

CITY OF MONTEVIDEO
CITY COUNCIL PROCEEDINGS
September 8, 2009

The city council met in regular session Tuesday, September 8, 2009 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: Sandra Hodge, Al Johnsrud, Karen Nieuwbeerta, Marvin Garbe and Bryce Curtiss. Mayor Jim Curtiss absent.

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

It was moved by Garbe, seconded by Johnsrud and unanimously passed to approve the agenda, with the following modifications/additions:

MODIFY:

- 7(A) CONSIDER \$8,000.00 REQUEST FROM THE CHIPPEWA COUNTY LIBRARY BOARD TO FUND THE PURCHASE OF EIGHT (8) COMPUTERS.**

Letter provided from Marvin E. Garbe, Chippewa County Library Board Chair, to the Pioneerland Library Technology Committee.

- 7(D) CONSIDER RESOLUTION & ORDER TO REPAIR, REMOVE OR DEMOLISH HAZARDOUS BUILDING AT 313 PARK AVENUE.**

Revised Exhibit A provided.

- 8(A) CONSIDER ORDINANCE AMENDING 6-3-1 OF THE MONTEVIDEO CITY CODE ENTITLED, "ONE-WAY STREETS" TO REMOVE FIRST STREET FROM THE LISTING.**

Proposed ordinance provided.

ADD:

5(B) CONSIDER AUTHORIZATION FOR USE OF CITY PROPERTY BY ST. JOSEPH CHURCH IN CONJUNCTION WITH ITS FALL FESTIVAL ON SEPTEMBER 20, 2009.

7(T) CONSIDER REQUEST FOR RENEWAL OF 2:00 A.M. CLOSING OF LIQUOR ESTABLISHMENT - INN LIKE FLINN, 305 SOUTH 1ST STREET.

It was moved by Johnsrud, seconded by Nieuwbeerta and unanimously passed to approve the minutes of the budget worksession of August 17, 2009 and regular meeting of August 17, 2009, as presented.

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

- None.

5. Consent Agenda.

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

5(A) VERIFIED CLAIMS FOR THE PERIOD ENDING SEPTEMBER 4, 2009 IN THE AMOUNT OF \$381,325.88.

5(B) USE OF CITY PROPERTY BY ST. JOSEPH CHURCH IN CONJUNCTION WITH ITS FALL FESTIVAL ON SEPTEMBER 20, 2009.

6. Public Hearings.

- None.

7. General Business.

7(A) LIBRARY COMPUTER FUNDING REQUEST.

Montevideo Librarian Dave Lauritsen was present to discuss a request for funding. He explained that Pioneerland Library System plans to purchase 15 computers at the

Montevideo-Chippewa County Public Library in 2010. Of the 15, 8 are for general public use, 3 are “card catalog” only and 4 are for staff administrative purposes. A matching grant from the Gates Foundation to the library has provided dollars to purchase seven (7) new computers for the general public; however, the library will need eight (8) more. A request has been submitted to the city to fund the eight (8) computers at a cost of \$1,000.00 each, or \$8,000.00 total.

Staff noted that the city had already cut back on city capital expenses for 2010. In addition, employees from both of the city’s contracted bargaining units have agreed to a reduction in salary wage increases in 2010 (from 4% to 2%). It was also noted that in late 2008, the city bought the library two computers for about \$3,000.00 (grant funds), and in 2009 contributed \$75,000 towards the A/C system when only \$25,000 was budgeted.

Council had been supplied with a copy of a letter written to the Pioneerland Library Technology Committee by Marvin E. Garbe, Chairperson of the Chippewa County Library Board, which addressed the board’s concern over total replacement of all computers every three years. The letter asked that actions be reconsidered.

Council member Johnsrud noted that he is a member of the Pioneerland Library Technology Committee. He had asked them to postpone this action, but his request was not well received. He added that most of the cities within the system had set money aside for this purpose.

Following discussion, it was the consensus of the council to table action on the request and discuss it further as a budget item.

7(B) COMMUNICATIONS TOWER - 1315 BLACK OAK AVENUE.

Community Development Director Nick Haggemiller was present to discuss the request by MN River Valley Education District #1608 for a conditional use permit to allow the construction of a communications tower up to 100' tall in a B1 Business District at 1315 Black Oak Avenue. The tower would replace an existing tower at that location.

The planning commission held the required public hearing on August 24, 2009, and unanimously recommended approval, based on the following conditions:

1. Permitted entity must ensure all city building codes and ordinances are followed concerning the setup/construction of the tower.

