

## CITY COUNCIL PROCEEDINGS

### AGENDA ITEM:

JANUARY 26, 2015

1. Following the Pledge of Allegiance, a regular meeting of the St. Cloud City Council was held on January 26, 2015, at 6:00 p.m. in the City Council Chambers.
2. A Moment of Silence was observed for our men and women serving in the Armed Forces.
3. All members present: Jeff Goerger, Nancy Gohman, George Hontos, Jeff Johnson, Carol Lewis, John Libert, and Dave Masters.

### CONSENT AGENDA:

4. **APPROVAL OF AGENDA.** ACTION TAKEN: Approved with the inclusion of two items under Open Discussion added by Councilmember Johnson related to liquor license fees and air service.
5. **APPROVAL OF THE COUNCIL MINUTES OF THE REGULAR MEETING HELD JANUARY 5, 2015.** ACTION TAKEN: Approved.
6. **RENEWAL OF AMUSEMENT CENTER, AMUSEMENT DEVICE, BOWLING ALLEY, PAWN SHOP, POOL TABLE, PREMISE GAMBLING, SKATING AND TOBACCO LICENSES FOR THE PERIOD 1-1-15 TO 12-31-15.** ACTION TAKEN: Approved with conditions listed in City Clerk Engdahl's memo.
7. **ACCEPTANCE OF LOW BID FOR PARAMOUNT THEATRE SEAT REPLACEMENT.** ACTION TAKEN: Councilmember Gohman removed this item for discussion. Director of Community Services & Facilities Tony Goddard introduced Bob Johnson, the new Executive Director of the Paramount. Mr. Johnson provided an update on the fundraising efforts to date on the seat replacement project. A total of 274 seats have been sold, leaving 293 yet to be purchased. It was moved by Councilmember Gohman, seconded by Councilmember Lewis to accept the low bid for the theatre seat replacement project bid by Alliance Building Corporation of Sauk Rapids. The motion unanimously carried.
8. **APPROVAL OF A PROFESSIONAL SERVICES CONTRACT WITH APEX ENGINEERING GROUP FOR DESIGN, BIDDING AND CONSTRUCTION PHASE SERVICES FOR THE 5TH AVENUE NORTH WATER MAIN REPLACEMENT PROJECT.** ACTION TAKEN: Approved.
9. **RESOLUTION AUTHORIZING SUBMITTAL FOR A MINNESOTA POLLUTION CONTROL AGENCY CLEAN WATER PARTNERSHIP GRANT.** ACTION TAKEN: Councilmember Hontos removed this item for further clarification. Public Services Director Pat Shea gave a brief overview of the grant submittal. The pollutants include ongoing sediment (sand, silt, dirt, etc.) loading into the Mississippi River from a watershed located in northeast St. Cloud

(north of Highway 23 to the Mississippi River on the east). Following a brief discussion, it was moved by Councilmember Hontos, seconded by Councilmember Johnson, to approve the resolution as submitted. The motion unanimously carried. The adopted resolution was assigned number 2015-1-06.

**10. (A) SETTING A READING AND PUBLIC HEARING ON AN ORDINANCE AMENDING LAND DEVELOPMENT CODE ARTICLES 4, 19 & 21; and**

**(B) SETTING A READING AND PUBLIC HEARING ON THREE ORDINANCES AMENDING 2007 CODE OF ORDINANCES SECTIONS 365, 575 & 1100 TO COMPLY WITH NEW STORMWATER REQUIREMENTS MANDATED BY THE MPCA.** ACTION TAKEN: Readings and public hearings for the four proposed ordinances will be set for February 9, 2015. (Proposed Ordinances 2015-02; 2015-03; 2015-04; and 2015-05 respectively)

**11. RESOLUTION RELATING TO PARKING RESTRICTION ON 22ND STREET SOUTH FROM 400 FEET WEST OF QUARRY ROAD TO OAK GROVE ROAD/CSAH 136.** ACTION TAKEN: Resolution adopted and assigned number 2015-1-07.

