

CITY COUNCIL PROCEEDINGS

AGENDA ITEM:

DECEMBER 8, 2014

1. **SPECIAL MEETING:**

Council President Goerger called a special meeting of the St. Cloud City Council to order at 5:45 p.m. in the City Council Chambers. Members present were Councilmembers Goerger, Hontos, Johnson, Lewis (arrived at 5:47 p.m.), Libert, and Masters. City Clerk Gregg Engdahl introduced the "Resolution approving the November 21, 2014, Recount of Ward 2" to confirm the re-election of Nancy Gohman to the Ward 2 Council seat. It was moved by Councilmember Libert, seconded by Masters, to adopt the resolution as presented. The motion unanimously carried. The adopted resolution was assigned number 2014-12-147.

2. **REGULAR MEETING:**

Following the Pledge of Allegiance, a regular meeting of the St. Cloud City Council was held on December 8, 2014, at 6:00 p.m. in the City Council Chambers.

3. A Moment of Silence was observed for our men and women serving in the Armed Forces.

4. Councilmembers Goerger, Hontos, Johnson, Lewis, Libert and Masters were present.

CONSENT AGENDA:

5. **APPROVAL OF AGENDA.** ACTION TAKEN: Approved with the inclusion of five items under Open Discussion (Councilmember Hontos added three items (Council Rules of Order, 2015 Meeting Calendar, and problematic landlords), and Councilmember Johnson added two items (air service and lease agreement for Coborn's Plaza).

6. **APPROVAL OF THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD NOVEMBER 24, 2014.** ACTION TAKEN: Approved.

7. **RESOLUTION DESIGNATING THE ST. CLOUD TIMES AS THE OFFICIAL NEWSPAPER FOR THE CITY OF ST. CLOUD FOR 2015.** ACTION TAKEN: Resolution adopted and assigned number 2014-12-148.

8. **RESOLUTION SETTING DECEMBER 22, 2014 FOR THE PUBLIC HEARING ON THE 2015 ENTERPRISE FUND BUDGETS.** ACTION TAKEN: Resolution adopted and assigned number 2014-12-149.

9. **AN ORDINANCE AMENDING SECTION 810 AND SECTION 511 OF THE 2007 CODE OF ORDINANCES ENTITLED "INTOXICATING LIQUOR" AND "LIQUOR LICENSING FEES" RESPECTIVELY.** ACTION TAKEN: A reading and public hearing was set for December 22, 2104. (Proposed Ordinance 2014-26)

10. **APPLICATION FOR THE TRANSFER OF AN OFF-SALE INTOXICATING LIQUOR LICENSE FROM VINO REGALE, INCORPORATED (STEVEN PICKARD/THOMAS PICKARD/NICHOLAS BARTH) DBA THE WINE SHOP BY NICHOLAS BARTH TO VINO REGALE, INCORPORATED (STEVEN PICKARD) DBA THE WINE SHOP BY NICHOLAS BARTH, 218 6TH AVENUE SOUTH.** ACTION TAKEN: A reading and public hearing was set for December 22, 2014.

11. **APPLICATION FOR A SMALL BREWER OFF-SALE INTOXICATING LIQUOR LICENSE FOR BEAVER ISLAND BREWING COMPANY, LLC DBA BEAVER ISLAND BREWING COMPANY, 216 6TH AVENUE SOUTH.** ACTION TAKEN: A public hearing was set for December 22, 2014.

12. **APPLICATION FOR AN ON-SALE BREWERY TAP ROOM LICENSE FOR BEAVER ISLAND BREWING COMPANY, LLC DBA BEAVER ISLAND BREWING COMPANY, 216 6TH AVENUE SOUTH.** ACTION TAKEN: A public hearing was set for December 22, 2014.

13. **JOB DESCRIPTION REVISION AND UPGRADE: SENIOR PLAN REVIEWER.** ACTION TAKEN: Approved.

