEN: Resolution adopted and assigned number 2013-8-110.

18. RIVER'S EDGE CONVENTION CENTER PARKING RAMP CONDITION AUDIT. ACTION TAKEN: Councilmember Hontos removed item for a separate discussion. Public Services Director Pat Shea spoke to the proposal. Hontos/Masters moved approval. The motion unanimously carried.

19. APPROVE FINAL PLAT AND SUBDIVISION AGREEMENT FOR SAUK RIVER ESTATES 4. ACTION TAKEN: Approved.

20. REQUEST TO ENTER INTO ENCROACHMENT AGREEMENTS WITH STATE OF MINNESOTA ON BEHALF OF ST. CLOUD STATE UNIVERSITY TO ENCROACH ON PUBLIC RIGHT-OF-WAY. ACTION TAKEN: Approved.

21. AN ORDINANCE AMENDING SECTION 570 OF THE 2007 CODE OF ORDINANCES ENTITLED "CITY REFUSE, RECYCLING AND RUBBISH COLLECTION AND DISPOSAL CHARGES." ACTION TAKEN: A reading and public hearing was set for August 26, 2013. (Proposed Ordinance 2013-16)

22. RESOLUTION AMENDING THE POLICIES REGARDING THE MAKING OF PUBLIC IMPROVEMENT PROJECTS AND ESTABLISHING POLICIES FOR THE LEVYING OF SPECIAL ASSESSMENTS. ACTION TAKEN: Resolution adopted and assigned number 2013-8-111.

23. APPROVAL OF CHANGE ORDER NO. 1 TO 2013 BITUMINOUS STREET RESURFACING IMPROVEMENTS, CONTRACT 2013-16. ACTION TAKEN: Approved.

24. ACCEPTANCE OF LOW QUOTE FROM BRAUN INTERTEC FOR CONSTRUCTION MATERIAL TESTING SERVICES FOR THE BEAVER ISLAND TRAIL PHASE 4 IMPROVEMENTS, CONTRACT 2013-11. ACTION TAKEN: Approved.

25. APPROVAL OF LOW QUOTE FOR DRAINAGE IMPROVEMENTS AT CALVARY HILL LANE AND 17TH STREET SOUTH. ACTION TAKEN: Approved.

26. RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE STATE AGREEMENT 03941 BETWEEN THE MINNESOTA DEPARTMENT OF TRANSPORTATION, OFFICE OF AERONAUTICS, AND THE ST. CLOUD REGIONAL AIRPORT FOR FINANCIAL ASSISTANCE RELATED TO

MAINTENANCE AND OPERATING EXPENSES. ACTION TAKEN: Resolution adopted and assigned number 2013-8-112.

27. RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER IN A CONSTRUCTION AGREEMENT WITH RICE BUILDING SYSTEMS, INC., TO CONSTRUCT AN AIRCRAFT STORAGE HANGAR AT THE ST. CLOUD REGIONAL AIRPORT. ACTION TAKEN: Resolution adopted and assigned number 2013-8-113.

28. RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CONSTRUCTION AGREEMENT WITH KNIFE RIVER CORP FOR THE RECONSTRUCTION OF THE CROSSWIND RUNWAY AT THE ST. CLOUD REGIONAL AIRPORT. ACTION TAKEN: Resolution adopted and assigned number 2013-8-114.

OPEN FORUM: No one spoke.

PUBLIC HEARINGS:

29. ORDINANCE AMENDING SECTION 244 OF THE 2007 CODE OF ORDINANCES ENTITLED “REFUSE, RUBBISH AND RECYCLING COLLECTION AND DISPOSAL.” Public Services Director Pat Shea explained that Section 244 was revised to include housekeeping and grammatical corrections, language for the implementation of the automated single-sort recycling program, and language to include an immediate administrative citation process. The transition to the new bi-weekly recycling program begins August 20, 2013. Council President Goerger opened the public hearing. No one spoke. The public hearing was closed. Council discussion ensued. It was moved by Masters, seconded by Gohman, to adopt the ordinance as presented. Assistant Director of Public Works Operations and Maintenance Gerald Kaeter reviewed the contents of the revised ordinance which includes language regarding rental properties (said document was provided to the Council at the meeting. City Attorney Matt Staehling referred to the document as the third copy of the revised ordinance.) All non-homesteaded rental properties will be required to use the 90-gallon refuse cart. Hontos asked how staff intends to alert the rental properties about the new requirements. Mr. Kaeter said the city has a data base of addresses for owners & managers and would send notification by letter. Hontos asked for further clarification on the language *“Subd. 7. During move-in/move-out week in the SCSU district, the refuse haulers, at the direction of the City’s Health and Inspections Division, shall accomplish daily refuse pick up. This shall be a condition of the Commercial Haulers License.”* as to how the City will educate refuse haulers about the proposed ordinance. Public Services Director Shea said the City will maintain the phone

