

CITY COUNCIL PROCEEDINGS

AGENDA ITEM

April 5, 2010

1. Following the Pledge of Allegiance, a regular meeting of the City Council of the City of St. Cloud, Minnesota, was held on April 5, 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 MARCH 8, 2010.**
(B) APPROVAL OF MINUTES AND SUMMARY OF PROCEEDINGS OF REGULAR CITY COUNCIL MEETING HELD MARCH 22, 2010.
ACTION TAKEN: Approved.

6. **MAYOR'S APPOINTMENTS AND REAPPOINTMENTS TO THE WHITNEY SENIOR CENTER ADVISORY BOARD.** ACTION TAKEN: Approved the appointments of Joseph Farry, Roger Melaas, and Kurt Hunstiger for first terms to commence immediately and expire on March 31, 2013; and the re-appointments of Renee Ehlenz, Leslie Henson, Bruce Michaels, and Donald Johnson for second terms to commence immediately and expire on March 31, 2013.

7. **RESOLUTION ESTABLISHING A JOINT POWERS AGREEMENT (JPA) TO ORGANIZE AND GOVERN A REGIONAL HUMAN RIGHTS OFFICE.** ACTION TAKEN: Approved. Resolution was adopted and assigned number 2010-4-52.

8. **APPLICATION FOR A TOBACCO LICENSE FOR CLOWN GLASS FOR A**

STORE LOCATED AT 708 WEST ST. GERMAIN STREET. ACTION TAKEN:
Approved.

9. **APPLICATION FOR THE TRANSFER OF AN ON-SALE INTOXICATING AND SPECIAL SUNDAY LIQUOR LICENSE FROM MT'S ON 8TH, INC. (ANNE MIDAS) DBA MT'S ON 8TH, TO MT'S ON 8TH BAR AND GRILL, INC. (KEVIN FREIHAMMER) DBA MT'S ON 8TH. ACTION TAKEN:** Set public hearing for April 26, 2010.
10. **RESOLUTION REGARDING CLASSIFICATION OF TAX FORFEITED LAND. ACTION TAKEN:** Pederson/Berg moved approval. Motion carried 6-1; Councilmember Pederson voted against. Resolution was adopted and assigned number 2010-4-53.
11. **REQUEST TO SET A PUBLIC HEARING TO APPROVE THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) CONSOLIDATED HOUSING AND COMMUNITY DEVELOPMENT PLAN FOR ONE YEAR USE OF FUNDS FOR THE CDBG PROGRAM YEAR 2010, THE PRELIMINARY OBLIGATION FOR REGIONAL HUMAN RIGHTS OFFICE FOR THE CDBG PROGRAM FOR YEARS 2011 THROUGH 2014, AND A FIVE YEAR 2010 CONSOLIDATED HOUSING AND COMMUNITY DEVELOPMENT PLAN. ACTION TAKEN:** Public hearing was set for April 26, 2010.
12. **RESOLUTION RELATING TO \$43,599,900 GENERAL OBLIGATION WASTEWATER REVENUE NOTE, SERIES 2010; AUTHORIZING THE ISSUANCE, FIXING THE FORM AND DETAILS THEREOF, AND PROVIDING FOR THE SECURITY THEREFORE. ACTION TAKEN:** Pederson/Garven moved approval. Motion carried unanimously. Resolution was adopted and assigned number 2010-4-54.
13. **WASTEWATER TREATMENT FACILITY REHABILITATION, UPGRADE AND EXPANSION PROJECT – FEDERAL PREVAILING WAGE**

COMPLIANCE MONITORING SERVICES. ACTION TAKEN: Hontos/Masters moved approval. Motion carried unanimously.

