

CITY COUNCIL PROCEEDINGS

AGENDA ITEM

March 8, 2010

1. Following the Pledge of Allegiance, a regular meeting of the City Council of the City of St. Cloud, Minnesota, was held on March 8, 2010 at 6 p.m. in the City Council Chambers.
2. Moment of Silence for our men and women serving in the Armed Forces.
3. Councilmember present were Berg, Garven, Hontos, Johnson, Libert, Masters, and Pederson.

Consent Agenda:

4. **APPROVAL OF AGENDA.** ACTION TAKEN: Approved.
5. **(A) APPROVAL OF MINUTES AND SUMMARY OF PROCEEDINGS OF REGULAR CITY COUNCIL MEETING HELD FEBRUARY 8, 2010.**
(B) APPROVAL OF MINUTES AND SUMMARY OF PROCEEDINGS OF REGULAR CITY COUNCIL MEETING HELD FEBRUARY 22, 2010.
ACTION TAKEN: Approved.
6. **MAYOR'S APPOINTMENTS TO THE HUMAN RIGHTS COMMISSION.**
ACTION TAKEN: Libert/Garven moved approval. Motion carried unanimously. Approved were the appointment of the following: Alikhadar Yosuf, Martin Nier, and Judy Foster for terms to commence immediately and expire December 31, 2010; Jason Lindberg, Nathan Meints, Tracy Ore, and Rachel Wexelbaum for terms to commence immediately and expire December 31, 2011; and Ahmed I. Abdi, Mike Landy, Eunice Adjei-Bosompem, and Cara Ruff for terms to commence immediately and expire December 31, 2012.
7. **MAYOR'S APPOINTMENT TO THE CIVIL SERVICE BOARD.** ACTION TAKEN: Confirmed the appointment of Paul Both to the Civil Service Board for a term

to commence immediately and expire on June 30, 2012.

8. **APPLICATION FROM THE SCSU PROGRAMMING BOARD FOR AN EXEMPTION FROM THE CITY'S NOISE ORDINANCE TO BE USED IN CONJUNCTION WITH A DRIVE-IN MOVIE EVENT TO BE HELD ON APRIL 28, 2010, AT K-LOT. ACTION TAKEN: Approved.**
9. **RESOLUTION REQUESTING FUNDING ASSISTANCE FROM THE MNDNR UNDER THE 2010 FEDERAL RECREATION TRAIL GRANT PROGRAM. ACTION TAKEN: Approved. Resolution was adopted and assigned number 2010-3-37.**
10. **RESOLUTION REQUESTING FUNDING ASSISTANCE FROM THE MNDNR UNDER THE LOCAL TRAIL GRANT PROGRAM. ACTION TAKEN: Approved. Resolution was adopted and assigned number 2010-3-38.**
11. **APPROVAL OF CHANGE ORDER #5 FOR THE WATER TREATMENT FACILITY FILTER & CLARIFIER REHABILITATION PROJECT. ACTION TAKEN: Approved.**
12. **WASTEWATER TREATMENT FACILITY REHABILITATION, UPGRADE AND EXPANSION PROJECT – CONSTRUCTION PHASE MATERIALS TESTING SERVICES. ACTION TAKEN: Approved.**
13. **REQUEST BY ST. CLOUD STATE UNIVERSITY TO AMEND AGREEMENT TO PLACE BANNERS ON CITY STREET LIGHT POLES ALONG UNIVERSITY DRIVE AND 5TH AVENUE SOUTH/4TH AVENUE SOUTH. ACTION TAKEN: Approved.**
14. **AUTHORIZE MAYOR AND CITY CLERK TO ENTER INTO CONTRACT WITH SEH FOR CONSULTANT SERVICES ASSOCIATED WITH THE ST. CLOUD URBAN AREA MISSISSIPPI RIVER CORRIDOR PLAN. ACTION**

TAKEN: Hontos/Berg moved approval. Motion carried unanimously.

