

## CITY COUNCIL PROCEEDINGS

AGENDA ITEM:

APRIL 6, 2009

1. Following the Pledge of Allegiance, a regular meeting of the City Council of St. Cloud, Minnesota, was called to order by City Council President Bob Johnson on April 6, 2009, at 6 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. Roll Call. All members were present: Berg, Garven, Hontos, Johnson, Libert, Masters and Pederson.

CONSENT AGENDA:

4. **APPROVAL OF AGENDA.** ACTION TAKEN: Approved.
5. **APPROVAL OF MINUTES AND SUMMARY OF PROCEEDINGS OF CITY COUNCIL MEETING HELD MARCH 16, 2009.** ACTION TAKEN: Approved.
6. **APPROVAL OF THE MINUTES AND SUMMARY OF PROCEEDINGS OF THE CITY COUNCIL MEETING HELD MARCH 23, 2009.** ACTION TAKEN: Approved.
7. **MAYOR'S APPOINTMENTS TO THE POLICE CITIZEN REVIEW BOARD.** ACTION TAKEN: Confirmed the appointments of Brianda A. Cediel and Sergeant Martin Sayre to the Police Citizen Review Board for a term to commence May 1, 2009 and expire April 30, 2012.
8. **RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A WAIVER OF COVENANTS IN RESPECT TO THE PROMISSORY NOTE/LOAN AGREEMENT DATED FEBRUARY 10, 2006, IN RESPECT TO THE ARCTIC COLD STORAGE EXPANSION PROJECT.** ACTION TAKEN: Councilmember Garven removed this item for discussion. Garven/Hontos moved approval of the resolution. City Attorney Jan Petersen explained that the document replicates last year's agreement, and is a required provision for the company's 2006 additional line of credit. The motion unanimously carried. Resolution adopted and assigned number 2009-4-30. Hontos asked administration to contact the business with regard to recent noise complaints. Mayor Kleis concurred.
9. **COMMUNITY PROJECT AT LAKE GEORGE – PROCUREMENT OF SITE FURNISHINGS.** ACTION TAKEN: Approved.
10. **2009 ALLEY IMPROVEMENTS, CONTRACT 2009-08: (A) RESOLUTION ACCEPTING LOW BID FOR 2009 ALLEY IMPROVEMENTS, CONTRACT 2009-08; 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 2009-08.**

ACTION TAKEN: Garven removed this item for discussion. Garven/Berg moved approval of both resolutions. Councilmember Garven confirmed that the motion for approval was for only the “base bid” as recommended by staff. City Engineer Steve Gaetz concurred. The motion unanimously carried. Resolutions adopted and assigned numbers 2009-4-31 and 2009-4-32 respectively.

**11. RESOLUTION RECEIVING CITY ENGINEER'S REPORT AND SETTING A PUBLIC HEARING FOR APRIL 20, 2009, TO CONSIDER CARMACK ADDITION IMPROVEMENTS.** ACTION TAKEN: Resolution adopted and assigned number 2009-4-33.

**12. RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR THE SEWER INTERCEPTOR SYSTEM REHABILITATION PROJECT - PHASE 1, CONTRACT 2009-13.** ACTION TAKEN: Resolution adopted and assigned number 2009-4-34.

**13. RESOLUTION APPROVING MN/DOT AGENCY AGREEMENT FOR THE CSAH 7 ENVIRONMENTAL ASSESSMENT.** ACTION TAKEN: Resolution adopted and assigned number 2009-4-35.

**14. APPROVAL OF GROUP FOUR CHANGE ORDERS AND BUDGET AMENDMENT RELATED TO THE AIRLINE TERMINAL EXPANSION PROJECT AT THE ST. CLOUD REGIONAL AIRPORT.** ACTION TAKEN: Councilmember Hontos removed this item for discussion. Hontos/Libert moved approval of the Group Four change orders as presented. Airport Director Bill Towle gave a brief explanation regarding the electrical code violations. Hontos said he expected there would be shared financial responsibility between the involved parties on the change orders. The motion unanimously carried.