14. **2010 4TH OF JULY COMMUNITY FIREWORKS CELEBRATION – PYROTECHNICS DISPLAY CONTRACT.** ACTION TAKEN: Approved.
15. **2010 4TH OF JULY COMMUNITY FIREWORKS CELEBRATION – RENTAL CONTRACT FOR BARGES AND EQUIPMENT FOR A WATER-BASED PYROTECHNICS DISPLAY.** ACTION TAKEN: Approved.
16. **RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR EAST LAKE BOULEVARD IMPROVEMENTS, CONTRACT 2010-09.** ACTION TAKEN: Approved. Resolution was adopted and assigned number 2010-4-55.

Open Forum:

No one testified.

Public Hearings:

17. **APPLICATION FOR THE TRANSFER TO AN ON-SALE 3.2 PERCENT MALT LIQUOR LICENSE FROM MARY TASTO, DBA ANGUSHIRE GOLF COURSE, INC. TO LYNN RICHERT DBA ANGUSHIRE GOLF CLUB, INC.**
Gregg Engdahl, City Clerk, gave a brief overview of the application and noted that the Police, Planning, Health, and Legal departments all recommended approval. Council President Johnson opened the public hearing. No one testified. Council President Johnson closed the public hearing. Garven/Libert moved approval. Motion carried unanimously.
18. **A) ORDINANCE REPEALING SECTION 800 OF THE 2007 CODE OF ORDINANCES ENTITLED “3.2 PERCENT MALT LIQUOR;” AND
B) ORDINANCE REPEALING SECTION 810:28 OF THE 2007 CODE OF**

ORDINANCES ENTITLED “PROXIMITY TO SCHOOLS, CHURCHES, RESIDENTIALLY ZONED PROPERTY AND THE ST. GERMAIN STREET BUSINESS DISTRICT.”

Gregg Engdahl, City Clerk, gave an overview of the Ordinances. Council President Johnson opened the public hearing. The following individual testified:

Dave Larson 115 Highway 10 North; Mr. Larson represented the Eastside VFW and requested that the ordinances be repealed. He noted that it is very difficult for the VFW to make the food ratio because of various reasons. This includes, but not limited to, the fact that they allow fundraisers to use their space for events in which they serve food and collect the money. The VFW does not get credit for that food sale, but they are selling liquor during that time.

Council President Johnson closed the public hearing. There was discussion among the Council that there should be some kind of minimum food sales for businesses and/or criteria for holding or obtaining a liquor license. Currently there are 45 liquor licenses of which three are available. The Council would like to establish some criteria before future liquor licenses are made available. This could be accomplished by decreasing the number of liquor licenses to 42. Masters/Pederson moved approval of both items A and B. Ordinance A was adopted and assigned number 2454. Ordinance B was adopted and assigned number 2455. Hontos/Berg moved a resolution decreasing the number of liquor licenses from 45 to 42. Motion carried unanimously. Resolution was adopted and assigned number 2010-4-58. Staff was directed to develop criteria for obtaining a liquor license back to the Council for approval.

19. **CONSIDERATION OF AN ORDINANCE AMENDING SECTION 238 OF THE 2007 CODE OF ORDINANCES, WHICH PROHIBITS ANY TYPE OF ALCOHOLIC BEVERAGES AT THE WHITNEY SENIOR CENTER OR ON ITS GROUNDS.**

Steve Hennes, Aging Services Director, gave an overview of the ordinance. Council President Johnson opened the public hearing. The following individual testified:

Janice Stavros 2746 21st Ave. S.; Ms. Stavros is the Chair of the Whitney Senior Center Advisory Board. She spoke in favor of the ordinance and made note that funding for the Center has decreased and they are increasing their fundraising efforts. It would be a benefit to be able to have events where wine and beer are made available.

Council President Johnson closed the public hearing. Garven/Hontos moved approval. Motion carried unanimously. Ordinance was assigned number 2456.

