

CITY COUNCIL PROCEEDINGS

AGENDA ITEM:

JULY 27, 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 July 27, 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.

SPECIAL RECOGNITION:

4. Mayor Dave Kleis presented the proclamation declaring Tuesday, August 4, 2009, to be "National Night Out" in the City of St. Cloud. Following the reading of the proclamation, Mayor Kleis suggested that he may rename the annual event to "Neighbor Day" in St. Cloud.

CONSENT AGENDA:

5. **APPROVAL OF AGENDA.** ACTION TAKEN: Approved with the additional add-on item requested by Councilmember Hontos to reconsider the Animal Ordinance adopted on July 13, 2009.
6. **APPROVAL OF THE MINUTES AND SUMMARY OF PROCEEDINGS OF THE CITY COUNCIL MEETING HELD JULY 13, 2009.** ACTION TAKEN: Councilmember Garven removed this item for discussion. City Council President Johnson requested amending the minutes under "Special Recognition" to reflect the correct business name of "Central Minnesota Health Center." Garven/Libert moved approval of the July 13, 2009 minutes as amended. The motion unanimously carried.
7. **MAYOR'S APPOINTMENT AND RE-APPOINTMENT TO THE AIRPORT ADVISORY BOARD.** ACTION TAKEN: Berg/Masters moved approval of the Mayor's appointment of Mahesh Kumar and the re-appointment of Ken Raiber to the Airport Advisory Board for terms to commence immediately and expire June 30, 2012. Mahesh Kumar was in attendance and was recognized for his willingness to serve in this capacity. The motion unanimously carried.
8. **RESOLUTION AUTHORIZING A CHARITABLE GAMBLING PREMISES PERMIT FOR THE MINNESOTA FISHING MUSEUM FOR ACTIVITIES TO BE CONDUCTED AT SUPERAMERICA NORTH, 1220 32ND AVENUE NORTH, ST. CLOUD.** ACTION TAKEN: Resolution adopted and assigned number 2009-7-96.
9. **RESOLUTION AUTHORIZING THE REOFFERING OF THE CITY'S HEALTH CARE VARIABLE RATE DEMAND REVENUE BONDS, SERIES 2008 (CENTRACARE HEALTH SYSTEM PROJECT) AND THE ISSUANCE AND SALE BY THE CITY OF ITS HEALTH CARE VARIABLE RATE DEMAND REFUNDING REVENUE BONDS,**

SERIES 2009A (CENTRACARE HEALTH SYSTEM PROJECT); AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS. ACTION TAKEN: Council President Johnson recorded an abstention on this agenda item. The resolution was adopted and assigned number 2009-7-97.

10. APPROVAL OF PAYMENT FOR POWELL LEGAL DEFENSE COSTS. ACTION TAKEN: Approved.

11. APPROVAL OF INTERIOR FURNISHINGS FOR POLICE HEADQUARTERS. ACTION TAKEN: Approved.

12. ACCEPTING LOW QUOTE FROM TOM KRAEMER INC. FOR THE DEMOLITION OF OLD FIRE STATION #5 (2227 ROOSEVELT ROAD) AND THE DRILL TOWER AT FIRE STATION #1. ACTION TAKEN: Approved.

13. RESOLUTION AUTHORIZING THE CITY TO SUBMIT A PHOSPHORUS REDUCTION GRANT APPLICATION FOR THE WASTEWATER TREATMENT FACILITY REHABILITATION, UPGRADE AND EXPANSION PROJECT. ACTION TAKEN: Resolution adopted and assigned number 2009-7-98.

14. APPROVE THE COOPERATIVE AGREEMENT FOR THE 800MHZ RADIO SYSTEM BETWEEN THE CITY OF ST. CLOUD, MNDOT AND THE CENTRAL MINNESOTA REGIONAL RADIO BOARD. ACTION: Approved.

15. ELERT & ASSOCIATES RECOMMENDATION TO AWARD THE CONTRACT FOR THE RELOCATION OF THE GRANET FIBER OPTIC NETWORK TO MICHELS COMMUNICATIONS AS THE LOW QUALIFIED BIDDER. REQUESTED ACTION: Approved.

16. SETTING A PUBLIC HEARING ON A RESOLUTION AMENDING THE WINCLOUD PLANNED UNIT DEVELOPMENT (PUD) GENERAL DEVELOPMENT PLAN TO PERMIT THE OPTION OF DEVELOPING COMMERCIAL OFFICE BUILDINGS ON THE SOUTHERN LOT IN THE DEVELOPMENT. (LOCATION: 3351 ROOSEVELT ROAD) (DPA-2009-04) ACTION TAKEN: A public hearing was set for August 10, 2009.

