

CITY COUNCIL PROCEEDINGS

AGENDA ITEM:

DECEMBER 21, 2009

1. Following the Pledge of Allegiance, a regular meeting of the City Council of the City of St. Cloud, Minnesota, was held on December 21, 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. All City Council members were present: Sonja Berg, Carolyn Garven, George Hontos, President Bob Johnson, Vice President John Libert, Dave Masters, and John Pederson.

CONSENT AGENDA:

4. **APPROVAL OF AGENDA.** ACTION TAKEN: Approved.
5. **APPROVAL OF THE MINUTES AND SUMMARY OF PROCEEDINGS OF THE REGULAR CITY COUNCIL MEETING HELD NOVEMBER 23, 2009.** ACTION TAKEN: Approved.
6. **CONFIRM MAYOR'S APPOINTMENT AND RE-APPOINTMENTS TO THE RSVP ADVISORY COUNCIL.** ACTION TAKEN: Confirmed the appointment of Angela Seppelt to her first term to commence January 1, 2010 and expire December 31, 2012; and the re-appointments of Prentiss Foster, Jeff Howe, Jim McDermott, Peggy Rieland, Ray Schlichting, Bobbi Scott, Myron Umerski, and Jennifer Zimmer for terms to commence on January 1, 2010, and expire on December 31, 2012.
7. **APPLICATION FOR TOBACCO LICENSES FOR TWO NEW COBORN'S STORE LOCATIONS (FORMERLY CUB FOODS EAST AND CUB FOODS WEST) AT 250 33RD AVENUE SOUTH; AND 1001 4TH STREET SE.** ACTION TAKEN: Approved.
8. **A PUBLIC HEARING ON AN ORDINANCE AMENDING SECTION 800:48 AND 810:28 OF THE 2007 ST. CLOUD CODE OF ORDINANCES, REGARDING THE REGULATION OF 3.2% ALCOHOL AND INTOXICATING LIQUOR.** ACTION TAKEN: The public hearing was set for January 11, 2010 (Proposed Ordinance 2009-27).
9. **A PUBLIC HEARING ON AN ORDINANCE AMENDING THE HOME RULE CHARTER OF THE CITY OF ST. CLOUD (HOUSEKEEPING CHANGES).** ACTION TAKEN: The public hearing was set for January 11, 2010 (Proposed Ordinance 2009-28).
10. **CITY OF ST. CLOUD RESOLUTION SUPPORTING A JOINT RESOLUTION OF THE CENTRAL MN CITIES OF ST. CLOUD, SARTELL, SAUK RAPIDS, WAITE PARK, ST. JOSEPH, ST. AUGUSTA AND ROCKVILLE, ADVOCATING SUPPORT FOR CERTAIN LEGISLATIVE ISSUES AND PROPOSALS OF COMMON INTEREST OR CONCERN TO THE CENTRAL MINNESOTA REGION.** ACTION TAKEN: Resolution adopted and assigned number 2009-12-192.

11. A PUBLIC HEARING ON A PROPOSED REFINANCING ON BEHALF OF CENTRACARE HEALTH SYSTEMS AND ITS AFFILIATES AND THE ISSUANCE OF REVENUE BONDS UNDER MINNESOTA STATUTES, CHAPTER 462C AND SECTIONS 469.152 THROUGH 469.165, AS AMENDED. ACTION TAKEN: (Council President Johnson recused himself.) Councilmember Garven noted that the public hearing date was omitted in the memo. Garven/Masters approved setting the public hearing for January 11, 2010. The motion carried by a 6-0-1 vote with Council President Johnson abstaining.

12. RESOLUTION PROVIDING AUTHORIZATION FOR TRANSFERRING \$382,000 FROM THE RECREATION SPECIAL REVENUE FUND AND \$50,000 FROM THE ARTS SPECIAL REVENUE FUND TO THE GENERAL FUND. ACTION TAKEN: Garven/Berg moved approval of the resolution. Councilmember Garven asked for clarification regarding the funds transfer and the status of the *Change for the Arts* fund. City Administrator Mike Williams explained that the transfer of funds into the General Fund is a result of expenditure reductions and adjustments made to the 2009 budget due to the 2008/2009 loss of LGA funds. The *Change of Arts* fund remains intact. The motion unanimously carried. The adopted resolution was assigned number 2009-12-193.