14. **ORDINANCE ADOPTING A SALES AND USE TAX FOR THE CITY OF ST. CLOUD.** ACTION TAKEN: A reading and public hearing for December 22, 2104. (Proposed Ordinance 2014-27)

15. **RESOLUTION APPROVING THE PROPOSED TRANSFER OF THE CABLE FRANCHISE CURRENTLY HELD BY CC VIII OPERATING, LLC, DBA CHARTER COMMUNICATIONS.** ACTION TAKEN: Councilmember Hontos removed this item for discussion. It was moved by Councilmember Hontos, seconded by Councilmember Lewis, to approve the resolution. Councilmember Hontos suggested that the resolution be tabled to January 26, 2015, to coincide with the return of the two Charter Communications' extension issues from the November 24th meeting (Items 34A & 34B). City Attorney Matt Staehling stated that this item had no connection to those two issues, but rather it pertains to the requirement/notification by Charter Communications to inform Cities that its business is undergoing corporate restructuring. He also said that taking no action on the resolution prompts automatic approval on December 27th. Discussion ensued. City Attorney Matt Staehling reported on the ongoing negotiations with the company. It was then moved by Hontos, seconded by Lewis, to table this issue to the January 26, 2015, meeting. The motion failed by a 3-3 vote with Goerger, Lewis, and Masters voting against. The original motion to approve the resolution carried by a 4-2 vote with Hontos and Johnson voting against. Resolution adopted and assigned number 2014-12-150.

16. **ACCEPTANCE OF 2014 HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS GRANT IN THE AMOUNT OF \$14,100.** ACTION TAKEN: Approved.

17. **RESOLUTION TO ACCEPT GRANT FROM THE AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS FOR VACCINATIONS OF IMPOUNDED ANIMALS.** ACTION TAKEN: Resolution adopted and assigned number 2014-12-151.

18. **RESOLUTION AMENDING THE DOWNTOWN ACCESSIBILITY IMPROVEMENT PROGRAM.** ACTION TAKEN: Councilmember Hontos removed this item for a separate discussion. Following a brief discussion regarding the minimum contribution to project costs by the applicant, it was moved by Hontos, seconded by Goerger, to include additional text to the resolution to establish a 10% minimum property owner contribution to project costs. The motion unanimously carried. Hontos then suggested that bullet point #3 needed further text/clarification. Council President Goerger suggested that the bullet point #2 of the resolution needed further text/clarification as well. Councilmember Lewis suggested tabling the resolution until all the corrections were made. Her motion died for a lack of a second. It was moved by Councilmember Hontos, seconded by Councilmember Masters, to approve the Council's intentions/staff's revisions to the resolution. The motion carried by a 5-1 vote with Councilmember Lewis voting against. The original motion as amended then carried by a 6-0 vote. Resolution adopted and assigned number 2014-12-152.

19. **ENCROACHMENT AGREEMENT WITH STATE OF MINNESOTA ON BEHALF OF ST. CLOUD STATE UNIVERSITY TO ENCROACH ON PUBLIC RIGHT-OF-WAY IN Q LOT.** ACTION TAKEN: Approved.

20. **APPLICATION FOR A SPECIAL PARKING ZONE PERMIT AT 113 - 17TH AVENUE SOUTH.** ACTION TAKEN: Approved.

OPEN FORUM:

1. **Roberto Borgert, 1735 Lucille Lane, St. Cloud** – Absentee Voting issue – suggested that residents have the ability to vote at City Clerk's office.
2. **Britten Mikkelsen, 525 1st Avenue S.,** spoke to a microaggression that she felt occurred at the November 24th meeting when SCSU students (assumed to be in attendance for a class project) were asked to line-up in to speak. She found that comment to be condescending and asked for a formal apology.
3. **Isuru (Ish) Herath, 271 Edward Drive,** said that as a person of color he feels that he and others are not safe walking after dusk in the campus area. He commented

that he speaks for others and that our City Council representation is not true of our community.

4. **Brian Peterson, 310 8th Avenue S.**, spoke to diversity issues and his concern that minorities are leaving the St. Cloud area. Suggested we build another mosque for the St. Cloud Somali population.