17. APPROVAL OF THE PRELIMINARY PLAT OF LANDWEHR ACRES (LOCATION: 1715 AND 1811 40TH ST. SO.) ACTION TAKEN: Approved the preliminary plat per the Planning Commission recommendation.

18. AUTHORIZE MAYOR AND CITY CLERK TO ENTER INTO CONTRACT WITH BONESTROO FOR CONSULTANT SERVICES ASSOCIATED WITH PREPARATION OF SOUTHSIDE UNIVERSITY NEIGHBORHOOD DESIGN OVERLAY DISTRICT AND ACCEPT DONATION OF \$2,000 FROM THE SOUTHSIDE UNIVERSITY NEIGHBORHOOD ASSOCIATION. ACTION TAKEN: Councilmember Masters commended the Southside University Neighborhood Association (SUNA) for its generous

monetary donation towards the completion of the overlay design standards. Community Development Director Glaesman gave a brief overview of the contract. Following a brief discussion, Masters/Garven moved approval of the contract and acceptance of the monetary donation. The motion unanimously carried.

19. AN ORDINANCE AMENDING ARTICLE 7 - AGRICULTURAL DISTRICTS; ARTICLE 8 - RESIDENTIAL DISTRICTS; ARTICLE 9 - COMMERCIAL DISTRICTS; ARTICLE 10 - INDUSTRIAL DISTRICTS; ARTICLE 11 - SPECIAL PURPOSE DISTRICTS; ARTICLE 14 - USE STANDARDS; AND ARTICLE 21 - DEFINITIONS OF THE LAND DEVELOPMENT CODE RELATED TO WIND ENERGY CONVERSION SYSTEMS. ACTION TAKEN: Set reading and public hearing for August 10, 2009.

20. RESOLUTION AUTHORIZING THE SALE OF THE WEST SIDE FIRE STATION PROPERTY LOCATED AT 1040 COUNTY ROAD 4. ACTION TAKEN: Resolution adopted and assigned number 2009-7-99.

21. 2009 SEAL COAT IMPROVEMENTS, CONTRACT 2009-10:

A. RESOLUTION ACCEPTING LOW BID FOR 2009 SEAL COAT IMPROVEMENTS, CONTRACT 2009-10; 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 2009-10.

ACTION TAKEN: Resolutions adopted and assigned numbers 2009-7-100 and 2009-7-101 respectively.

22. CHANGE ORDER NO. 1 TO THE RECONSTRUCTION OF HIGHWAY 23 PROVIDING FOR MODIFICATIONS TO 8TH AVENUE SOUTH FROM HIGHWAY 23 THROUGH THE 1ST STREET SOUTH INTERSECTION TO COMPLY WITH DOWNTOWN STREET MODIFICATIONS APPROVED BY THE CITY COUNCIL. ACTION TAKEN: Approved.

23. SUPPLEMENTAL AGREEMENT NO. 1 TO THE RECONSTRUCTION OF THE HIGHWAY 23 BRIDGE OVER THE MISSISSIPPI RIVER PROVIDING FOR RECONSTRUCTION OF THE TRAFFIC SIGNAL SYSTEM, PUBLIC UTILITIES AND ROADWAY ON HIGHWAY 23 FROM THE INTERSECTION OF WILSON AVENUE SE TO 400 FEET EAST. ACTION TAKEN: Approved.

24. RESOLUTION APPROVING PLANS AND AUTHORIZING SOLICITATION OF QUOTES FOR WORK ON 4TH AVENUE SOUTH, 7TH AVENUE AND CITY HALL PARKING LOT ACCESS MODIFICATIONS. ACTION TAKEN: Hontos/Libert moved approval of the resolution. The motion carried by a 6-1 vote with Councilmember Hontos voting against. He stated that he would remain consistent with his original vote against lighting for 5th Avenue. The adopted resolution was assigned number 2009-7-102.

25. REQUEST FROM THE MINNESOTA DEPARTMENT OF TRANSPORTATION FOR AN EXEMPTION FROM THE CITY NOISE ORDINANCE TO ALLOW FOR EVENING CONSTRUCTION FOR T.H. 10 IMPROVEMENTS BETWEEN 15TH

AVENUE SE AND BNSF AND ON T.H. 23 FROM WILSON AVENUE TO 0.08 MILES EAST OF T.H. 10. ACTION TAKEN: Approved.