**15. APPROVAL OF GROUP FIVE CHANGE ORDERS FOR POLICE HEADQUARTERS.** ACTION TAKEN: Councilmember Hontos removed this item for discussion. Hontos/Libert moved approval of Group Five change orders as submitted. RA Morton representative Preston Euerle and GLT Architect representative Dan Tideman were in attendance to respond to questions/concerns. The motion unanimously carried. Hontos reiterated the importance of sharing financial responsibility on change orders of Capital Improvement projects.

**OPEN FORUM:** No one spoke.

**PUBLIC HEARINGS:**

**16. PINE CONE ROAD IMPROVEMENT PROJECT. (A) RESOLUTION ORDERING PINE CONE ROAD IMPROVEMENTS; and (B) RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR PINE CONE ROAD IMPROVEMENTS, CONTRACT 2009-16.** City Engineer Steve Gaetz gave an overview of the Pine Cone Road improvement project between CR 120 and CR 134.

The project was approved by the City in 2007, but later deferred to better coordinate with the related West Metro Corridor improvements. The City was advised that it will receive \$1.6 million in federal stimulus funds for this project. To qualify for the funds, the construction contract must be awarded by June 30, 2009. (NOTE: A revised resolution for 16A. was provided at the meeting that included language stating that City Administration could acquire, by direct negotiations or eminent domain proceedings, the easements necessary for the completion of the roadway and sidewalk improvements at Pine Cone Road and Glenview Lane.) City Council President Johnson opened the public hearing. The following individuals spoke:

**Melissa and Shane Stowe, 5227 Grouse Court**, asked whether the construction of the bridge across the Sauk River would coincide with this improvement project, and suggested that the bridge should be built first for better traffic flow on CR134. (*City Engineer Steve Gaetz responded about the traffic concerns and coordinating the timing of the projects with Stearns County.*) They asked the status of the land purchase with the Veterans Administration. (*City Engineer Gaetz responded that the land purchase is close to completion through Stearns County; however, it is not a part of this project.*) They asked for signage to be placed in their neighborhood, specifically “No Outlet” and “Children at Play” signs. (*City Engineer Gaetz responded in the affirmative for “No Outlet” signage; however, he responded in the negative for “Children at Play” signage and listed various reasons to uphold that decision.*) Lastly, they stated their support for the proposed roundabouts.

**Jacob Fisher, 5318 16<sup>th</sup> Street N.**, said he was concerned with the traffic flow and safety factor of the connection of 16<sup>th</sup> Street N. and Quail Drive with Pine Cone Road. (*City Engineer Gaetz responded that the connection was not originally a part of the project; however, strong public testimony from the neighborhood indicated support for the connection.*)

**Alan Block, 1718 Timberdoodle Drive**, stated his support for the connection of 16<sup>th</sup> Street N. to Pine Cone Road, and expressed appreciation to the City’s engineering staff for listening to the residents and proposing both left hand and right hand turn lanes.

There being no one else wishing to speak, the public hearing was closed. Hontos/Libert moved approval of the Revised Resolution (16A) entitled “Resolution ordering in Pine Cone Road Improvements.” The motion unanimously carried by a roll call vote. The adopted Resolution was assigned number 2009-4-36. Masters/Berg moved approval of the Resolution approving plans and specifications and authorizing advertisement for bids for Pine Cone Road Improvements, Contract 2009-16 (16B). The motion unanimously carried. The adopted

Resolution was assigned number 2009-4-37. The Council complimented the City Engineer and his staff for proposing such a high quality project.

17. **AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE ST. CLOUD LAND DEVELOPMENT CODE REVISING THE TIMELINE FOR SUBMISSION OF APPEALS TO THE ZONING BOARD OF APPEALS AND THE CITY COUNCIL.**

Community Development/Planning Director Matt Glaesman gave an overview of the amendment to various sections of the Land Development Code to reduce the time allowed for applicants to appeal decisions to the Zoning Board of Appeals and the City Council. Council members Garven/Berg moved to change the proposed ordinance to read that an Appeal must be filed within **fifteen (15)** days, rather than the proposed **ten (10)** days. Garven suggested the extra time would allow residents the opportunity to obtain legal consul. Hontos disagreed; he suggested there's already ample time during the process to obtain legal advice. Discussion ensued. Planning Director Glaesman reviewed a few of the various and many reasons to seek an extension. Council President Johnson opened the public hearing. No one spoke. The public hearing was closed. Following discussion, the motion to amend to 15 days failed by a vote of 3 - 4 (Hontos, Johnson, Libert and Masters voted against.) Hontos/Masters then moved to approve the proposed ordinance as presented in the Council packet. The motion unanimously carried. The adopted Ordinance was assigned number 2424.