**12. RESOLUTION RECEIVING CITY ENGINEER'S REPORT AND SETTING A PUBLIC HEARING FOR FEBRUARY 9, 2015, TO CONSIDER POINT PLEASANT DRAINAGE IMPROVEMENTS.** ACTION TAKEN: Resolution adopted and assigned number 2015-1-08.

**OPEN FORUM:**

**Dexter Stanton, 1109 - 31<sup>st</sup> Avenue N.,-** stated that he has been resident of St. Cloud for 20 years and participates in many local civic organizations. He reported that he recently applied for a taxi cab driver license, but found that due to his past criminal background in Minnesota, City Ordinance Section 472.50 prohibits him from obtaining such a license. He further reported that he addressed the Council a year ago about a City Ordinance relating to Rental Dwelling Licensing, as he was experiencing difficulty in finding rental housing in St. Cloud, again due to his past background. He hadn't received a response. He asked that both City ordinances be revisited for updating to allow him better opportunities in our community.

**PUBLIC HEARINGS:**

**13. RESOLUTION ORDERING SPECIAL ASSESSMENT ROLL 1 FOR 2014 PUBLIC IMPROVEMENTS.** City Engineer Steve Foss provided opening comments regarding the assessment policy and proposed project rates. He suggested that public testimony be heard at this meeting and then the public hearing be closed. All testimony will be recorded and each speaker will be mailed a written response, which will be included in a report to the Council. City Council President Goerger opened the public hearing regarding 33<sup>rd</sup> Street South/CSAH 75 Frontage Road Improvements. The following individuals spoke:

**Kirk Schnitker, 1330 – 81<sup>st</sup> Avenue NE, Spring Lake Park,** attorney representing property owner Jeff Sell and the properties at 1038/1042 33<sup>rd</sup> Street South. He provided a "Notice of Appeal" document indicating written objection to the

proposed assessments on behalf of owner, Jeff Sell. (Said document on file.) He spoke in opposition stating that the impact of the project does not equal the cost of assessments.

**James Neilson, 118 E. Main Street, Anoka, MN**, attorney representing properties at 3302 Southway Drive and 3008 Southway Drive owned by Johnson, Hunt and Jackson and JB Holdings. He delivered a letter of objection for the properties being assessed for street/sidewalk/bituminous trail. He also delivered a signed letter of objection from Back Four Properties, however he noted that he does not represent them. (Said documents on file.) He reported that the properties are still under condemnation for the new "Germany Street." The new street does not benefit the properties, but is more of a detriment due to loss of parking. The assessments (street, sidewalk, and bituminous trail) do not benefit or increase value of any of the properties.

**Wayne Schwinghammer, 3307 Southway Drive**; asked why the new curb and gutter were only done to 1/3 of his property, yet he was being assessed the full frontage.

There being no one else wishing to speak, Council President Goerger opened the public hearing on Seberger Park Neighborhood Improvements – Areas A, B, C and D. At this time, Councilmember Libert recused himself due to conflict of interest with his employment with Eich Motors, 1931 & 1933 Division Street. The following individuals spoke:

**Brian Severson, 302 – 19½ Avenue North**, stated his objection to his assessment and questioned whether MN Statutes were followed accurately in determining the assessments. He also questioned the accuracy of the responses he received from the City engineer and Councilmembers Hontos and Johnson. He asked for a breakdown on calculations of the project rates. He also requested severance damage for his property. He said the work was sub-standard. He submitted a letter of objection. (Said letter on file.)

**Angie Jenkins, 441 – 22<sup>nd</sup> Avenue North**, felt the assessment costs for the alley were extremely high, yet her home value had decreased again this year. She said the improvements did not benefit her and asked to have her costs re-evaluated.

**John Phillips, 2005 Red Fox Road**, submitted a letter of objection. (Said letter on file.)

**Angie McKarrall, 310 – 19½ Avenue North**, stated her objections to the assessments and the benefits of the project; submitted an objection letter. (Said letter on file.)