13. AUTHORIZATION FOR THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH WACOSA FOR THE CITY HALL CLEANING CONTRACT. ACTION TAKEN: Approved the contract with WACOSA for the period of January 1, 2010 to December 31, 2010.

14. REQUEST TO DISPOSE OF SURPLUS LAND ALONG 1ST STREET SOUTH. ACTION TAKEN: Approved.

15. A. RESOLUTION REGARDING THE ADMINISTRATION OF THE WETLAND ACT BY SHERBURNE COUNTY. ACTION TAKEN: Resolution adopted and assigned number 2009-12-194.

B. AUTHORIZE MAYOR AND CITY CLERK TO ENTER INTO CONTRACT WITH SHERBURNE COUNTY FOR ADMINISTRATION OF THE WETLAND ACT. ACTION TAKEN: Approved.

16. RESOLUTION IN SUPPORT OF APPLICATION FOR FEDERAL FUNDING ASSISTANCE FOR RAILROAD HIGHWAY GRADE CROSSING SAFETY IMPROVEMENTS AT 4½ STREET NE. ACTION TAKEN: Resolution adopted and assigned number 2009-12-195.

17. STEARNS COUNTY APPLICATIONS FOR FEDERAL TRANSPORTATION FUNDING VIA APO FY 2014 AND FY 2015 SOLICITATION PROCESS:

A. RESOLUTION OF SUPPORT FOR STEARNS COUNTY APPLICATION FOR CSAH 134 RESURFACING. Resolution adopted and assigned number 2009-12-196.

B. RESOLUTION OF SUPPORT FOR STEARNS COUNTY APPLICATION FOR CSAH 75 RESURFACING. Resolution adopted and assigned number 2009-12-197.

C. RESOLUTION OF SUPPORT FOR STEARNS COUNTY APPLICATION FOR CSAH 120 CORRIDOR SAFETY IMPROVEMENTS. ACTION TAKEN: Resolution adopted and assigned number 2009-12-198.

18. A. RESOLUTION REQUESTING FUNDING ASSISTANCE FROM THE FEDERAL HIGHWAY ADMINISTRATION UNDER ITS TRANSPORTATION ENHANCEMENT PROGRAM FOR THE FY 2014-2015 TO CONSTRUCT A BICYCLE/PEDESTRIAN TRAIL FROM 33RD STREET S. TO RIVER BLUFFS REGIONAL PARK. ACTION TAKEN: Resolution adopted and assigned number 2009-12-199.

B. RESOLUTION CERTIFYING PUBLIC PARTICIPATION FOR A PROJECT SUBMITTED TO THE ST. CLOUD AREA PLANNING ORGANIZATION FOR FY 2014 & 2015 FEDERAL TRANSPORTATION FUNDING (BEAVER ISLAND TRAIL PHASE #4-33RD STREET SOUTH TO RIVER BLUFFS REGIONAL PARK) ACTION TAKEN: Resolution adopted and assigned number 2009-12-200.

19. 33RD STREET SOUTH CORRIDOR IMPROVEMENTS:

A. RESOLUTION CERTIFYING AVAILABILITY OF LOCAL MATCH AND OTHER LOCAL COSTS FOR FY 2014 AND 2015 FEDERAL TRANSPORTATION PROJECT SUBMITTAL TO THE ST. CLOUD AREA PLANNING ORGANIZATION FOR 33RD STREET SOUTH CORRIDOR IMPROVEMENTS. ACTION TAKEN: Pederson/Berg moved approval of the resolution. Resolution adopted and assigned number 2009-12-201.

B. RESOLUTION CERTIFYING PUBLIC INVOLVEMENT FOR A PROJECT SUBMITTED TO THE ST. CLOUD AREA PLANNING ORGANIZATION FOR FY 2014 AND 2015 FEDERAL TRANSPORTATION FUNDING FOR 33RD STREET SOUTH CORRIDOR IMPROVEMENTS. ACTION TAKEN: Pederson/Berg moved approval of the resolution. Councilmember Pederson said he understood that the Council approved turning the roadway over to Stearns County and that the area property owners had ample time for additional input. Public Services Director Steve Gaetz confirmed that the roadway still belongs to the City and that this is the standard process to authorize the City of St. Cloud to apply for federal funding. He added that the request is being supported by Stearns County; and should the City be successful in securing federal funding for the improvement project (east end of the corridor), the public involvement process continues with more public meetings and public hearings. The motion unanimously carried. Resolution adopted and assigned number 2009-12-202.