20. **ORDINANCE AMENDING SECTION 424 – TOBACCO OF THE 2007 CODE OF ORDINANCES.**

Matt Glaesman, Community Development Director, gave an overview of the ordinance which would include limiting the allowance of sampling tobacco in tobacco shops, which includes hookah lounges. Council President Johnson opened the public hearing. The following individuals testified:

Lori Brix 2509 19th Street North; Ms. Brix spoke in favor of the ordinance and commended the City for taking a proactive approach.

Claudia Germann 1602 Case Lane; Ms. Brix is a member of the Smoke Free Communities Coalition and spoke in favor of the Ordinance.

Harry Notch 711 27th Avenue North. Mr. Notch spoke in favor of the ordinance.

Council President Johnson closed the public hearing. Hontos/Masters moved approval of the ordinance as presented by staff. Motion carried unanimously. Ordinance was assigned number 2457.

21. **CONSIDERATION OF RESOLUTION ORDERING 10TH AVENUE NORTH AREA NEIGHBORHOOD IMPROVEMENTS – PHASE I.**

Steve Foss, City Engineer, presented the improvements. He noted a letter from JSJ Properties, LLC, which asked for a 50% reduction in their assessments. Council

President Johnson opened the public hearing. The following individual testified:

Pastor Carol Smith 511 9th Ave. N.; Pastor Smith was presenting representing Place of Hope. She noted that their assessments are approximately 25% of the total or \$135,000. She would like to see that reduced.

Council President Johnson closed the public hearing. There was discussion among the Council on the assessments. Mr. Foss noted that he is following City Policy and if there are any changes those should be discussed at the assessment hearing which would take place early next year. He also noted that these assessments wouldn't be billed until 2012 and individuals can decide on their payment plan. Masters/Libert moved approval. Motion carried unanimously by roll call vote. Resolution was adopted and assigned number 2010-4-56.

22. **CONSIDERATION OF AN ORDINANCE AMENDING SECTION 244 AND SECTION 570 OF THE 2007 CODE OF ORDINANCES ESTABLISHING RULES AND FEES FOR USE OF THE CITY COMPOST SITE.**

Scott Zlotnik, Park Director, gave an overview of the ordinance. The rules for the compost site have been set administratively but not by ordinance. The City Council discussed the fee for non-resident users and noted that Sartell has a higher fee and Waite Park and Sauk Rapids do not offer to non-residents. Council President Johnson opened the public hearing. No one testified. Council President Johnson closed the public hearing. Masters/Garven moved approval. Motion carried unanimously. Ordinance was assigned number 2458.

23. **CONSIDERATION OF AN ORDINANCE AMENDING SECTION 576 OF THE 2007 CODE OF ORDINANCES ENTITLED STREET LIGHT UTILITY.**

Pat Shea, Public Services Director, gave an overview of the ordinance which sets a process for the review and potential adjustment of disputed charges. Councilmember Hontos would like to see guidelines in place when addressing disputed charges. Mr. Shea noted that most disputes will be because of billing errors or unknown mistakes. Council President Johnson opened the public hearing. No one testified. Council President

Johnson closed the public hearing. Berg/Libert moved approval. Motion carried unanimously. Ordinance was assigned number 2459.

24. **RESOLUTION AMENDING THE WESTWOOD PARKWAY PLANNED UNIT DEVELOPMENT (PUD) GENERAL DEVELOPMENT PLAN TO REDUCE THE 20 FOOT SETBACK FOR ACCESSORY BUILDINGS UPON SINGLE FAMILY PARCELS.**

Matt Glaesman, Community Development Director, presented the amendment to the Westwood Parkway PUD and noted that the Planning Commission recommended approval of reducing the setback to 5 feet. Council President Johnson opened the public hearing. The following individuals testified:

