

CITY OF MONTEVIDEO
CITY COUNCIL PROCEEDINGS
December 20, 2010

The city council met in regular session Monday, December 20, 2010 in the council chambers at city hall. President Hodge called the meeting to order at 7:00 P.M. with the Pledge of Allegiance.

Council members present: Marvin Garbe, Karen Nieuwbeerta, Sandra Hodge, Al Johnsrud and Bryce Curtiss. Absent: None. Mayor Curtiss present.

Also present were: City Manager Steven C. Jones, City Attorney Janice M. Nelson, City Engineer David Berryman and City Clerk Glennis A. Lauritsen.

It was moved by Nieuwbeerta, seconded by Curtiss and unanimously passed to approve the agenda, with the following modification:

MODIFY:

8(B) CONSIDER INTRODUCING AN ORDINANCE AMENDING THE ADMINISTRATIVE CODE BY ADDING CHAPTER 10 - CELL PHONE OR OTHER ELECTRONIC DEVICE USE.

Additional information provided:

- ▶ Memo from City Attorney Janice Nelson
- ▶ Revised Ordinance, prepared by the city attorney.

It was moved by Garbe, seconded by Johnsrud and unanimously passed to approve the minutes of the regular meeting of December 6, 2010, as presented.

4. Notices/Communications/Announcements or Appearance of Interested Citizens.

4(A) CERTIFICATE PRESENTATION TO MAYOR CURTISS.

Council President Hodge presented a plaque to outgoing Mayor Jim Curtiss, to commemorate his 14 years of service to the City of Montevideo.

5. Consent Agenda.

It was moved by Johnsrud, seconded by Curtiss and unanimously passed to approve the following Consent Agenda item:

5(A) VERIFIED CLAIMS FOR THE PERIOD ENDING DECEMBER 17, 2010 IN THE AMOUNT OF \$142,940.25.

6. Public Hearings.

- None.

7. General Business.

7(A) 2011 BUSINESS & LIQUOR LICENSES.

A list of business and liquor licenses applications for 2011 was presented to the council for its review and consideration. The listing showed which license applications had deficiencies, i.e., proof of insurance, etc. The council was informed that no license would be issued until such time as the deficiencies have been corrected.

It was moved by Johnsrud, seconded by Garbe and unanimously passed to approve the issuance of 2011 business and liquor licenses, contingent upon submission of all required documentation, as follows:

Key:

- (1) = Application not returned - NOT LICENSED FOR 2011
- (2) = Proof of Insurance needed
- (3) = Menu needed (restaurants)
- (4) = Food license needed (restaurants)
- (5) = Payment needed

LIQUOR ON-SALE (3-2A-2: \$1,500 Fee/Liq.Liab./Worker's Comp./Food License/Menu)

| <u>Appl. #</u> | <u>Name</u> | <u>Deficiencies</u> |
|----------------|--|---------------------|
| 11-1 | Groat's, Inc., DBA/Groat's | None |
| 11-2 | Frommel, Inc., DBA/Topper's Bar & Grill | None |
| 11-3 | Inn Like Flinn, Inc., DBA/Inn Like Flinn | 2,3,4 |
| 11-4 | Henning-Erickson VFW Post #380, Inc. | None |
| 11-5 | American Legion Post #59 | None |

ON-SALE WINE (3-2C-2: \$265 Mon-Sat.; \$70.00 Sunday Only/Liq. Liab./Worker's Comp/Food License/Menu.)

| Appl. # | Name | Deficiencies |
|-----------------|--|-----------------|
| 11-6 & 11-7 | Eloise Valentino, DBA/Valentinos's Restaurant (Monday-Saturday and separate Sunday license [11-7]) <i>(Note: The combination of a wine license and 3.2 beer license allows the sale of strong beer Monday-Saturday. Sunday sales of strong beer are not allowed.)</i> | None |
| 11-8 | Frommel, Inc., dba/Topper's Bar & Grill (Sunday only license) | VOID |

3.2 PERCENT MALT LIQUOR ON SALE (3-2B-2: \$160.00 Fee/Sunday Fee \$70.00/Liq. Liab./Worker's Comp/Food License/Menu, when applicable)

| Appl. # | Name | Deficiencies |
|------------------|---|-----------------|
| 11-9 | DeVon Vien, DBA/Mel'ody Lanes Bowling Center, Inc. (& SUNDAY ON-SALE) | None |
| 11-10 | Frommel, Inc., dba/Topper's Bar & Grill (SUNDAY ONLY) | Void |
| 11-11 | Inn Like Flinn, Inc., DBA/Inn Like Flinn (SUNDAY ONLY) | 2,3,4 |
| 11-12 | Eloise Valentino DBA/Valentino's Restaurant (MONDAY-SATURDAY) (In conjunction with a wine license, strong beer is allowed.) | None |