**Kenneth Grinsell, 323 Cooper Avenue**, stated that the special assessment cannot be greater than the amount that it improves the value of the property.

**Visith Somvorachith, 132 – 19<sup>th</sup> Avenue North**, stated that he does not have the money to pay the assessment due to his on-going serious medical issues.

**Robert Scheeler, 14252 Ash Circle NE, Prior Lake**, speaking to the property at 426 19½ Avenue North, which he had inherited. He lives solely on social security disability money. The assessment will cause a hardship for him. The property is a distressed, uninhabitable property that he wants torn down. The County assessor reviewed the property and significantly decreased the value of the property. He asked for reconsideration of the assessment. An objection letter was submitted. (Said letter on file.)

**Corina Gold, 411 23<sup>rd</sup> Avenue N.**; stated that her home value decreased by 30% since 2008 when she purchased it. The assessment is 11% of her home value. She read MN Statute 429.051 aloud that states the cost of any improvement or any part thereof may be assessed upon property benefited by the improvement based upon improvement received. Although she was pleased with the improvements, she felt that she is being assessed more than the value of the property. She submitted a letter of objection. (Said letter on file.)

**Jennifer Larson-Grinsell, 323 Cooper Avenue N.**; stated that she agrees with all the previous testimony. She submitted a letter of objection. (Said letter on file.)

**Lucy Schwieger, 319 Cooper Avenue N.**; stated that she agrees with all the previous testimony and asked if the assessment she recently received was different than the one she received a year ago.

**Kimberlee Allen, 1940 – 1<sup>st</sup> Street N.**, stated that she lives on a corner lot and half of her front yard was taken to put in sidewalks. She stated she was disappointed in the quality of the workmanship on the improvement project. She submitted a letter of objection to her assessment. (Said letter on file.)

**Rose Lingl, 444-23<sup>rd</sup> Avenue N.**, stated she was in agreement with the MN Statute regarding her assessment and the value of her property. She did request that her property be resurveyed and the surveying pegs put back in.

**Rhonda Scheeler, Sugar Plum Daycare, 436- 19½ Avenue North and 136- 19½ North**; stated that she is pleased with the end result of the project in both of the neighborhoods. However, she does not agree with the amount of the assessments. She submitted a letter of objection to her assessment. (Said letter on file.)

**Martin Brang, 311 – 19<sup>th</sup> Avenue N.**, agreed with previous testimony. He asked to see a breakdown of the actual project costs to support the assessments charged. He submitted a letter of objection to her assessment. (Said letter on file.)

There being no one else wishing to speak, Council President Goerger opened the last portion of the public hearing on Recertified Assessments and Miscellaneous Assessment Agreements. No one spoke. Council President Goerger then closed the public hearing

on Special Assessment Roll 1 for 2014 Public Improvements. Council discussion ensued. City Engineer Foss reviewed the steps that follow the public hearing. Written responses will be prepared for all the testimony heard. During the discussion period, Councilmember Lewis requested legal guidance from City Attorney Staehling on the interpretation of Minnesota Statute 429.051. It was moved by Councilmember Lewis, seconded by Councilmember Masters, to table this agenda item to the February 9<sup>th</sup> City Council meeting. The motion unanimously carried.

14. **ORDINANCE AMENDING SECTION 15.5, ACCESSORY STRUCTURES AND USES, OF THE LAND DEVELOPMENT CODE TO ESTABLISH A LAND USE PERMIT FOR CERTAIN ACCESSORY STRUCTURES.** Community Development Director Matt Glaesman Gave a brief overview of the city initiated amendment to create a land use permit as a result of pending changes to the State Building Code. Councilmember Hontos understood that the Planning Commission recommended approval, but suggested the actual vote of the Commission should be reported. Following a brief discussion, it was moved by Councilmember Gohman, seconded by Councilmember Johnson, to adopt the ordinance as presented. The motion unanimously carried. The adopted Ordinance was assigned number 2610.