PUBLIC HEARINGS:

21. GOVERNMENTAL FUNDS BUDGET AND TAX LEVY FOR THE YEAR 2015:

(A) MAYOR'S BUDGET MESSAGE. Mayor Dave Kleis presented a brief overview of the 2015 Governmental Funds Budget and the budget process. He referenced the recently mailed out property tax statements and spoke to the City's portion only, noting that the School District and Counties conduct their own Truth-in-Taxation hearings. Property valuations are beginning to increase for the first time since the 2008 recession. He spoke to priorities and the importance of funding public safety. Last year's budget is very similar to the proposed 2015 budget with the exception of additional monies for public safety related positions. He reviewed those positions that will be filled in the Fire Department, Health & Inspections Department, and the Police Department. The Government Efficiency Task Force provided its recommendations after a one year study of the Police Department. The mayor also compared City spending of year 2008 to the proposed 2015 budget and displayed his personal property tax statements to illustrate that City spending remains low. In closing, the mayor highlighted City Administrator Mike Williams, Finance Director John Norman, Accountant Ruth Wipper, and the finance staff for their commendable work on the budget.

(B) FINANCE DIRECTOR'S BUDGET REVIEW. Finance Director John Norman gave a presentation reviewing the City wide comparison of values and tax rates; the property tax comparison of 2014 to 2015; the 2015 Governmental Funds revenues and expenditures, and a breakdown of the tax levy.

(C) THE TRUTH-IN-TAXATION PUBLIC HEARING. Council President Goerger opened the public hearing. No one spoke. The public hearing was closed.

(D) RESOLUTION ADOPTING THE FINAL TAX LEVY AND BUDGET FOR THE 2015 GOVERNMENTAL FUNDS. It was moved by Councilmember Libert, seconded by Councilmember Masters, to adopt the resolution as presented. The motion unanimously carried. The adopted resolution was assigned number 2014-12-153.

22. ORDINANCE AMENDMENT TO SECTION 236 AND ORDINANCE AMENDMENT TO SECTION 560 OF THE 2007 CODE OF ORDINANCES ESTABLISHING RULES AND FEES FOR THE PARK & RECREATION DEPARTMENT. Park and Recreation Director Scott Zlotnik gave a brief overview of the proposed changes to create simplification of the fee structure, remove fees and rates not being utilized, and to create a non-resident fee structure that is equitable across a full range of services being offered. Council President Goerger opened the public hearing. No one spoke. The public hearing was closed. Discussion ensued. Councilmember Lewis was concerned that the City could be pricing itself out

of the market and asked for an annual report. It was moved by Masters, seconded by Johnson, to adopt the ordinances as presented. The motion unanimously carried. The adopted Ordinances were assigned number 2604 and 2606 respectively.

23. **RESOLUTION ORDERING PETITIONED 15TH STREET NORTH SIDEWALK IMPROVEMENTS.**

City Engineer Steve Foss provided brief comments regarding the petitioned sidewalk project. He noted that two letters were received indicating opposition to the proposed sidewalk– Jean Guettler, 3017 15th Street N., and Jean W. Reum, 2913-15th Street North. Council President Goerger opened the public hearing. The following individuals spoke:

Linnea M. Piza, 3005 15th Street N., a 30-year St. Cloud resident; she opposed the sidewalk project stating that there are no current safety issues, would not want loss of two black walnut trees, fear that her property taxes would go up, and could foresee a hardship keeping snow cleared from the sidewalk.

Richard Saatzer, 2905 15th Street N.; said that he purchased his home over 15 years ago because it didn't have a sidewalk. Spoke in opposition.

Wade Boettcher, 2913 15th Street N., spoke in opposition on behalf of Jean Reum, homeowner at 2913 15th Street N.

Rhoneil Peneche, 3009 15th Street N., spoke in favor noting that he has small children and sidewalks would be safer.