numbers of the haulers and will instruct the haulers to be available for service if called during the specific timeframe. Hontos also cited Section 244:80 – Delinquent Accounts and suggested adding “linkage” language that clearly states that if a party is delinquent with any City account, no other license or permit (new or a renewal) could be issued until the delinquent account has been paid in full. It was then moved by Hontos, seconded by Gohman, to amend the original motion to include language to Section 244:80 – Delinquent Accounts that states that no delinquent party can obtain a new or renewed license/permit until such time that the delinquent party has paid his/her delinquent account in full. Lewis and Masters spoke to removing Section 244:80 from the ordinance to allow City legal staff sufficient time to draft appropriate language. Following a brief discussion, the vote on the linkage amendment carried by a 4-3 vote with Johnson, Lewis, and Masters voting against. The original motion as amended then carried unanimously. The Ordinance was adopted and assigned number 2561. (NOTE: City Attorney Staehling included the following language in the final version: ***Section 244:80-Delinquent Accounts; Subd. 3: Those properties with delinquent utility accounts, charges or fees are ineligible for City issued licenses or permits.***)

OLD BUSINESS:

30. **CLEARWATER ROAD REALIGNMENT - PHASE 1, CONTRACT 2013-01 - (A)RESOLUTION ACCEPTING LOW BID FOR CLEARWATER ROAD REALIGNMENT - PHASE 1, CONTRACT 2013-01; (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 2013-01.** City Engineer Steve Foss provided documents from earlier in the day that stated that seven bids were received. The lowest bid in the amount of \$279,434.55 was submitted by Douglas-Kerr Underground, LLC of Mora. The recommendation was for approval. It was moved by Councilmember Lewis, seconded by Councilmember Johnson, to approve both resolutions as presented. The motion unanimously carried. The adopted resolutions were assigned numbers 2013-8-115 and 2013-8-116 respectively.

31. **ENVIRONMENTAL REVIEW OF THE PROPOSED CHARCOAL 3 GRANITE QUARRY ON APPROXIMATELY 30 ACRES LOCATED WITHIN PORTIONS OF SECTION 21, 27 AND 28 OF TOWNSHIP 124 NORTH, RANGE 28 WEST IN THE CITY OF ST. CLOUD, STEARNS COUNTY, MINNESOTA.** Community Development Director

Matt Glaesman gave a brief introduction regarding the 30-day comment period and Environmental review. He provided a schematic of the specific area on the overhead. The Council has had three weeks to review the Environmental Assessment Worksheet (EAW), which serves as a guidance document to help them learn about the proposal. Glaesman spoke to the new language that was added to the resolution (text highlighted in yellow). Adoption of the resolution, as a first step, would indicate that sufficient information exists regarding potential environmental impacts of the project, but is not a finding of no significant impact. He also noted that this is day 15 of the 120 day conditional use permit review period. City Council President Goerger reported that the Council received many emails and correspondence regarding this issue, but were instructed not to respond. City Attorney Matt Staehling spoke to the integrity of the process and why correspondence to the Council was not answered. The Council has a legislative role (political role) that encourages/allows them to discuss most issues with the public. This issue, however, is a quasi-judicial issue and the City Council must maintain an open-mind and therefore is not permitted to participate in ex-parte communication (outside a public forum). As decision makers they are not to form their individual position until after the public hearings are conducted. Those public hearings have not taken place to date. The public's correspondence, however, was forwarded to appropriate staff and has become part of the official public record. Councilmember Lewis remarked that the next step in the process is a public hearing with the Zoning Board of Appeals (ZBA). She suggested that no matter what the outcome of the ZBA meeting is, the City Council as elected officials should conduct its own public hearing. Glaesman reiterated that due process would be followed. It was moved by Councilmember Libert, seconded by Councilmember Gohman, to adopt the resolution declaring that preparation of an Environmental Impact Statement is not needed. The motion carried by a 5-2 vote with Council members Johnson and Lewis voting against. The adopted resolution was assigned number 2013-8-117.

OPEN DISCUSSION & ANNOUNCEMENTS:

There being no further business to discuss, Council President Goerger adjourned the meeting at 8:07 p.m.

Respectfully submitted by Sandy Hilsgen

City Council President Jeff Goerger