20. A PUBLIC HEARING ON AN ORDINANCE VACATING THE WESTERLY 28' OF 5TH AVENUE NORTH ABUTTING LOTS 6, 7, AND 8 OF BLOCK 101 OF LOWRY'S ADDITION. (LOCATION: 507 8TH STREET NORTH) (VAC-2009-04) ACTION TAKEN: A reading and public hearing was set for January 11, 2010 (Proposed Ordinance 2009-29).

20A. ADD ON: APPROVAL OF A NEW MASSAGE FACILITY LICENSE FOR DAYLILY SPA SALON, LLC. ACTION TAKEN: Approved.

20B. ADD ON: REQUEST TO CANCEL THE STUDY SESSION SCHEDULED FOR JANUARY 4, 2010. ACTION TAKEN: Confirmed the cancellation of the January 4, 2010 Study Session.

Open Forum: **Bill Fahrney, 29055 Keppler Court, Cold Spring,** asked that the City of St. Cloud appeal to Delta/Northwest/Mesaba to continue to operate scheduled service to St. Cloud Regional Airport until a replacement commercial carrier can be found. He suggested that this could best be done by contacting our U.S. Congressional District representatives and senators to sign an appeal to Delta. Hontos/Libert moved to suspend the rules of the Open Forum and direct staff to draft a resolution/request letter to the ten congressional members as soon as possible. The motion unanimously carried.

OLD BUSINESS:

21. **RESOLUTION ADOPTING THE FINAL TAX LEVY AND BUDGET FOR THE 2010 GOVERNMENTAL FUNDS.** Council President Johnson noted that the public hearing was opened/closed on the 2010 Governmental Funds on December 7, 2009. However, he was notified by a few residents that they understood public input would be taken at this meeting. As allowed by **COUNCIL RULES OF ORDER - NO. 16,** (Recognition of Speakers), Council President Johnson announced that a limited timeframe would be given to those speakers wishing to address the Council. Mayor Dave Kleis opened with brief remarks noting that the 2010 budget includes zero increases in salaries, steps, and health insurance benefits with AFSCME; and that the City remains in negotiations with the remaining eight bargaining units, noting their contracts expired December 31, 2008. The mayor added that no dollars were allocated in the 2010 budget for these bargaining units. Libert/Hontos moved to approve the Resolution adopting the Final Tax Levy and Budget for the 2010 Governmental Funds. Council President Johnson opened the 15-minute public testimony to the following speakers:

Kevin LaNave, 821 22nd Avenue N., spoke as the former Chairperson of the Human Rights Commission, and a representative of 12 different organizations that signed a public statement that he provided to the City Council. He noted that the last three groups (Multi-Cultural Resource Center of St. Cloud State University; Independent LifeStyles; and the St. Cloud Chapter of the National Asian Pacific American Women Forum) had signed the statement today's date. He displayed a document, entitled "**Some Questions that Your Community Partners Have**" on the overhead. He read aloud the following bullet points: "(1) *The city attorney's memo alleges that Baba embellished the numbers, while the mayor says that he trusts Baba. Which of you is articulating the perspective of the City?* (2) *The City Attorney's memo indicates that "outreach" and "education" are "nice, but not essential," while the mayor says that they are essential. Which of you is articulating the perspective of the City?* (3) *The budgeting process emphasizes the need to objectively assess "outcomes," but the mayor's "Your Turn" piece and the city attorney's memo are predominately descriptions of "inputs." Would you be willing to work with a consultant as well as with us to develop "outcomes," and the methods for assessing them?* (4) *Can you explain to us why you can justify a pledge to fully fund a regional office,*

which has the same goals and the same target population and same funding level as funding a city office would have, but you won't fund the city's office? He ended his comments by reading the following text, also displayed on the overhead – "Protection and promotion of human rights" is an essential quality of a "livable community;" is about the rights of the people in our lives and in our community (e.g. our family members, friends, neighbors, co-workers); is a public safety issue; and affects all of us, not just those among us who are members of "protected classes." If full funding of a Regional Human Rights Office is an urgent priority, then so is full funding of the City's Human Rights Office, because the goals are very much aligned; the people will be served by such funding are the same; and funding our City's office now does not diminish our ability to obtain a Regional office, if anything, it increases our ability."