There being no one else wishing to speak, the public hearing was closed. Councilmember Hontos listed each address of the nine affected property owners to determine who was in favor and/or against the sidewalk improvement. He also read aloud a letter he received from Lora Lee, 3001 15th Street N., stating her opposition to the sidewalk improvement. Council President Goerger and Council member Masters commented in support of the project to promote the City's goal of providing sidewalks and advocating safe routes to school. It was moved by Councilmember Masters, seconded by Councilmember Lewis, to adopt the resolution as presented. The motion failed by a roll call vote of 3-3 with Councilmembers Hontos, Johnson, and Libert voting against.

24. **RESOLUTION AMENDING THE MEDICAL DISTRICT GENERAL DEVELOPMENT PLAN TO CONSTRUCT A 23' X 106' ADDITION TO ST. CLOUD HOSPITAL'S EXISTING EMERGENCY ROOM. (LOCATION: 1406 6TH AVENUE NORTH) (DPA-2014-04).**

Community Development Director Matt Glaesman gave a brief overview of the proposed expansion of the emergency services space, relocation of the access drive, and construction of a canopy. Council President Goerger opened the public hearing. No one spoke. The public hearing was closed. It was moved by Councilmember Johnson, seconded by Councilmember Libert, to adopt the resolution as presented. The motion unanimously carried. The adopted resolution was assigned #2014-12-154.

25. **(A) ORDINANCE REZONING PROPERTY LOCATED AT 239 37TH AVENUE NORTH FROM R1, SINGLE FAMILY RESIDENTIAL DISTRICT TO PLANNED UNIT DEVELOPMENT (PUD). (REZ-2014-08)**

Community Development Director Matt Glaesman gave a brief overview of the applicant's request to utilize the subject property as a mini-golf course. Council President Goerger opened the public hearing. The following individuals spoke:

Steve Sorenson, 102 34th Avenue N., homeowner living three blocks away from the subject property and spoke with concern for safety noting heavy traffic already in the vicinity and lack of enforcement for those speeding.

Christopher Dragich, 148 4th Avenue N., Sauk Rapids; applicant; and Anna Marie (same address); provided a power point presentation on their proposed plans to build an 18 hole mini golf course, including sidewalks, elevation changes, landscaping and water features on a lot that was vacated since 2000. Intend to build in spring of 2016 with construction taking about 4 to 6 weeks.

Tim Nierenhausen, 224 37th Avenue N.; spoke on behalf of his mother who is the property owner on 37th Avenue N. He agreed with comments made by Mr. Sorenson and was concerned about the proposed hours of operation and the increased traffic the business will bring. The homeowners across the street will not be pleased with additional vehicles parking on the street.

Pat Moran, 917 13th Avenue SE. said she grew up in that area and does see increasing traffic. She asked about removal of the business equipment should the business fail.

There being no one else wishing to speak, the public hearing was closed. It was moved by Councilmember Masters, seconded by Councilmember Johnson, to adopt the Ordinance as presented. The motion unanimously carried. The Ordinance was assigned number 2605.

(B) RESOLUTION AMENDING THE PLAZA 15 PUD GENERAL DEVELOPMENT PLAN TO ALLOW A MINI GOLF COURSE AT 239 37TH AVENUE NORTH.

It was moved by Councilmember Hontos, seconded by Councilmember Johnson, to adopt the resolution as presented. The motion unanimously carried. The adopted resolution was assigned number 2014-12-155.

26. ORDINANCE VACATING THE ENTIRE 33' WIDTH OF THE SHOLING DRIVE RIGHT-OF-WAY FROM COOPER AVENUE SOUTH EASTWARD, LOCATED ADJACENT TO LOT 1, BLOCK 1, SHOLING PLACE. (LOCATION: 4334 COOPER AVENUE SOUTH) (VAC-2014-05)

Community Development Director Matt Glaesman gave a brief overview of the request to vacate Sholing Drive, which is currently occupied by a narrow private drive serving one residence and a vacant parcel. The parties have yet to agree to an access easement. The Planning Commission recommended approval contingent upon execution of an access agreement between the two private parties. Council President Goerger opened the public hearing. The following individuals spoke:

Byron Amo, 1010 Strawberry Court, Sauk Rapids; he and his wife Sheila have owned the property at 4356 Cooper Avenue since 2004. They use Sholing Drive to access the lot as it is the only access to their property. Therefore, he opposed the vacation as they are actively trying to sell the property.