3.2 PERCENT MALT LIQUOR - OFF SALE (3-2B-3: \$70 Fee/Liq. Liab./Worker's Comp.)

| Appl. # | Name | Deficiencies |
|---------|---|--------------|
| 11-13 | Henning-Erickson VFW Post #380 for 2011 Racetrack Concessions (Special Event - Monday-Saturday during the racing season) | None |
| 11-14 | KMJ Convenience Co., DBA/FOOD-N-FUEL | 2 |
| 11-15 | J & L Enterprises West, Inc., DBA/Montevideo County Market | 1,2,5 |
| 11-16 | Inn Like Flinn, Inc., DBA/Inn Like Flinn | 2,3,4 |
| 11-17 | Casey's Retail Company, DBA/Casey's General Store #1806 (1 st Street) | None |
| 11-18 | Casey's Retail Company, DBA/Casey's General Store #2085 (Benson Road) | None |
| 11-19 | Wal-Mart Stores, Inc., DBA/Wal-Mart Supercenter #1858 | None |

SET-UP LICENSE (3/31/11 to 3/31/12) (\$80.00 Fee/Liq. Liab. & Work. Comp. Insurance and copy of State License.)

| | | |
|-------|--|-----------------------|
| 11-20 | Devon Vien, dba/Mel'ody Lanes Bowling Center, Inc. | Copy of State License |
| 11-21 | Inn Like Flinn, Inc. | Copy of State License |

CIGARETTE LICENSE (3-5-2: \$100.00 Fee/Worker's Comp.)

| <u>Appl. #</u> | <u>Name</u> | <u>Deficiencies</u> |
|----------------|--|---------------------|
| 11-22 | Dooley's Petroleum, Inc., DBA/Dooley's Handistop of Monte | None |
| 11-23 | City of Montevideo, DBA/Fiesta City Liquor | None |
| 11-24 | Wal-Mart Stores, Inc., DBA/Wal-Mart Store #1858 | None |
| 11-25 | J & L Enterprises West, Inc., DBA/Montevideo County Market | 1,2,5 |
| 11-26 | American Legion Post #59 | None |
| 11-27 | KMJ Convenience Co., DBA/Food-N-Fuel | 2 |
| 11-28 | Farmers Union Oil Co., DBA/CENEX | 2 |
| 11-29 | Bill's Foods, Inc., DBA/Bill's Supermarket | None |
| 11-30 | Casey's Retail Company, DBA/Casey's General Store #2085 (Benson Road) | None |
| 11-31 | Casey's Retail Company, DBA/Casey's General Store #1806 (1 st Street) | None |
| 11-32 | Farmers Union Oil Co., DBA/CENEX C-STORE | 2 |

REFUSE/RUBBISH HAULING LICENSE (4-2-7: \$40 Fee/Bond/Public Liab. & Property Damage Ins./Worker's Comp.)

| <u>Appl. #</u> | <u>Name</u> | <u>Deficiencies</u> |
|----------------|--------------------------------------|---------------------|
| 11-33 | Lonny Tostenson, DBA/Tostenson, Inc. | None |

7(B) 2011 TAX LEVY.

Finance Director Jan Flaherty was on hand to discuss the proposed 2011 tax levy. Flaherty stated that the proposed levy is the same as the preliminary levy approved in September 2010. Total tax levy for 2011 is \$1,726,000.

MARVIN GARBE OFFERED RESOLUTION NO. 3009, A RESOLUTION ESTABLISHING THE 2011 TAX LEVY, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3009 WAS SECONDED BY KAREN NIEUWBEERTA. THOSE VOTING IN FAVOR OF MOTION: MARVIN GARBE,

KAREN NIEUWBEERTA, AL JOHNSRUD, BRYCE CURTISS AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(C) 2011 BUDGET ADOPTION.

Finance Director Jan Flaherty was on hand to discuss the 2011 Budget. Flaherty stated that adoption of the proposed resolution is the final process in setting the 2011 Budget. She noted that changes from the preliminary 2011 Budget adopted in September were discussed by the council at its December 6, 2010 meeting. The budget document reflects total revenues in the amount of \$11,177,105 and total expenditures in the amount of \$11,024,365.