18. **RESOLUTION AMENDING THE PLAZA 15 PLANNED UNIT DEVELOPMENT GENERAL DEVELOPMENT PLAN TO INCREASE THE AMOUNT OF HOTEL SIGNAGE. (LOCATION: HIGHWAY 15 AND 1ST STREET NORTH)** (NOTE: A copy of the resolution was provided at the meeting.)

Community Development/Planning Director Matt Glaesman gave a brief overview of the resolution, noting that the applicant had agreed to the compromise and terms of the resolution on this date (April 6, 2009). Council President Johnson opened the public hearing. No one spoke. The public hearing was closed. Garven/Pederson moved approval of the resolution as presented. The motion unanimously carried. The adopted Resolution was assigned number 2009-4-38.

19. **AN ORDINANCE AMENDING ARTICLE 16 (OFF-STREET PARKING AND LOADING) AND ARTICLE 21 (DEFINITIONS) OF THE CITY OF ST. CLOUD LAND DEVELOPMENT CODE RELATED TO RECREATIONAL VEHICLE,**

**RECREATIONAL EQUIPMENT, AND COMMERCIAL VEHICLE STORAGE AND PARKING.**

Community Development/Planning Director Matt Glaesman explained that the Planning Commission held a public hearing on March 24, 2009, and approved the recommendation proposed by the Recreational Vehicle Task Force brought forward in the Council packet. However, Planning Director Glaesman suggested one recommended change to the proposal listed under **SECTION 1. "DEFINITIONS:" PARAGRAPH (5):** to remove the term "racing vehicles/cars." City Council President Bob Johnson opened the public hearing. The following individual spoke:

**Mike Stromme, 1040 McKinley Place South**, spoke to his concerns regarding inconsistencies found in the document. He asked whether occupants could park three additional vehicles on their property along with one 45' long RV vehicle if all setbacks are met. He asked about parking one RV vehicle in the front and another in the back yard, and if the two vehicles combined are to not exceed 10% of the lot area. He suggested that a boat loaded onto a trailer would be higher than 6' high. He also asked for clarification on what a six-foot frontal would be. He suggested that a small hauling trailer should not be compared to a 45' long RV vehicle. And, lastly, he suggested that a parked RV vehicle at a residence should be allowed to house overnight guests. *(Planning Director Matt Glaesman responded to the concerns. The nuisance ordinance dictates the number of vehicles parked at a residence, not the Land Development Code. The six foot frontal language has been removed. The 10% lot coverage refers to the total ground coverage of two parked recreational vehicles.)*

There being no one else wishing to speak, the public hearing was closed. Masters/Hontos moved approval of the Task Force Recommendation as presented in Ordinance format. Libert/Garven moved to amend the ordinance to include language stating that no more than one Class A motorhome can be parked or stored on a residentially zoned property. The amendment motion unanimously carried. Masters/Garven moved approval of the Task Force Recommendation Ordinance with the revisions. The motion unanimously carried. The adopted Ordinance was assigned number 2425.