2. Permitted entity must take appropriate precautions in order to prevent access to the structure is not accessible from those not directly involved with the operation/maintenance of the tower.
3. Appropriate lighting at the top of the tower and signage must be placed to designate the site and to warn of the risks associated with climbing, tampering, etc., with the site. The City of Montevideo reserves the right to add additional safety considerations as needed.
4. Use of the tower is to be reserved exclusively for the applicant and entities directly related to the operation of the facilities. No commercial use of the tower is to be permitted.
5. The city reserves the right to review this permit at any time and to add additional conditions to preserve and protect the character of the area.

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

7(C) COMMUNICATIONS TOWER - 1501 WILLIAM AVENUE.

Community Development Director Nick Haggemiller was present to discuss the request by MN River Valley Education District #1608 for a conditional use permit to allow the construction of a communications tower up to 100' tall in a R1 Residential District at 1501 William Avenue (Senior High School.)

The planning commission held the required public hearing on August 24, 2009, and unanimously recommended approval, based on the following conditions:

1. Permitted entity must ensure all city building codes and ordinances are followed concerning the setup/construction of the tower.
2. Permitted entity must take appropriate precautions in order to prevent access to the structure is not accessible from those not directly involved with the operation/maintenance of the tower.
3. Appropriate lighting at the top of the tower and signage must be placed to designate the site and to warn of the risks associated with climbing, tampering,

etc., with the site. The City of Montevideo reserves the right to add additional safety considerations as needed.

4. Use of the tower is to be reserved exclusively for the applicant and entities directly related to the operation of the facilities. No commercial use of the tower is to be permitted.
5. The city reserves the right to review this permit at any time and to add additional conditions to preserve and protect the character of the area

It was moved by Nieuwbeerta, seconded by Garbe and unanimously passed to approve the conditional use permit, as presented.

7(D) ORDER TO REPAIR/REMOVE/DEMOLISH - 313 PARK AVENUE.

Community Development Director Haggemiller was present to explain that the house located at 313 Park Avenue, owned by Tom & Catalina Worden, had been given property condition letters in 2008 and 2009, with a formal repair/remove/demolish letter sent July 31, 2009. These letters were in addition to several other nuisance letters sent for garbage/debris and grass/weed issues. He noted that to date, the property remains hazardous and progress by the property owner is not anticipated. Therefore, staff recommended passing a resolution ordering the house be repaired/removed/demolished.

Tom Worden, 309 Merriam Avenue was present to address the council. Worden stated that he purchased the property at 313 Park Avenue in 1995 as an investment, and had made some improvements over the years (driveway, windows, etc.) However, circumstances surrounding his employment and health had hindered that work. Worden stated he had lost his job in 1998, had since suffered with heart issues and had other personal financial issues (daughter's car/son's wedding) - hardships that have proven economically destructive. He stated he has not neglected the property and apologized for its condition, but he has simply been unable to physically work on the property and requested an extension due to his health. He added that he has been unable to obtain financing from Prairie Five for the project inasmuch as it is not his primary residence and he does not qualify for rental rehab monies. Regardless, Worden stated that over the next two years, he intends to invest \$30,000 in improvements to the house.

Community Development Director Haggemiller informed the council that the city's building official estimated that \$40,000-\$50,000 is needed to correct the major

deficiencies. When asked if the city considered the home habitable, Haggenmiller said that it is not.

Council member Johnsrud asked Mr. Worden whether he felt his state of health would now allow him to complete the project. Worden said that he is steadily improving and that he would work hard on the project for as long as he could.

City Manager Jones said that staff would be willing to help Worden find possible funding for the improvements; however, he encouraged the council to proceed with the process for repair/removal/demolition. Jones explained that the process can be quite lengthy. The city's order would give Worden 30 days to correct the most hazardous public safety issues and if corrections made are not adequate, the matter could then be turned over to the city attorney to schedule a court date (typically 2-3 months time.) At the court level, Worden could appear to plead his case. Typically, the court would then allow him additional time to make the necessary repairs.

Community Development Director Haggenmiller noted that in addition to the letters written and inspections made, staff continues to receive citizen complaints regarding the condition of the property.

MARVIN GARBE OFFERED RESOLUTION NO. 2933, A RESOLUTION ORDERING THE REPAIR, REMOVAL OR DEMOLITION OF A HAZARDOUS BUILDING AT 313 PARK AVENUE, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2933 WAS SECONDED BY BRYCE CURTISS. THOSE VOTING IN FAVOR OF MOTION: MARVIN GARBE, BRYCE CURTISS, AL JOHNSRUD, KAREN NIEUWBEERTA AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

The council also encouraged city staff to work with Worden on possible funding sources for the improvements.