Arianna Knoll, 4334 Cooper Avenue S.; owned her property since 2011 when the roadway was vacated, which was later rescinded in 2012; however, she was not notified about the rescinding until this summer (2014). The roadway is a single lane raised gravel driveway that provides access to her property and is 50 feet from her house. She pays property taxes on the driveway. As the owner, she has maintained the roadway and asked that Mr. Amo give prior notice before using the driveway, but to no avail. She wants to be notified in advance because there has been prior problems with people dumping refuse. The situation is causing her undue stress.

There being no one else wishing to speak, the public hearing was closed. It was moved by Councilmember Lewis, seconded by Councilmember Libert, to adopt the Ordinance

as presented. Director Glaesman noted that this is a complicated issue. Sholing Drive exists as a public right-of-way, however the City has not utilized the right-of-way. Ms. Knoll has been maintaining the roadway, and the roadway does serve two private properties. It is the only access to 4356 Cooper Avenue S. Following discussion, it was moved by Masters, and seconded by Hontos, to table this issue to mid-January so City staff can meet with both property owners to reach a potential solution. The motion unanimously carried.

OPEN DISCUSSION & ANNOUNCEMENTS:

Councilmember Hontos asked to amend the Council Rules of Order. Currently the document lists 16 Rules. Hontos suggested adding a Rule #17 that would require televising all Council meetings and Study Sessions. Councilmember Lewis suggested discussing this issue at the upcoming March Council Retreat. It was moved by Councilmember Hontos, seconded by Councilmember Libert, to add Rule #17. City Attorney Staehling advised that Parliamentary Procedures requires a 2/3 vote/majority vote to approve. It was moved by Council member Masters, seconded by Councilmember Lewis, to table the request to the City Council Retreat. The motion carried by a 4-2 vote with Councilmember Hontos and Libert voting against.

Councilmember Hontos asked to amend the 2015 City Council meeting calendar to include two additional Study Sessions. It was moved by Councilmember Hontos, seconded by Councilmember Johnson, to amend the 2015 City Council calendar to include a Study Session in January and a Study Session in June. The motion failed by a 3-3 vote with Councilmembers Goerger, Libert, and Masters voting against.

Councilmember Hontos brought up the issue of problematic landlords. He felt the issue would have been a good topic at a January Study Session. Community Development Director Glaesman stated that an update/report was emailed to the Council as of this date.

Prior to Councilmember Johnson's Open Discussion items, Councilmember Libert asked City Attorney Staehling for a legal opinion to determine whether Councilmember Jeff Johnson's comments about St. Cloud State University were a conflict of interest. Libert referenced Councilmember Johnson's former position with St. Cloud State University in the aviation department and Johnson's comments at past Council meetings about the SCSU department closing and the impact on airline workforce. City Attorney Staehling said he would look into the issue. Libert said he could not support Johnson's comments.

Councilmember Johnson asked about the refinancing of bonds for St. Cloud State's Coborn's Plaza (Weidem Bonds) and asked whether the City would be discussing this

again. City Administrator Mike Williams responded that the City is not responsible for the bonds for this project and the City's obligation is complete.

Councilmember Johnson raised concern about our local air service and his hopes to keep it thriving in St. Cloud. He said the city is facing several obstacles such as low ridership, problems with unreliable service, marketability, and minimum revenue guarantee. He mentioned that other airports are seeing a decline in flights because of crew shortages. He encouraged discussions with the Governor and local legislators.

Mayor Dave Kleis invited the public to attend the 2nd annual Weihnachtsmarkt (Christmas Market) to be held on Friday evening, December 12, from 5:00 – 9:00 p.m. at the World Heritage Corner, 525 St. Germain.

ADJOURNMENT:

There being no further business to discuss, Council President Goerger adjourned the meeting at 9:20 p.m.

Council President Jeff Goerger

Respectfully submitted by

Sandy Hilsgen
Recording Council Secretary