26. **RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A GRANT AGREEMENT FOR FEDERAL FUNDS FOR AIRLINE TERMINAL BUILDING IMPROVEMENTS – PHASE II – AT THE ST. CLOUD REGIONAL AIRPORT.** ACTION TAKEN: Resolution adopted and assigned number 2009-7-103.

27. **RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO STATE OF MN AIR SERVICE MARKETING GRANT AGREEMENT 95174 – GENERAL AIR SERVICE MARKETING FOR THE ST. CLOUD REGIONAL AIRPORT** ACTION TAKEN: Resolution adopted and assigned number 2009-7-104.

OPEN FORUM: No one spoke.

PUBLIC HEARINGS:

28. **APPLICATION FOR THE TRANSFER OF AN OFF-SALE LIQUOR LICENSE FROM DBA LECHNER LIQUORS, INC. (WILLIAM LECHNER) DBA PX LIQUORS TO LECHNER LIQUORS, INC. (RICK LIESER) DBA PX LIQUOR FOR THE ESTABLISHMENT LOCATED AT 1107 WEST ST. GERMAIN.** City Clerk Gregg Engdahl gave a brief overview of the request for a liquor license transfer. Council President Johnson opened the public hearing. No one spoke. The public hearing was closed. Masters/Garven moved approval of the application for transfer of the off-sale liquor license for the establishment located at 1107 West St. Germain. The motion unanimously carried.

29. **AN ORDINANCE AMENDING SECTION 810:00 OF THE 2007 CODE OF ORDINANCES OF THE CITY OF ST. CLOUD ENTITLED “INTOXICATING LIQUOR.”** City Clerk Gregg Engdahl gave a brief overview of the proposed ordinance. The amendment authorizes catering of liquor in St. Cloud only to those establishments holding an on-sale intoxicating liquor license issued by the City. Staff expects this change to provide better accountability and assurance of trained staff and liability insurance. It was noted that a letter of opposition to the proposed ordinance was received from Attorney-of-law Soren Paul Petrek, on behalf of the Stonehouse Tavern & Eatery of St. Joseph, Minnesota. Council President Johnson opened the public hearing. No one spoke. The public hearing was closed. President Johnson commented that the proposed ordinance seemed inconsistent with the City's effort to foster a spirit of regional cooperation. Following a brief discussion, Garven/Hontos moved approval of

the ordinance. The motion unanimously carried. The adopted Ordinance was assigned number 2432.

30. **AN ORDINANCE AMENDING SECTION 670 - TREES IN STREETS, PARKWAYS AND PUBLIC GROUNDS; AND AN ORDINANCE AMENDING SECTION 1045 - DUTCH ELM DISEASE AND OAK WILT (AND EMERALD ASH BORER).** Park Director Scott Zlotnik provided a power point presentation regarding the Emerald Ash Borer and its risk to the health of trees. Two ordinances were brought forward. The first ordinance proposed includes changes to Section 1045, to allow the Park Director authority to order removal and sanitizing of infected trees, and reflects on how trees with any type of infection are identified, along with the notification process to residents including a removal timeframe. The second ordinance includes proposed changes to Section 670 by listing the specific trees that are approved for planting in the City right-of-way, including the elimination of Ash trees. Council President Johnson opened the public hearing. No one spoke. The public hearing was closed. Councilmember Masters referenced an email received from Amber Loehlein of the McKinley Railroad park neighborhood. She was asking about planting a perennial flower bed in the boulevard in front of her house. Park Director Zlotnik confirmed that the current ordinance does not allow planting of flowers in the City boulevard. Following discussion, Berg/Libert moved approval of both ordinances as presented. The motion unanimously carried. The adopted ordinances were assigned 2433 and 2436 respectively. After the vote, Councilmember Hontos suggested a review of the City's current ordinance to consider possible changes to allow certain plantings in city boulevards. Community Development Director Glaesman confirmed that the Planning Commission made a recommendation this past October and that proposal would be brought forward to the City Council at the August 17 Study Session.

