

CITY OF MONTEVIDEO
CITY COUNCIL PROCEEDINGS
August 3, 2009

The city council met in regular session Monday, August 3, 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. Absent: None. Mayor Jim Curtiss present.

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 PLANNING COMMISSION'S RECOMMENDATION FOR CONDITIONAL USE PERMIT REQUEST BY CENEX TO ALLOW THE CONSTRUCTION OF THREE (3) ANHYDROUS AMMONIA STORAGE TANKS ON LAND OWNED BY THEM ON THE SOUTH SIDE OF COUNTY ROAD 15 IN SMITH ADDITION.**

Pages 4 & 6 of the DRAFT planning commission minutes have been revised (additions underlined.)

ADD:

- 7(J) CONSIDER APPROVAL OF TEMPORARY 3.2 PERCENT MALT LIQUOR LICENSE APPLICATION FOR THE VFW FOR A BEER GARDENS DURING THE CHIPPEWA COUNTY FAIR.**
- 7(K) CONSIDER REQUEST BY I.S.D. #129 FOR ASSISTANCE WITH FLOOR REPLACEMENT AT THE TACC.**
- 7(L) CONSIDER T.H. 7 SERVICE DRIVE IMPROVEMENTS.**

It was moved by Nieuwbeerta, seconded by Curtiss and unanimously passed to approve the minutes of the regular city council meeting of July 20, 2009, as presented.

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

5. Consent Agenda.

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

5(A) VERIFIED CLAIMS FOR THE PERIOD ENDING JULY 31, 2009 IN THE AMOUNT OF \$1,036,729.57.

6. Public Hearings.

- None.

7. General Business.

7(A) CONDITIONAL USE PERMIT - CENEX ANHYDROUS AMMONIA TANKS.

Community Development Director Nick Haggemiller was present to provide background information relative to this request. Haggemiller explained that the planning commission held a public hearing on July 27, 2009 to discuss a request for a conditional use permit by Farmer's Union Oil Company (Cenex) to allow the construction of three anhydrous ammonia storage tanks on land owned by them on the south side of Canton Avenue in Smith Addition. The land is zoned I2 - Heavy Industrial. Two persons had appeared at the public hearing to speak to the issue - Mr. Kim Johnson, an adjacent property owner who addressed the commission with concerns involving safety of the proposal and Mr. Glen Moe, General Manager of the Montevideo Cenex. After much review and consideration, the commission unanimously recommended approval, subject to the following conditions:

1. Permitted entity must ensure all city building codes and ordinances are followed concerning the setup/construction of the storage tanks.
2. Permitted entity must submit documentation proving the project is approved/licensed by the State of Minnesota. (It was noted that the city must supply a conditional use permit before state approval is given.)

3. 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 and to lessen the impact of anhydrous storage.

In addition to the staff recommended conditions, the commission placed an additional condition to state that a meeting of the planning commission will be held when all of the required state recommendations are received/available to see if additional provisions are necessary.

All of the council members said they had visited the proposed site.

Glen Moe, Manager of Cenex Montevideo, was present to address the council in support of the project. Moe stated that they are in the process of relocating the anhydrous ammonia tanks from their current site on the north side of the Cenex fertilizer building adjacent to Friendship Homes to their land on the south side of Canton Avenue. This area was annexed in 2005.

Council member Johnsrud asked whether additional conditions from the state are expected. Moe explained that the Department of Agriculture has its own rules and regulations, which they will be expected to follow.

Kim Johnson was present to reiterate the concerns he had relative to safety issues. Johnson distributed a document entitled, "Anhydrous Ammonia Safety Steps" from a regulatory management and consulting firm in Iowa, information relative to the Emergency Response & Contingency Plan and copies of a newspaper article from a 2005 anhydrous accident that occurred in Morris, Minnesota.

Johnson asked that if the conditional use permit is approved, the council consider additional safety measures, i.e., an alarm or sensor system to detect large volume leaks, hose monitors, etc. He also noted that a landscape barrier would also be helpful.

Moe responded that the state inspects the nurse tanks every two years. He also agreed to the planting of trees, although he noted that they would take some time to mature.

Johnson briefly addressed the issue of a probable decline in the property value of his residence. Some discussion was held regarding the value of residential vs. industrial properties. Johnson was encouraged to contact an assessor or appraiser to obtain specific information.

Moe informed the council that there is a barrier requirement effective September 1st. Therefore, Cenex will construct 3' cement barricades around the tanks.

At this time, City Engineer Berryman indicated his need to leave the meeting at 8:00 P.M.; therefore, he addressed a couple of items with the council.

- ▶ In regards to Agenda Item 7(L), Berryman indicated that he had prepared a memorandum relative to the T.H. 7 Service Drive improvements. He suggested council consider removing and replacing the entire bituminous surface, rather than the proposed overlay. Berryman stated he has had recent conversations with Mn/DOT who indicated a willingness to provide \$13,000-\$15,000 to help offset the city's cost. He will continue to pursue that participation.
- ▶ Berryman noted that Mn/DOT will be conducting crosswalk counts to determine appropriate locations.

Berryman left the meeting at 7:54 P.M.

Brief, additional discussion took place regarding the conditional use permit request prior to official action.

It was moved by Garbe, seconded by Nieuwebeerta and unanimously passed to accept the planning commission's recommendation for approval of the conditional use permit, with the three conditions included in the staff report, and the additional condition that upon review by the state, the permit may be re-reviewed by the planning commission to determine whether additional conditions are necessary.

Mr. Moe and Mr. Johnson were thanked by the council for their participation and information provided.