15. **WASTE DELIVERY CONTRACT BETWEEN THE CITY OF ST. CLOUD AND THE TRI-COUNTY SOLID WASTE MANAGEMENT COMMISSION. ACTION TAKEN:** Approved.

Open Forum: No one testified.

Public Hearings:

16. **AN ORDINANCE AMENDING SECTION 105:06, SECTION 105:39, AND SECTION 145:00 OF THE 2007 CODE OF ORDINANCES ESTABLISHING A DEPARTMENT OF ECONOMIC DEVELOPMENT.**

Michael Williams, City Administrator, gave a brief overview on the ordinance. Council President Johnson opened the public hearing. No one testified. Council President Johnson closed the public hearing. Hontos/Libert moved approval. Motion carried unanimously. Ordinance was assigned number 2452.

17. **ORDINANCE VACATING A 20' WIDE DRAINAGE EASEMENT LOCATED ON LOT 15, BLOCK 1, BUETTNER'S RIDGEWOOD ESTATES 14TH ADDITION.**

Matt Glaesman, Community Development Director, gave an overview of the ordinance. Council President Johnson opened the public hearing. No one testified. Council President closed the public hearing. Berg/Masters moved approval. Motion carried unanimously. Ordinance was assigned number 2453.

18. **41ST AVENUE SOUTH/ST. CLOUD PLAZA:**

A. PRELIMINARY AND FINAL PLAT OF ST. CLOUD PLAZA.

B. RESOLUTION ORDERING 41ST AVENUE SOUTH ROADWAY AND UTILITY IMPROVEMENTS.

C. ACQUISITION OF 41ST AVENUE SOUTH RIGHT-OF-WAY.

These items were taken separately. Matt Glaesman, Community Development Director, gave an overview of the preliminary and final plat and recommended approval of the plat

and the acquisition in question. He also noted that the Planning Commission recommended approval of the final plat. Steve Foss, Assistant City Engineer, gave an overview of the improvements. Council President Johnson noted an email from Judith Dorn referencing the number of trees that will be lost with the improvements and requested that they be replaced. Council President Johnson opened the public hearing. The following individuals testified:

Dan Vanhale

1 Fairfield Lane; Mr. Vanhale is owner of Pearle Vision and spoke against the assessments on his property from the improvements proposed. Mr. Vanhale noted that he was not adequately notified of the proposed improvements and that he found out about it by word of mouth. He spoke against his assessment of \$34,000 because he feels that these improvements provide no benefit to his property. He mentioned that his assessment is the highest while his property is the smallest. He noted that he receives a lot of advertisement the way the road is currently positioned because people leaving the mall directly face his property. He feels advertisement would be greatly reduced with the improvements as planned. He also doesn't like the proposed access point for his business. He also mentioned that the primary benefit holder is CSM (Best Buy).

Patrick Kane

31 Fairfield Lane; Mr. Kane is Pearle Vision Franchise owner. He is concerned about the improvement project. He is also concerned that they are losing their access to their business which in turn equates to losing advertising. He feels that putting 41st St. here is leading to a road to nowhere.

Council President Johnson closed the public hearing. There was discussion among the Council on the items – which will be voted on separately. Steve Gaetz, Public Services Director, spoke to the fact that if the proposal is approved they will bring in an appraiser to determine the increase in fair market value after the improvements to aid in determining the assessment amount. The assessments will need approval of the Council in the future. Councilmember Hontos questioned the direct benefit, or lack of, to some of the properties. He will support the project knowing there will be debate about the

assessments at a later date. Masters/Pederson moved approval of Item A – Preliminary and Final Plat of St. Cloud Plaza. Motion carried unanimously. Libert/Garven moved approval of Item B – Resolution ordering 41st Avenue South Roadway and Utility Improvements. Motion carried unanimously by roll call vote. Resolution was adopted and assigned number 2010-3-39. Berg/Masters moved approval of Item C – Acquisition of 41st Avenue South right-of-way. Motion carried unanimously.