31. **AN ORDINANCE AMENDING SECTION 300:00 OF THE 2007 CODE OF ORDINANCES ENTITLED "BUILDING AND HOUSING CODES" REGARDING ADOPTION OF THE RESIDENTIAL AND COMMERCIAL ENERGY CODES AND 2008 NATIONAL ELECTRICAL CODE.** Community Development Director Glaesman explained that the draft ordinance would adopt the State of Minnesota's residential and commercial energy codes and the 2008 National Electrical Code into our Code of Ordinances. These provisions have already been adopted by the State of Minnesota into the State Building Code and through the action become effective in the City of St. Cloud. The proposed ordinance

represents a housekeeping task required by the State of Minnesota Department of Labor and Industry to incorporate the State's changes into the City Code of Ordinances. Council President Johnson opened the public hearing. No one spoke. The public hearing was closed. Garven/Masters moved approval of the ordinance. The motion unanimously carried. The adopted ordinance was assigned number 2434.

32. AN ORDINANCE ESTABLISHING SECTION 576 OF THE 2007 CODE OF ORDINANCES ENTITLED "STREET LIGHT UTILITY." Assistant City Engineer Steve Foss presented details of the proposed ordinance. The concept would be similar to the Stormwater Utility program and would shift the costs for street lights from property taxpayers to all utility users. He suggested that it was an equitable proposal that reflects actual benefits and service costs, as opposed to the current system that treats all properties alike. He reviewed the proposed Street Light Utility (SLU) basic rates structure for single-family residential properties; for multi-family properties; for commercial, industrial, and institutional properties; and those properties that are outside the street light service area. Establishing a Street Light Utility would not affect the cost of providing street light service, but would provide an alternate funding source for this service. If approved, the ordinance would take effect on January 1, 2011. City Council President Johnson opened the public hearing. No one spoke. The public hearing was closed. Berg/Libert moved approval of the ordinance as presented. Discussion ensued. Clarification was asked for regarding our current tax-exempt properties that currently do not pay fees. Through this ordinance those properties would now be required to pay a proportionate share of street light costs. Mayor Kleis spoke in support of the proposed ordinance citing it to be an equitable proposal that would not increase taxes. Assistant City Engineer Steve Foss, Finance Director John Norman, City Attorney Jan Petersen, and Mayor Kleis responded to Council questions and concerns regarding the proposal. After considerable discussion the motion carried by a vote of 5-2 with Councilmembers Hontos and Johnson voting against. The adopted ordinance was assigned number 2435.

OPEN DISCUSSION:

As requested by City administration, it was moved by Masters/Garven to modify the 2009 City Council meeting calendar by eliminating the first Council budget meeting scheduled for Wednesday, August 12, at 4:30 p.m. in CR#1, and by replacing it with a "Town Hall Interactive

Budget meeting” in the City Council Chambers on Thursday, August 13, 2009, at 7 p.m. The motion unanimously carried.

Council President Johnson called upon Councilmember Hontos. Councilmember Hontos made a motion, seconded by Councilmember Libert, to reconsider the “Ordinance amending Section 1040 of the 2007 Code of Ordinances related to Animal Control Regulations and Licensing” assigned Ordinance #2430, adopted July 13, 2009. The motion unanimously carried. Councilmember Hontos stated his concern regarding equity between the congregate limit of animals for single family dwellings versus multi-family dwellings. Councilmember Garven had similar concerns and suggested a higher number be set for the multi-family dwellings congregate limit. Discussion ensued. The draft ordinance presented listed in Section 1040:20, Subd. 1 – Properties with Single Family Home and no other dwelling units – Item C. Congregate limit, that “*No more than ten domestic animals shall be owned, kept or harbored on the premises, subject to the limitations set for above.*” Whereas, the draft ordinance stated that the multi-family units were being limited to three domestic animals (Subd. 2, Item C). Community Development Director Glaesman reviewed the determining factors for the proposed numbers, and clarified the limits for both types of properties. Following discussion regarding increasing the congregate limit for multi-family dwellings, it was moved by Councilmember Hontos, seconded by Councilmember Libert, to approve the draft ordinance as presented with the revision to **Section 1040:20. Limitations. Subd. 2C. Congregate limit**, to read, “*No more than ~~three~~ six domestic animals may be kept or harbored within a dwelling unit or other premises. Within the congregate total of 6 domestic animals, no more than any combination of dogs or cats exceeding 3 is allowed, subject to the further limitations of Subd. 2a and 2b. (examples cited within the ordinance.)* The motion carried by a vote of 6-1 with Garven voting against. The revised ordinance was reassigned number 2430.

ADJOURNMENT. There being no one else wishing to speak, the meeting was adjourned at 7:42 p.m.

City Council President Bob Johnson

Respectfully submitted by

Sandy Hilsgen, Recording Council Secretary