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| Brent Ahmann | 6616 Yosemite St.; Mr. Ahmann spoke in favor of the amendment. With the setback the way it is he doesn't have much usable space in his backyard. He would like to have a play set and a small shed. |
| Patrick Shepard | 6619 Yosemite St.; Mr. Shepard spoke in favor of the amendment. When he purchased the property he didn't know that this PUD had a 20 foot setback. Out of fairness, he would just like it down to 5 feet to be like those in other areas of the city. |
| Wes Karls | 6623 Yosemite St.; Mr. Karls spoke in favor of the amendment. They operate a home day care. They were told by the developer that there would be a play area built. That has not happened so they put a play set in their yard. |
| Brian Fisher | 1201 Quarry Lane; Mr. Fisher spoke in favor of the amendment. He submitted more signatures of those living in this PUD that would like the setback reduced. |

Council President Johnson closed the public hearing. There was discussion among the Council on why the setback was at 20 feet. Mr. Glaesman noted that this particular PUD was an attempt at something different – a more modern PUD. Masters/Libert moved approval. Motion carried unanimously. Resolution was adopted and assigned number

2010-4-57.

25. **RESOLUTION AMENDING PLANNED UNIT DEVELOPMENT NUMBER 28 TO PERMIT THE INSTALLATION OF ONE FREE STANDING AND ONE BUILDING MOUNTED WIND ENERGY CONVERSION SYSTEMS (WECS) AT THE MAC. (LOCATION: 5001 8TH STREET NORTH)**

Matt Glaesman, Community Development Director, presented the item and noted that the Planning Commission recommended approval of the PUD amendment. Council President Johnson opened the public hearing. The following individuals testified:

Mike Hormann 5515 West Oakes Dr.; Mr. Hormann spoke in favor of the amendment. He is part owner of the company Reprise Energy Resources LLC, which will display the Wind Energy Conversion Systems.

Ron Euteneuer 857 Rolling Green Court, Sartell; Mr. Euteneuer spoke in favor of the amendment. He is also part owner of the systems. He requested that the City waive or reduce the permit fee for placing one of these at the MAC.

Council President Johnson closed the public hearing. Councilmembers were concerned about letting a private company use public property to promote their product. Councilmember Pederson and Hontos agreed they would be more comfortable if there was a cost savings for the MAC by installing the system and/or a lease agreement. Matt Glaesman noted that the display of this product is to demonstrate the technology to the community. It was stated that the City would display them at a public venue in order for the public to witness the noise level. The Council had reservations with moving forward if there wasn't some sort of lease agreement and/or contract with Reprise Energy Resources LLC. Council President Johnson said he was concerned that it looked like the city was helping the company. Berg/Hontos moved approval of the amendment. Garven/Masters moved to table the item for further review and for staff to address the Council's concerns. Motion carried 6-1; Councilmember Berg voted against tabling. Motion for approval is still on the floor.

26. **ORDINANCE AMENDING ARTICLE 19 – OFF-SITE DEVELOPMENT STANDARDS, SECTION 19.11 – DRAINAGE IMPROVEMENTS, C. IN THE ST. CLOUD LAND DEVELOPMENT CODE.**

Matt Glaesman, Community Development Director, presented the ordinance and noted that the Planning Commission recommended approval. Council President Johnson opened the public hearing. No one testified. Council President Johnson closed the public hearing. Berg/Masters moved approval. Motion carried unanimously. Ordinance was assigned number 2460.

Open Discussion:

- ✚ Councilmember Hontos requested an update on the property at 2438 1st St. S. that was requested at the March 8, 2010 City Council meeting. City Administrator Mike Williams noted that this update will be provided to the Council in the near future.
- ✚ Councilmember Garven questioned the progress the City is making with the silent railroad crossings. Steve Foss noted that the City is still looking at further installing these but there is a cost.
- ✚ Council President Johnson noted there will be a City Council Retreat on Friday, April 9 and Saturday, April 10.
- ✚ Council President Johnson noted that the Mayor’s State of the City address will be Tuesday, April 6 at noon at the Civic Center.

Adjournment: There being no further business to discuss the meeting was adjourned at 8:53 p.m.

City Council President
Bob Johnson

Jennifer Burrows, Recording Council Secretary