AL JOHNSRUD OFFERED RESOLUTION NO. 3010, A RESOLUTION ADOPTING THE BUDGET FOR THE FISCAL YEAR 2011, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3010 WAS SECONDED BY BRYCE CURTISS. THOSE VOTING IN FAVOR OF MOTION: AL JOHNSRUD, BRYCE CURTISS, MARVIN GARBE, KAREN NIEUWBEERTA AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(D) MODIFICATIONS TO DRUG & ALCOHOL TESTING POLICY.

Recent changes have been issued by the U.S. Department of Transportation concerning drug tolerance cutoff levels and definitions. A new definition of "adulterated specimen" is proposed, as well as proposed modifications to the minimum threshold levels.

It was moved by Garbe, seconded by Nieuwbeerta and unanimously passed to approve the proposed modifications and to incorporate those changes into the city's drug & alcohol testing policy.

7(E) 2011 EMPLOYEE SAFETY PROGRAM.

A renewal contract has been drafted by SafeAssure Consultants, Inc., Willmar, Minnesota, to provide the city's employee safety training program for 2011. Staff noted that the city has utilized SafeAssure services for the past several years and has been happy with their performance. The fee for 2011 would be \$5,975.00, which is the same as 2010.

It was moved by Johnsrud, seconded by Garbe and unanimously passed to approve the contract with SafeAssure, as presented.

7(F) 2011 FARM LEASE WITH LESLIE ENEVOLDSEN.

Staff explained that the current farm lease with Leslie Enevoldsen expires December 31, 2010. If council is interested in continuing this arrangement, a new lease is necessary. The land is the former Evans property along William Avenue/County Road 15. Mr. Enevoldsen has expressed his interest in a new agreement and has agreed to the proposed rent for 2011 of \$2,541.48, which is the same rate as the 2010 lease (calculated at \$168.31/acre).

It was moved by Johnsrud, seconded by Garbe and unanimously passed to approve the lease, as presented.

7(G) 2011 FARM LEASE WITH ROBERT KURTZBEIN.

The current farm lease with Robert Kurtzbein expires December 31, 2010. A new lease has been prepared for 2011. The land is located in the Ost Subdivision. Mr. Kurtzbein has farmed this land for several years and has indicated an interest in doing so again in 2011. An easement agreement is on file which allows Kurtzbein access across city property to this farm land. A slight modification has been made to the tillable acres (from 21.89 to 20.60). Rent for 2011 has been calculated at the same rate as 2010, which is \$168.31/acre for a total lease amount of \$3,467.19.

It was moved by Curtiss, seconded by Johnsrud and unanimously passed to approve the lease, as presented.

7(H) STANDARDS OF CONDUCT POLICY FOR SENIOR CENTER PROGRAM.

At staff's request, this item was tabled to a future council meeting, pending further review.

7(I) PURCHASE OF LAND - LEVEE PROJECT.

City Manager Jones explained that staff and consultants continue to work on obtaining land and easements for the levee project. One parcel recently surfaced that appeared to be owned by the Chippewa County Historical Society. Staff met and negotiated with the

Society on a purchase price for the 3+ acre site of \$4,000. A resolution has been prepared to acquire the needed land.

MARVIN GARBE OFFERED RESOLUTION NO. 3011, A RESOLUTION ACQUIRING LAND FOR CONSTRUCTION OF A NEW LEVEE SYSTEM, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3011 WAS SECONDED BY BRYCE CURTISS. THOSE VOTING IN FAVOR OF MOTION: MARVIN GARBE, BRYCE CURTISS, KAREN NIEUWBEERTA, AL JOHNSRUD AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(J) APPOINTMENTS TO CITY BOARDS/COMMISSIONS.

It was moved by Garbe, seconded by Nieuwbeerta and unanimously passed to make the following appointments:

Board of Health

1-year term to December 31, 2011

Dr. Thomas Birkey
Adam Christopher
Steve Jones

Planning Commission

3-year term to January 2014

Nathan Schmidt
Richard Clarke

Airport Commission

3-year term to January 2014

Tom Birkey

Police Civil Service Commission

3-year term to January 2014

Steve Beals

Traffic Safety Improvement Committee

1-year terms to December 31, 2011

Marv Dehne
Stacy Tufto
Lyle Henning
Jim Curtiss

Cable Advisory Board

3-year term to December 31, 2011

Debra Lee Fader

Housing Commission

3-year terms to December 31, 2013

Dave Hendrickson
Laura Milbrandt
Jan Sanow

Convention & Visitor's Bureau

2-year terms to December 31, 2012

Donna Krueger
Jerry Tilden

Building & Housing Advisory Appeals Board

3-year term to December 31, 2013

Mark Peters

Council president Hodge announced that the city still has vacancies on the following boards/commissions:

- ▶ (1) Planning Commission, 3-year term
- ▶ (3) Cable Advisory Board (2, 1-year terms; 1, 2-year term)
- ▶ (1) Park Board, 5-year term
- ▶ (1) United Way representative, term expiring March 2013

7(K) COUNCIL MEMBER APPOINTMENTS TO BOARDS/COMMISSIONS.