7(E) PRELIMINARY 2010 BUDGET.

The Charter for the City of Montevideo requires that the city's budget be addressed at the first regular monthly meeting of the council in September. In addition, state legislation requires the adoption of a preliminary levy and a preliminary budget by September 15th.

Finance Director Jan Flaherty was present to review and discuss the 2010 preliminary budget document. The budget reflects total revenues in the amount of \$11,504,835 and

total expenditures in the amount of \$11,326,365. For the benefit of the public audience, Flaherty explained that the city council had met in worksessions to discuss the budget by department, and recommendations from those worksessions were then incorporated into the preliminary budget. Flaherty said that due to the current economic situation, in the General Fund only the Personal Services (personnel wages/benefits) line items have increased; all other line items remain at the 2009 budget level.

BRYCE CURTISS OFFERED RESOLUTION NO. 2934, A RESOLUTION ADOPTING THE PRELIMINARY 2010 BUDGET, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2934 WAS SECONDED BY AL JOHNSRUD. THOSE VOTING IN FAVOR OF MOTION: BRYCE CURTISS, AL JOHNSRUD, KAREN NIEUWBEERTA, MARVIN GARBE AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(F) PRELIMINARY 2010 TAX LEVY.

Minnesota Statutes requires the city to adopt a preliminary 2010 tax levy and certify the levy to the county auditor by September 15, 2009.

Finance Director Flaherty was present to discuss the preliminary levy, noting that it has been incorporated into the preliminary budget previously approved. Flaherty said the overall levy has increased 6%. She noted that in addition to the General Fund, Library and Economic Development Authority levies totaling \$946,498, special levies have been incorporated as follows: Tax abatement - \$5,000; LGA Unallotment 2008 - \$135,953; and, LGA Unallotment 2009 - \$34,889. Along with debt service levies totaling \$521,400, the total preliminary tax levy is \$1,643,740.

AL JOHNSRUD OFFERED RESOLUTION NO. 2935, A RESOLUTION ESTABLISHING THE PRELIMINARY 2010 TAX LEVY, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2935 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(G) EDA TAX LEVY.

The city has the authority to levy a tax for use by the EDA. The tax is based on a maximum of .01813 of the taxable market value of the city, which was \$36,122 in 2009

and will be \$38,792 in 2010. It is not obligatory to issue this tax, but the tax is essential to the budget of the Economic Development Authority by providing revenue for the EDA Administration Fund.

BRYCE CURTISS OFFERED RESOLUTION NO. 2936, A RESOLUTION APPROVING AN EDA TAX LEVY FOR 2010, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2936 WAS SECONDED BY MARVIN GARBE. THOSE VOTING IN FAVOR OF MOTION: BRYCE CURTISS, MARVIN GARBE, KAREN NIEUWBEERTA, AL JOHNSRUD AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(H) TRUTH IN TAXATION DISCUSSION.

The city must announce information about a public comment meeting at which the council will be discussing the 2010 Budget. This meeting information must also be given to Chippewa County so it can be included on the parcel specific notices. The meeting must be held between November 25, 2009 and December 26, 2009.

It was moved by Garbe, seconded by Nieuwbeerta and unanimously passed that the public comment meeting be held on December 7, 2009 at 7:00 P.M. and the final budget be adopted at the regular council meeting on December 21, 2009.

At this time, Item 7(T) was pulled forward for consideration.

7(T) 2:00 A.M. CLOSING RENEWAL - INN LIKE FLINN.

Inn Like Flinn, Inc., 305 South 1st Street, wishes to submit a renewal application to the State of Minnesota for the optional 2:00 A.M. closing of their liquor establishment. The application must first be approved in an official meeting by the governing body of the city approving the sale of alcoholic beverages until 2:00 A.M. Their current permit expired 9/4/09. Council was provided with an incident log generated by the police department for its review.

Gary Flinn was present to address questions/concerns raised by the council. He stated that he did not have anything additional to add; the request is similar to past years.

Police Chief Adam Christopher was present and stated that the city's current ordinance permits 2:00 A.M. closings. All three of the main street establishments currently are

licensed for the extended hours. His opinion was that this is the council's decision - to set the tone/standard for the community in this regard. He added that whatever the council chooses to do, he suggested they remain consistent with all of the establishments. He added that from a law enforcement perspective, the extended hour does create some overtime for the police department.