**OLD BUSINESS:**

15. **(A) SETTING A READING AND PUBLIC HEARING FOR FEBRUARY 23, 2015, ON AN ORDINANCE GRANTING A FRANCHISE TO CC VII OPERATING, LLC, L/K/A CHARTER COMMUNICATIONS ("GRANTEE") TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE SYSTEM IN THE CITY OF ST. CLOUD, MINNESOTA ("CITY"); SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS.** City Administrator Mike Williams gave a brief overview of the past-to-present action taken with Charter Communications. City Attorney Matt Staehling reported (by memo) that the major components are in place and a final draft of the agreement will be forthcoming. Charter Communications will be a topic for discussion on the February 2<sup>nd</sup> Study Session agenda. Brian Grogan, the City's legal consultant on cable franchise renewal, will be in attendance to answer any questions and concerns the Council may have. After a brief discussion, it was moved by Councilmember Libert, seconded by Councilmember

Gohman, to set the reading and public hearing on the proposed ordinance for February 23, 2015. The motion unanimously carried. A proposed ordinance number 2015-06 was assigned.

**(B) RESOLUTION GRANTING CHARTER COMMUNICATIONS, INC. A FRANCHISE EXTENSION TO FEBRUARY 23, 2015.** It was moved by Councilmember Lewis, seconded by Councilmember Masters, to adopt the resolution to grant the franchise extension to February 23, 2015. The motion carried by a 5-2 vote with Councilmembers Hontos and Johnson voting against. The adopted resolution was assigned number 2015-1-09.

**(C) RESOLUTION TOLLING THE PERIOD FOR FRANCHISE ENFORCEMENT OF PEG CHANNEL LOCATION TO FEBRUARY 23, 2015.** It was moved by Councilmember Lewis, seconded by Councilmember Libert, to adopt the resolution tolling the period for Franchise Enforcement of PEG Channel location to February 23, 2015. The motion carried by a 5-2 vote with Councilmembers Hontos and Johnson voting against. The adopted resolution was assigned number 2015-1-10.

16. **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 reviewed the background and past action taken regarding this roadway. Sholing Drive is a narrow private drive that serves one residence and a vacant parcel. As requested by the Council after the December 8, 2014, public hearing, staff met with the two concerned parties regarding an access easement. No agreement was reached. Sholing Drive will remain a private roadway. The city will not be responsible for plowing or maintenance. Councilmember Lewis cited a typo within the resolution, 4<sup>th</sup> paragraph regarding the public hearing date to be corrected to December 8, ~~2015~~, 2014. It was moved by Councilmember Gohman, seconded by Councilmember Masters, to adopt the resolution presented entitled, "Resolution Regarding the Legal Status of Sholing Drive." The resolution states that the City's consideration of vacating Sholing Drive is withdrawn. Past Ordinance 2475 is void and Sholing Drive remains dedicated public right-of-way. The existing improvements within Sholing Drive are private improvements and may be modified and maintained by the adjacent land owners subject to the requirements of City Code and other law. The motion unanimously carried. The adopted resolution was assigned number 2015-1-11.

**OPEN DISCUSSION & ANNOUNCEMENTS:**

Councilmember Jeff Johnson asked to discuss an agenda topic from the December 15<sup>th</sup> Study Session with regard to liquor license fee increases. He asked that administration provide the Council with a report and timeline on the progression of the revised liquor license fees discussed that evening.

Councilmember Jeff Johnson brought up the topic of regional air service. Mayor Dave Kleis confirmed that air service to Chicago will terminate on March 1<sup>st</sup> and administration is working long-term on the creation of a Regional Air Authority. A recent meeting was held with elected officials of Stearns, Benton, and Sherburne Counties to discuss establishing such an Authority. The mayor also spoke to seeking a \$2 million loan or grant from the state, which would be granted to the Regional Air Authority as the fiscal agent. Councilmember Johnson spoke to the importance of working together to achieve continued air service.

**ADJOURNMENT:**

There being no further business to discuss, Council President Goerger adjourned the meeting at 8:24 p.m.

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Council President Jeff Goerger

Respectfully submitted by

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Sandy Hilsgen  
Recording Council Secretary