Council members reviewed the list of current representation on the various boards and commissions. Following review, it was moved by Garbe, seconded by Johnsrud and unanimously passed to appoint the following:

| Board | Council Representative | Length of Term |
|--|----------------------------------|--|
| Airport Commission | Karen Nieuwbeerta | term expires 12/31/11 |
| Hospital Commission | Bryce Curtiss | term expires 12/31/11 |
| MCDC | Bryce Curtiss | term expires 12/31/12 |
| Joint City/County Airport Zoning Board | Karen Nieuwbeerta Al Johnsrud | term expires 12/31/11 term expires 12/31/11 |
| County Planning Commission | Karen Nieuwbeerta | term expires 12/31/11 |

| Board | Council Representative | Length of Term |
|--------------------------------|-------------------------------|-----------------------|
| County Elected Officials Comm. | Debra Lee Fader | term expires 12/31/11 |
| Library Board | Marvin Garbe | term expires 12/31/13 |

7(L) 2011 COUNCIL MEETING SCHEDULE.

AL JOHNSRUD OFFERED RESOLUTION NO. 3012, A RESOLUTION FIXING TIME AND PLACE FOR REGULAR CITY COUNCIL MEETINGS FOR CALENDAR YEAR 2011, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3012 WAS SECONDED BY KAREN NIEUWBEERTA. THOSE VOTING IN FAVOR OF MOTION: AL JOHNSRUD, KAREN NIEUWBEERTA, MARVIN GARBE, BRYCE CURTISS AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(M) CREDIT CARD READER AT AIRPORT.

City Manager Jones explained that the state has offered to pay for one-half of the cost to install a credit card reader at the Chippewa County-Montevideo Airport (for the fueling station.) This would allow fuel access 24 hours/day and when the airport manager is away. The airport commission recommended this be installed. The city and county would split the estimated local share of \$10,000, or \$5,000 each.

It was moved by Nieuwbeerta, seconded by Garbe and unanimously passed to approve the credit card installation, as presented.

7(N) CROSSWALK INSTALLATION.

St. Joseph's Catholic Church has requested that the city install a crosswalk, mid-block on Black Oak Avenue, for access to their new parking lot. As an alternative, they request one at the intersection of 6th Street and Black Oak Avenue.

Staff has discussed the request and does not recommend that a crosswalk be installed mid-block based on the hazard created if traffic would have to stop twice within 30' and because a natural crossing in the 4-way stop is close by. Staff is not opposed to a crosswalk at the intersection but is resistant to adding new signage.

It was moved by Johnsrud, seconded by Curtiss and unanimously passed to approve a painted crosswalk at the intersection of North 6th Street & Black Oak Avenue.

7(O) ACCEPTANCE OF GIFTS/GRANTS.

Donations have been given by various organizations and individuals, as follows:

| Name | Description | Amount |
|-------------------------------|---|---------------|
| Community Bible Church | Pool Scholarship | \$100.00 |
| Chamber of Commerce | Christmas Lights | \$200.00 |
| MN River Area Agency on Aging | TLC Telephone Reassurance Program Grant | \$6,000.00 |
| MN River Area Agency on Aging | Chore Service Grant | \$6,000.00 |

MARVIN GARBE OFFERED RESOLUTION NO. 3013, A RESOLUTION ACCEPTING GIFTS & GRANTS, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3013 WAS SECONDED BY KAREN NIEUWBEERTA. THOSE VOTING IN FAVOR OF MOTION: MARVIN GARBE, KAREN NIEUWBEERTA, BRYCE CURTISS, AL JOHNSRUD AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(P) BAD DEBT WRITE-OFFS.