It was moved by Garbe and seconded by Curtiss to approve the renewal, as presented. Those voting in favor of motion: Garbe, Curtiss, Johnsrud and Nieuwbeerta. Those voting against motion: Hodge. Motion carried 4-1.

At this time, the order of the agenda resumed.

7(I) TRAFFIC SAFETY RECOMMENDATIONS.

Police Chief Adam Christopher was present to review recommendations from the traffic safety committee meeting of Tuesday, August 25th. Items discussed included:

- ▶ Traffic situations at Benson Road by Eastgate, i.e., crosswalks.
- ▶ Speeds around schools.
- ▶ Parking lot painting on 17th Street, off William Avenue at High School entrance.
- ▶ Yield signs at 5th Street & Miawakon.
- ▶ Speed limit signs on T.H. 7 frontage road(s).
- ▶ Parking at 11th Street & Ashmore Avenue.

It was moved by Garbe, seconded by Johnsrud and unanimously passed to direct staff to work with the city attorney to establish specific school zone areas and present the information back to city council for further action.

It was moved by Curtiss, seconded by Johnsrud and unanimously passed to place 30 mph speed limit signs on both frontage roads along Highway 7, at the north AND south ends of the frontage roads.

7(J) DRAFT STREET CONSTRUCTION PLAN.

Staff had updated the draft street construction plan for council review and consideration. This was presented for discussion only at this time and will be brought back at a future council meeting. Once the council verifies what they want to do for 2010, a resolution would be prepared ordering the city engineer to prepare a report and cost estimates.

7(K) SNOW REMOVAL PARKING RESTRICTIONS.

City Code 6-2-4 currently restricts parking on any street (except First Street) between the hours of nine o'clock (9:00) A.M. and six o'clock (6:00) P.M. Public Works Director Greg Schwaegerl was present to request that council consider making a change in that time, from 9:00 A.M. to 8:00 A.M. Schwaegerl said that city crews experience downtime while waiting until 9:00 A.M. to plow the streets. By starting one hour earlier, the city would save considerable staff/equipment time.

MARVIN GARBE INTRODUCED ORDINANCE NO. 891, AN ORDINANCE AMENDING 6-2-4 OF THE MONTEVIDEO CITY CODE, "SNOW REMOVAL; PARKING RESTRICTED."

7(L) DOWNTOWN PARKING HOURS.

City Code 6-2-7 states, "No person shall park any motor vehicle, as such is defined in the traffic laws of the state, or permit any such motor vehicle to remain parked, along 1st Street in the city between State Road and Canton Avenue continuously for more than two (2) hours, between the hours of eight o'clock (8:00) A.M. and five o'clock (5:00) P.M."

Public Works Director Schwaegerl was present to request that council consider making a change so that no parking is permitted between 2:00 A.M. and 6:00 A.M. This would help alleviate problems with downtown parking, especially early morning and during snowfalls.

AL JOHNSRUD INTRODUCED ORDINANCE NO. 892, AN ORDINANCE AMENDING 6-2-7 OF THE MONTEVIDEO CITY CODE, "DOWNTOWN BUSINESS DISTRICT; PARKING RESTRICTED."

7(M) UPDATE/DISCUSSION - NEW STREET LIGHTING.

Public Works Director Greg Schwaegerl was present to discuss street lights requested by the council. Schwaegerl presented quotes on the cost of each light, as follows:

▶ County Road 15/William Avenue	\$ 2,143.57
▶ Central Park	546.11
▶ Smith Park	8,363.26
▶ Orchard Circle	No charge

Schwaegerl noted that the Smith Park lights are quite expensive inasmuch as they were to be decorative poles at the site where the bike trail enters the park.

It was moved by Johnsrud, seconded by Garbe and unanimously passed to approve the expenditure for the County Road 15/William Avenue light and the Central Park light.

7(N) WETLAND MITIGATION AGREEMENT WITH TOM & MARCIA RYMAN.

Part of the levee project required the city to mitigate approximately 31 acres of wetlands taken out of use by the rebuild of the levee. This is being proposed in two ways: 1) agreement with Tom & Marcia Ryman to undertake a wetland mitigation project on their property; and, 2) buy credits from the wetland bank.

The Rymans have agreed to sell all available wetland credits (approximately 16-20 acres) to the city at the 2009 calculated wetland value of approximately \$16,566/acre, less the costs of developing the wetland bank. The exact cost of the wetland value will be determined by a neutral third party.