20. **(A) AN ORDINANCE AMENDING THE ZONING ORDINANCE BY REZONING FROM C4, FRINGE CENTRAL BUSINESS DISTRICT, TO PUD, PLANNED UNIT DEVELOPMENT, THE PROPERTY LOCATED IN THE 300 WEST BLOCK OF 5TH AVENUE SOUTH (REZ-2009-01).**

Community Development Director/Planning Director Matt Glaesman stated that the property under consideration is a 3+ acre tract located between downtown and the Southside historic district (300 Block). The current zoning of the property is C-4, which is fringe, central business district designed for high density and mixed-use development. The Planned Use Development (PUD) request allows for a reduction of setbacks

and acknowledges an exemption (from floor area ratio) for underground and in-building parking. He explained the three requests coming forward: Ordinance rezoning from C-4 to PUD (20A); a Resolution approving the 5th Avenue Live PUD General Development Plan (20B); and an Ordinance vacating public right-of-way and utility easements in the 300 block between 5th and 6th Avenues South (20C). City Council President Bob Johnson opened the public hearing. The following individuals spoke:

**CHRIS COBORN, 3104 DUNBAR ROAD**, representing 5<sup>th</sup> Avenue Live development and Coborn's Realty (the property owners). The subject property is the former site of the 5<sup>th</sup> Avenue Coborn's grocery store. The development group partnered with Frank Dunbar of Dunbar Associates for his consulting services, and he introduced Mr. Dunbar.

**FRANK DUNBAR, 5000 GLENWOOD AVENUE, MPLS.**, serves in a consulting capacity for the 5<sup>th</sup> Avenue Live! project. He displayed a virtual video tour depicting the proposed development/design to be located on the 300 Block, and provided a detailed narrative. He noted that modifications were made to the concept plan following meetings with members of the Islamic Cultural Center. He also noted that preliminary discussions regarding commercial leasing for the 300 Block of the 5<sup>th</sup> Avenue Live! are in process.

**EARL POTTER, SCSU PRESIDENT**, SCSU is committed to being a good neighbor. He spoke in support of the spirit of the PUD and the public/private partnership of the proposed development. SCSU representatives met with members of the Islamic Cultural Center and have pledged a continued good working relationship upon completion of the project. The University will operate and staff the facility that is proposed to be built on the 300 Block. The facility will conform to SCSU rules for student conduct and will be an alcohol-free building. A 12,000 sq.ft. Welcome Center is to be located on the first floor of the facility. On the second floor there will be rental housing units for 455 students and/or visiting faculty and guests.

**WILLIAM MEIER, FIRST UNITED METHODIST CHURCH**, serves as one of the pastors of the 700-member church that is currently located across the street from the site. Back in 2007, prior to knowing any of the plans for the 300 Block, the congregation voted to make plans to relocate the church. Two weeks ago the congregation voted to sell their property. He spoke favorably of the project stating that it will enhance the neighborhood.

**ABDULRASH SALAD, 375 5<sup>TH</sup> AVENUE N.**, representative of the St. Cloud Islamic Cultural Center; was pleased that two meetings were held with the developers regarding the proposed plans and modifications were made. He requested respect for the privacy of the mosque and its members by eliminating any windows on the south side levels of the proposed housing facility.

**MOHAMOUD MOHAMED, 530 WILSON AVENUE NE, OF THE ST. CLOUD AREA SOMALI SALVATION ORGANIZATION**; spoke about the lack of parking spaces for members

attending the mosque. He suggested that there needs to be more plans from all parties involved to work together for the good of the neighborhood. Of the 10,000 Muslim members practicing their faith in the mosque, many drive from as far as 70 miles away. He also expressed his disappointment that members from the local Muslim community were asked to limit their speakers and comments at this meeting.

**DAN BORGERT, 1735 LUCILLE LANE**, a landlord of student rental housing in the St. Cloud State University area for the past 20 years; spoke favorably of the proposed 5<sup>th</sup> Avenue Live! development project in its entirety.

**JOHN SCHNETTLER, 3443 DEER CREEK TRAIL**, serves as the Marketing Director for CentraCare Health System, and on the company's behalf he spoke in full support of the project.

**TERESA BOHNEN, 3287 COUNTY ROAD 115**, President of the St. Cloud Chamber of Commerce; spoke on the Chamber's behalf in support of the development and noted that it is local people who serve as the developers. She encouraged the project to move forward in a timely manner. She also stated that Minnesota Governor Tim Pawlenty has indicated his enthusiasm for the project.

**ASPASIA RIGOPOULOU-MELCHER, 2316 27<sup>TH</sup> STREET SOUTH, SCSU PROFESSOR**, read a prepared statement indicating her full support for the project.