Staff informed the council that a few items remain uncollectible and need to be written off by the council, including the following:

| Description | Amount |
|---|-----------------|
| 1) Removal/Disposal of refrigerator on property at 540 North 5 th Street | 50.00 |
| 2) Damage to Third Street & Canyon Avenue (materials/labor) | 69.00 |
| 3) Insufficient Funds check for Lagoon Park camping | 40.00 |
| TOTAL | \$159.00 |

_____ Staff commented on the three items, as follows: 1) Removal of the refrigerator was not pursued through the nuisance process; but rather, was simply removed by city staff and billed to the property owner. Staff believes that the amount does not warrant legal action. 2) Sign damages were billed to an individual who was deported in August 2010. 3) Individual is from out-of-town, was sent a "collection" letter but amount due does not warrant further legal action.

It was moved by Johnsrud, seconded by Curtiss and unanimously passed to write off the debts, as indicated.

7(Q) UPDATE - PROPOSED LIQUOR STORE LEASE.

City Manager Steve Jones updated the council on the status of the proposed liquor store lease with Mark Schultz. A newer version of the lease proposed by the landlord has created additional concerns. Due to those concerns, staff requested that this item be tabled to the next meeting to provide additional negotiations.

It was the consensus of council to table this issue to the January 10, 2011 meeting.

8. Ordinances.

8(A) UTILITY SERVICE LINE RESPONSIBILITY.

As a part of the worksession held November 15, 2010, the council discussed responsibility of utility service lines. As a result of that discussion, an ordinance has been proposed which makes the city responsible for water lines, from the curb box to the main. In the past, users were responsible for the water line, from the house or business to the main.

AL JOHNSRUD INTRODUCED ORDINANCE NO. 907, AN ORDINANCE AMENDING SECTION 39 OF CHAPTER 4 OF TITLE 8, OF THE MONTEVIDEO CITY CODE, SERVICE LINES.

8(B) CELL PHONE/ELECTRONIC COMMUNICATION DEVICE USE.

Staff has recommended that the city have in place a written cell phone use policy. An ordinance has been drafted by the city attorney for review by the council which amends the Administrative Code by adding a new chapter - Cell Phone or Other Electronic

Device Use. Not only is the policy a general use policy, it also clarifies how the city will be reimbursed for personal phone call use.

MARVIN GARBE INTRODUCED ORDINANCE NO. 908, AN ORDINANCE AMENDING THE ADMINISTRATIVE CODE BY ADDING CHAPTER 10 - CELL PHONE OR OTHER ELECTRONIC DEVICE USE.

8(C) ADMINISTRATIVE PENALTIES - 3.2% MALT LIQUOR LICENSES.

Ordinance No. 899 (adopted 7/6/10) provided for administrative penalties within the intoxicating liquor and wine sections of the city code. Similar language has now been developed for the section dealing with 3.2 percent malt liquor for consistency among the various sections of the code.

KAREN NIEUWBEERTA INTRODUCED ORDINANCE NO. 909, AN ORDINANCE AMENDING VARIOUS PROVISIONS OF CHAPTER 2B OF TITLE 3 OF THE MONTEVIDEO CITY CODE, 3.2 PERCENT MALT LIQUOR.

Prior to going into closed session for the purpose of conducting an employee evaluation of City Manager Steve Jones, President Hodge polled council members for additional items for discussion.

9. Discussion and Miscellaneous.

- ▶ Staff was asked to address the piling of snow onto the city right-of-way (boulevard) on property owned by Carey Field at North 12th Street/Black Oak Avenue.
- ▶ Council reviewed the reporting procedure followed for street lights that are not working correctly. Staff explained that city staff responds to complaints by submitting a report to Xcel Energy. The report asks for specific information, i.e., location of the street light, the issue associated (light out completely, off/on), etc. It was noted that citizens can help in this procedure by securing the pole number when phoning in a problem. It was suggested that it may be advantageous to solicit citizen help via Channel 8.

At this time, a brief recess was held as audience members, City Engineer David Berryman and City Attorney Janice Nelson left the meeting.

City Manager Steve Jones was also asked to leave the room during his performance evaluation.

Minutes/City Council
December 20, 2010
Page No. 13

Council President Hodge called the closed session to order at 8:10 P.M. to conduct a performance evaluation of the city manager. The entire closed session was recorded on audio tape and will be kept in accordance with the state retention schedule.

At 8:27 P.M. and City Manager Jones was asked to return to the council chambers.

Closed session ended at 8:36 P.M.

Council president Hodge summarized the discussion and noted that a public summary will be read at the January 10, 2011 city council meeting.

Meeting adjourned at 8:42 P.M.

Glennis Lauritsen, Secretary

Approved by council January 10, 2011:

Sandra Hodge - President