Mohamoud I. Mohamed, 530 Wilson Avenue NE, representing SASSO; stated that his organization works very well with the City of St. Cloud, although his organization does serve the Somali population that live in our area communities. He asked that the relationship between SASSO and the City of St. Cloud continue to move forward. To do so, he asked that the City fully fund the Human Rights Office.

Hedy Tripp, 804 Washington Memorial Drive, said she wasn't at the December 7th public hearing due to being hospitalized. She wanted her statement to be a "re-emphasis" on Human Rights. She spoke to the origin of Create CommUNITY and the position of the City's Human Rights Director, noting that both steps moved the City forward in issues of Human Rights during the years she's lived in St. Cloud. She hasn't advised the National Aspen Institute for Social Change about the current Human Rights situation, noting that the Institute recently acknowledged the City of St. Cloud for its work on social change. Her concluding remarks included asking for a fully funded Human Rights office along with reinstating a director.

Following public testimony, Berg/Garven moved to amend the original motion by restoring full funding in the 2010 budget for the Human Rights Office of the City of St. Cloud. Council discussion ensued with Berg explaining her rationale for restoring full funding and reinstating a Human Rights Director. Garven suggested she couldn't support 100% funding, but could support \$30,000 added to the budget. In lieu of a director, she suggested that the 12 community organizations/advisory boards join forces to become one authoritative unit. She noted that these boards have qualified, trained professionals who, along with City staff, are capable of developing strong ideas, financial help, and valuable resources. Council President Johnson spoke against the amendment motion. He suggested that a reconstituted Human Rights Commission comprised of knowledgeable, culturally competent, and influential people in our community is essential for moving the Human Rights issue forward. Non-residents could be encouraged to participate on an Ad-Hoc basis as non-voting members. Following further discussion, the amendment motion

failed by a vote of 1-6 (all members but Councilmember Berg voted in the negative). Garven/Berg moved to amend the original motion by rededicating \$30,000 from the existing 2010 budget into the Human Rights area. Council discussion ensued. Libert asked about future LGA cuts. Mayor Kleis responded that history indicates there's a strong chance of an LGA cut in 2010. He reiterated that the bargaining unit contracts are still being negotiated, and reminded the Council that \$33,400 has already been allocated in the 2010 budget for Human Rights/Community Services. Following Council discussion, the amendment motion failed by a 3-4 vote with Hontos, Libert, Masters and Pederson voting against. The original motion carried by a vote of 6-1 with Berg voting against. The adopted resolution was assigned number 2009-12-203.

22. **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.** Community Development Director Matt Glaesman gave a brief update. The proposed ordinance was revised to allow a number of property owners to proceed with installation of WECS. Further research will occur on the remaining controversial matters with new language being brought forward in the future. Hontos/Berg moved approval of the revised ordinance as presented. Councilmember Berg asked to table the item to have more time to comprehend the details. However, as an Old Business item this agenda item could not be held over to a future date. The motion carried by a vote of 6-1 with Berg voting against. The adopted Ordinance was assigned number 2446.

OPEN DISCUSSION & ANNOUNCEMENTS:

Community Development Director Matt Glaesman encouraged the public to attend the Census Employment Meeting scheduled for Tuesday evening, December 22, 2009, from 5-8 p.m. in the St. Cloud City Council Chambers. Since Coon Rapids is the headquarters, this is the only meeting scheduled in St. Cloud for interested individuals to learn about the process, jobs and compensation. Individuals will be able to apply and take the test at this meeting.

ADJOURNMENT:

There being no further business to discuss, the meeting was adjourned at 7:23 p.m.

Respectfully submitted by

City Council President Bob Johnson

Sandy Hilsgen
Recording Council Secretary