**DAN HOLLENHORST, 513 7<sup>TH</sup> AVENUE S.** a long term resident of the south side, who wants to maintain a healthy, safe, and historic environment for the neighborhood. He felt the project should move forward in the current C-4 zoning. Allowing for a PUD would intensify the project and make the project disproportionate to the lot size. A variance to the side yard setbacks would bring the facility closer to the neighboring properties. As a Task Force member of the Southside University Neighborhood Comprehensive Plan, he understood that this area was set aside for greater density, but that building heights should be limited to match surrounding buildings. He asked who was convinced that this is good policy to establish SCSU under-graduate housing off-campus thru a tax-exempt process. He asked whether data was gathered to indicate that SCSU students could afford \$712 monthly rental, or \$762 rental with parking. He also asked if SCSU has guaranteed that it would remain in the project for long term.

**STEPHEN UPGREN, ST. JOSEPH**, spoke against allowing the PUD; encouraged the developers work within the rules of C-4 zoning.

**ROD LINQUIST, RICE ; CHAIRMAN OF THE DOWNTOWN COUNCIL**; stated that on January 26, 2009, the Downtown Council voted unanimously to endorse the 5<sup>th</sup> Avenue Live! Project, and on the Downtown Council's behalf, he asked for Council support. He also said he owns two commercial properties in St. Cloud that are adjacent to the project. He indicated his personal support and encourages that the project move forward.

**BEN BLOMGREN, SCSU STUDENT**, lives in an apartment close to campus; suggested that the university students aren't going to be interested in living in such a housing facility. He expects this new facility will only drive down rental prices on the surrounding rental properties.

**TRAVIS KENT, 818 RIVERSIDE DRIVE SE**, has been a landlord in the campus area since the early 1980's, and during that time he was repeatedly turned down by the City Council on his rezoning requests. Now, years later, he said he understands and appreciates their foresight. He suggested that they were prudent in their judgment to uphold the integrity of the south side neighborhood.

**PATRICIA GAETZ, 328 4<sup>TH</sup> AVENUE S.**; resides in the historic district one block east of the proposed development site. She has been a resident of the Southside Neighborhood for 38 years and served on the Southside Task Force. She suggested that the virtual tour provided by Mr. Dunbar left out "real people and real traffic." She said she was asked by many people following the Planning Commission public hearing to express her comments to the City Council at this meeting. She read a prepared statement stating her opposition to changing the current zoning regulations to gain density. As landlords, she and her husband have kept low densities in their rentals to respect the peace and quiet of their neighbors and respect for the historic buildings that remain in the area.

**JULIANA ELCHERT, 513 7<sup>TH</sup> AVENUE S.**, addressed the Council on SCH&NPA's request for denial of the rezoning request. She read a prepared statement highlighting certain specifications listed in the newly adopted South Side University Neighborhood Master Plan (SSNUMP); noted the differences in setbacks permitted in the existing C-4 zoning versus the PUD rezoning request; spoke to the Floor Area Ratio for C-4 standards versus the PUD allowances; questioned the area in sq.ft. for signage allowed in C-4 versus PUD and asked about Archway signage; suggested that a student residency project of this magnitude should be located on campus; and encouraged a unified plan noting her disagreement to the applicant's intent to bring forth four separate PUD requests. She felt the request was not in compliance with the SSUN Master Plan and would adversely affect the neighborhood. She said that the Zoning Ordinance protects all property owners in the City. In closing, she requested the following: that the facility be limited to three stories or no higher than 35' as the Master Plan specifies; to require that the PUD comply with C-4 setback standards; to use the applicant's front, rear, side, and interior side yards; to remove the vague signage proposal from the proposed PUD, and lastly, to require one PUD for the entire project, not four.

**BRENDA SCHUTE, 403 6<sup>TH</sup> AVENUE S.** local property manager; due to the poor economy she is having difficulty renting her properties at low rental rates. She suggested that the high-end rental units of this project would not be affordable to students. She also spoke to the lack of parking spaces around the area.