19. **CONSIDERATION OF RESOLUTION ORDERING EAST LAKE BOULEVARD IMPROVEMENTS.**

Steve Gaetz, Public Services Director, gave an overview on the improvements. He noted a letter from MJ Property Management which noted a large tree in between 409 and 423 9th Avenue South. They would like to see this tree removed to gain better access to their properties. In the past there have been great efforts to save the tree. Council President Johnson opened the public hearing. The following individuals testified:

Barbara Wintermartin 125 1st St. S., Sartell. She is the minister at Unity of St. Cloud Area. She supports the project but cannot afford the assessments.

Patrick Mastey 2759 Clearwater Rd.; Mr. Mastey support the projects but has concern about his assessments.

Council President Johnson closed the public hearing. There was discussion on the tree that is in between the properties. One of the properties has very limited access to their garage. Scott Zlotnik, Park Director, noted that during the public informational meetings it was communicated that this tree would be preserved. It is a very old large tree that is iconic of the Lake George area and recommended that the tree be saved. They will be assessing the condition of the tree when making the improvements and address any concerns. Masters/Garven moved approval. Motion carried unanimously by roll call vote. Resolution was adopted and assigned number 2010-3-40.

Old Business:

20. **25TH AVENUE IMPROVEMENTS:**

- A. RESOLUTION DETERMINING THE VALUE OF PROPERTY LOCATED AT 2438 – 1ST STREET SOUTH, ST. CLOUD, WHICH IS NEEDED TO BE ACQUIRED TO COMPLETE THE PROPOSED 25TH AVENUE IMPROVEMENTS.**
- B. RESOLUTION DETERMINING THE VALUE OF PROPERTY LOCATED AT 150 – 25TH AVENUE SOUTH, ST. CLOUD, WHICH IS NEEDED TO BE ACQUIRED TO COMPLETE THE PROPOSED 25TH AVENUE IMPROVEMENTS.**
- C. RESOLUTION DETERMINING THE VALUE OF PROPERTY LOCATED AT 130 – 25TH AVENUE SOUTH, ST. CLOUD, WHICH IS NEEDED TO BE ACQUIRED TO COMPLETE THE PROPOSED 25TH AVENUE IMPROVEMENTS.**
- D. RESOLUTION DETERMINING THE VALUE OF PROPERTY LOCATED AT 126 – 25TH AVENUE SOUTH, ST. CLOUD, WHICH IS NEEDED TO BE ACQUIRED TO COMPLETE THE PROPOSED 25TH AVENUE IMPROVEMENTS.**
- E. RESOLUTION DETERMINING THE VALUE OF PROPERTY LOCATED AT 118 – 25TH AVENUE SOUTH, ST. CLOUD, WHICH IS NEEDED TO BE ACQUIRED TO COMPLETE THE PROPOSED 25TH AVENUE IMPROVEMENTS.**

Gary Gustafson, Assistant City Attorney, gave an overview of the properties being acquired. There was much discussion in regard to the property at 2438 – 1st St. South and the fact that it doesn't seem worth the appraised amount given. Mr. Gustafson noted that this is due to State Statute and offering a fair amount. Garven/Berg moved approval. Hontos/Libert amended the motion to approve Resolutions B – E and exclude Resolution A – property at 2438 1st St. S., to obtain a second appraisal and minimum compensation analysis. Motion to amend carried 4 – 3; Councilmembers Berg, Garven, and Pederson voted against. The original motion as amended carried unanimously. Resolution B was adopted and assigned number 2010-3-41. Resolution C was adopted and assigned number 2010-3-42. Resolution D was adopted and assigned number 2010-3-43. Resolution E was adopted and assigned number 2010-3-44.

Open Discussion:

- Councilmember Hontos brought forward discussion on Landlord Responsibility and the property located at 2438 1st St. S. He noted that this property had 57 calls to the Police Department; 14 arrests; and 7 complaints (about garbage, cars, etc.) He is curious to why this hasn't been dealt with. He would like the Administration to report back to him on the status of this property and the owner.

Adjournment: There being no further business to discuss the meeting was adjourned at 8:01 p.m.

City Council President
Bob Johnson

Jennifer Burrows, Recording Council Secretary