Council president Hodge asked about a possible conflict of interest, inasmuch as Tom Ryman is a city employee. City Attorney Nelson stated that it is not a conflict of interest. City Manager Jones further explained that the Ryman property was previously considered by Wal-Mart as a part of its new construction project. Therefore, all of the necessary "leg work" has been done. Plus, this agreement fulfills the expectation of doing as much of this locally as is possible. Jones also noted that the price per acre is not established by the city; it is the price set for land in Chippewa County, in accordance with provisions of the MN Wetland Conservation Act.

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

7(O) AMENDMENT TO AFSCME AGREEMENT.

AFSCME Local Union 1686 employees have voluntarily agreed to lower their contracted wage increase in 2010, from 4% to 2%. An amendment to the agreement has been prepared and needs formal approval by the council.

Prior to taking action, council members commended the employees for their willingness to help the city during a time of financial crisis. Council expressed their appreciation for the quality of individuals the City of Montevideo is fortunate to employ. City Manager

Jones informed the council that a press release will be made in the very near future which makes a formal commendation to AFSCME, LELS and all non-union employees for this effort.

It was moved by Garbe, seconded by Curtiss and unanimously passed to authorize the mayor and city manager to execute the amendment, as presented.

7(P) AMENDMENT TO LELS AGREEMENT.

LELS Local Union #58 employees have voluntarily agreed to lower their contracted wage increase in 2010, from 4% to 2%. An amendment to the agreement has been prepared and needs formal approval by the council.

Council members reiterated their appreciation to the employees for their willingness to help the city during a time of financial crisis.

It was moved by Curtiss, seconded by Nieuwbeerta and unanimously passed to authorize the mayor and city manager to execute the amendment, as presented.

7(Q) FAA SMALL EQUIPMENT SPACE LEASE AT AIRPORT.

The FAA owns some of the communication equipment at the airport and lease (free) space in one of the city's buildings and on site. This is needed equipment for the operation of the airport. The lease is a 20-year lease, and the city has the right to cancel upon 180 days notice.

It was moved by Nieuwbeerta, seconded by Johnsrud and unanimously passed to authorize the mayor and city manager to execute the lease, as presented.

7(R) ACCEPTANCE OF GIFTS.

MARVIN GARBE OFFERED RESOLUTION NO. 2937, A RESOLUTION ACCEPTING GIFTS/GRANTS FROM VARIOUS ORGANIZATIONS (FOR DOWNTOWN HANGING FLOWER BASKETS (2) AND POOL SCHOLARSHIP PROGRAM (1) TOTALING \$150.00), AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2937 WAS SECONDED BY BRYCE CURTISS. THOSE VOTING IN FAVOR OF MOTION: MARVIN GARBE, BRYCE CURTISS, AL JOHNSRUD, KAREN NIEUWBEERTA AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(S) INOPERABLE CURB BOX AT 102 SOUTH 7TH STREET.

City staff had identified an inoperable curb box at 102 South 7th Street, on property owned by Peter & Jessica Nikrin. The Nikrins were given written notice on August 19, 2009, which included a time and a place when they could appear before the council to be heard as to any objections regarding their obligation. On August 31, 2009, the Nikrins submitted a letter to the city office which authorized the city to make the necessary repairs.

KAREN NIEUWBEERTA OFFERED RESOLUTION NO. 2938, A RESOLUTION ORDERING REPAIR OF INOPERABLE CURB BOX, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2938 WAS SECONDED BY MARVIN GARBE. THOSE VOTING IN FAVOR OF MOTION: KAREN NIEUWBEERTA, MARVIN GARBE, AL JOHNSRUD, BRYCE CURTISS AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(T) (Previously considered.)

8. Ordinances.

8(A) INTRODUCTION OF ORDINANCE #893.

Staff recently noticed that main street was still listed as a one-way street in 6-3-1 of the Montevideo City Code. An ordinance was prepared to remove main street from that listing.

BRYCE CURTISS INTRODUCED ORDINANCE NO. 893, AN ORDINANCE AMENDING 6-3-1 OF THE MONTEVIDEO CITY CODE, ONE-WAY STREETS.

9. Discussion and Miscellaneous.

- ▶ City Engineer Berryman briefly updated the council on the status of the street improvement projects, noting that work will soon begin on the storm sewer project on Buckeye Drive/19th Street.
- ▶ City Engineer Berryman informed the council that he will now write a letter to the state outlining costs of the frontage road improvements and formally requesting their specific financial participation.

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- ▶ Council member Garbe asked that staff check on the condition of the property at 714 North 4th Street.

Meeting adjourned at 9:40 P.M.

Glennis A. Lauritsen, Secretary

Approved by council September 21, 2009:

Sandra Hodge, President