**STEVE PICKARD, 1216 9<sup>TH</sup> AVENUE SE**, commented against the project and suggested that the developers underestimated the amount of parking needed for the proposed student housing and the increased traffic that will result in the area.

**ROB NELSON, 5448 16<sup>TH</sup> AVENUE SE**, he sent an email to the City Council members outlining his opposition to the proposed development. He suggested that one level be removed from the facility and that the existing setback requirements be followed.

**JEFF JUNCEWSKI, 2507 MEADOWROSE BLVD.**, a SCSU alumnus; expressed his excitement for the project, but was concerned about the number of student renters and an assumed lack of parking space. He suggested that potential renters might be cost-savers and pool funds to rent a house near campus rather than each paying \$700 a month rent.

**LOU SUSKI, MANAGING BROKER AT INH COMMERCIAL REAL ESTATE**; when he first heard about the project one year ago, he was very excited; however, he does not support the PUD request. As a parent of three college-age children, he suggested the proposed housing facility would not be affordable student housing.

**KEN SPANIER, 5000 15<sup>TH</sup> AVENUE SE**, commented in opposition to the proposed 300 Block project. He asked what will happen to the entire 5<sup>th</sup> Avenue Live! project if this particular plans for the 300 Block do not succeed. He asked whether SCSU signed a master lease for this project so that there was a guarantee the facility would remain for student housing.

There being no else wishing to speak, the public hearing was closed.

**RECESS:** City Council President Bob Johnson called a brief recess at 9:08 p.m.; the meeting was reconvened at 9:12 p.m.

Council President Johnson opened up the discussion period. Councilmember Masters asked SCSU President Potter to speak to the lease agreement between SCSU and the developers. Dr. Potter said that state law limits the University to signing a 10-year lease. However, there's the ability to add a commitment of five years, and a rolling five years; therefore, the University can provide sustainability and longevity without signing a 20-year lease. Masters asked about the length of rental leases for students. Dr. Potter responded that the occupancy of the facility will be varied over the 12 months. The agreement is a "per month – per bed" rate for 12 months. During the summer, the college holds summer camps and there's the need for air-conditioned rooms, which does not exist on campus. Councilmember Berg asked what happens after the 20-year lease period. Dr. Potter stated that he's confident of the validity of the studies that indicate the University will be growing and student housing will be needed. Also, the agreement is fashioned so that the University is protected from liabilities should the state department close the

University in the future. Councilmembers Libert/Hontos moved approval of the “Ordinance Amending the Zoning Ordinance by Rezoning from C4, Fringe Central Business District, to PUD, Planned Unit Development, the property located in the 300 West Block of 5th Avenue South (Rez-2009-01). Planning Director Glaesman responded briefly to the many questions and concerns regarding zoning issues. The issue of setbacks is one of the primary reasons for the PUD request. Director Glaesman said the request is for a deviation (not a variance) from the C-4 district standard. A PUD is a tool that can set required conditions and limitations to achieve some level of protection. As far as the concern regarding multiple PUDS, Glaseman said the property owner is within rights to ask for a single PUD for Phase I of this project, and it would have no impact on Phases 2, 3, or 4. The proposed project is self-sufficient in parking and complies with the C-4 district standard. Mr. Dunbar also responded to several questions and concerns from the Council. Following Council discussion, the motion unanimously carried.

(B) **RESOLUTION APPROVING THE 5TH AVENUE LIVE PUD GENERAL DEVELOPMENT PLAN.** Libert/Masters moved approval of the resolution as presented. The motion unanimously carried. The adopted resolution was assigned number 2009-4-39.

(C) **ORDINANCE VACATING PUBLIC RIGHT-OF-WAY AND UTILITY EASEMENTS IN THE 300 BLOCK BETWEEN 5TH AND 6TH AVENUES SOUTH.** Berg/Garven moved approval of the Ordinance to vacate the public right-of-way and utility easements in the 300 Block. The motion unanimously carried. The adopted Ordinance was assigned number 2427.

**ADJOURNMENT:** There being no further business to discuss, the meeting was adjourned at 9:52 p.m.

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City Council President Bob Johnson

Respectfully submitted by

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Sandy Hilsgen  
Recording Council Secretary