7(B) ADMINISTRATIVE CITATION AUTHORIZATION

Police Chief Adam Christopher was on hand to explain that new law authorized exclusive use of administrative traffic citations for minor traffic offenses. This means that no statutory or home rule charter city may use a different process for issuing such citations. It does not, however, preclude cities from issuing other kinds of administrative citations, such as liquor licensing ordinance violations, nuisance and animal ordinance violations, etc.

Christopher stated the main difference between administrative citations and state tickets is that the administrative citation is substantially less expensive and violations do not go on the driver's record. With this new legislation, one-third of the fine is paid to the state commissioner of finance.

MARVIN GARBE OFFERED RESOLUTION NO. 2927, A RESOLUTION AUTHORIZING ADMINISTRATIVE CITATIONS FOR CERTAIN TRAFFIC OFFENSES PURSUANT TO MN STATUTE 169.999, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2927 WAS SECONDED BY AL JOHNSRUD. THOSE VOTING IN FAVOR OF MOTION: MARVIN GARBE, AL JOHNSRUD, BRYCE CURTISS, KAREN NIEUWBEERTA AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(C) 2009 FEES & CHARGES SCHEDULE AMENDED

In the previous agenda item, the council passed a resolution authorizing administrative citations for certain traffic offenses. Inasmuch as a portion of the fee collected is required to be submitted to the state, it was necessary to increase those fees from \$40.00 to \$60.00.

In regards to data requests, there are certain fees that can and cannot be charged for photo copies, etc., and it is necessary to modify the amounts currently being charged by the city.

BRYCE CURTISS OFFERED RESOLUTION NO. 2928, A RESOLUTION AMENDING THE 2009 FEES & CHARGES SCHEDULE, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2928 WAS SECONDED BY AL JOHNSRUD. THOSE VOTING IN FAVOR OF MOTION: BRYCE CURTISS, AL JOHNSRUD, MARVIN GARBE, KAREN NIEUWBEERTA AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(D) 2009 SEAL COATING PROJECT.

Quotes were received at 2:00 P.M. on Wednesday, July 19, 2009 for the 2009 Seal Coating Project. Quotes were sent to three vendors, with only one quote received.

It was moved by Garbe, seconded by Curtiss and unanimously passed to accept the quote from Bituminous Paving, Inc. in the amount of \$65,783.00.

7(E) FIRE RELIEF ASSOCIATION PENSION PLAN REPORTING.

The Fire Relief Association is required to present its report to the city yearly, prior to August 1st. The report was submitted to the city clerk on Wednesday, July 22nd. There is no scheduled contribution required from the city in 2010.

It was moved by Nieuwbeerta, seconded by Johnsrud and unanimously passed to accept the report, as presented.

7(F) SALE OF 1970 FIRE LADDER TRUCK

The City of Appleton returned to the city a 1970 ladder truck that had been given to them. Since that time, the city has attempted to sell it to other organizations without success. A few individuals have inquired, but did not offer a very good price. Staff recommended offering the truck to the Heritage Hill group and, if they are not interested, put it on the fall auction.

It was moved by Nieuwbeerta, seconded by Johnsrud and unanimously passed to accept staff recommendation.

7(G) SMALL CITIES GRANT FUNDS DISBURSEMENT

A list of rental and owner-occupied rehabilitation projects has been submitted to the city by Prairie Five CAC, Inc. for approval by the city. Total cost of the projects is \$38,611.00 (\$23,167.00 grant funds / \$15,344.00 matching sources.)

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

7(H) ACCEPTANCE OF GIFTS

Donations have been given by various organizations and individuals to be used for expenses associated with the downtown hanging flower baskets and for Crazy Dayz kid's activities.

AL JOHNSRUD OFFERED RESOLUTION NO. 2929, A RESOLUTION ACCEPTING GIFTS/GRANTS, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2929 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(I) 2010 BUDGET WORKSESSION(S)

Staff had canceled the budget worksession for this evening but would like to meet on Monday, the 10th, at 5:00 P.M., as previously scheduled. As many department heads as possible will join the council at that time to review and discuss their individual budget issues. If necessary, an additional session would be held on Monday, August 17th, 5:00 P.M.

7(J) BEER GARDENS LICENSE - CHIPPEWA COUNTY FAIR

The VFW has asked for a Temporary 3.2 Percent Malt Liquor On-Sale License during the Chippewa County Fair the week of August 10, 2009 at the Chippewa County Fairgrounds. The organization intends to sell from its concessions location under the grandstand, which is already licensed for the racing season, and would allow them to provide beer for the fair events being held nightly at the grandstand.

Application paperwork has not yet been submitted; however, the city has on file most of the necessary support documentation from the organization's other liquor licenses. A new certificate of insurance is required, in addition to a letter from the President of the Chippewa County Fair Board granting permission for the beer garden during this time.

It was moved by Garbe, seconded by Johnsrud and unanimously passed to authorize the city clerk to issue the license requested, subject to submission of the necessary paperwork.

7(K) TACC SPORTS FLOOR.

The school district needs to upgrade the floor at the National Guard Training & Community Center (TACC). Because it must pass higher standards (guard use/trucks/equipment), it will be quite expensive to replace. The estimated cost for replacement is \$53,000 and is planned to be completed yet this summer. The state has denied any assistance in this project.

City Manager Jones explained that the sports floor was first constructed in 1995 (after the original concrete floor failed). After donations had been received from various civic organizations, the city, school and county split the remaining balance at \$6,100 each. If

the council would like to assist in this current project, staff recommended taking \$2,500 from Park Miscellaneous in the Capital Improvement Plan, with the county being asked to participate as well.

It was moved by Johnsrud, seconded by Nieuwbeerta and unanimously passed to authorize the expenditure of \$2,500.00 toward this project, with the understanding that the county be asked to participate as well.

7(L) T.H. 7 SERVICE DRIVE IMPROVEMENTS

Council had briefly discussed this item earlier in the meeting but did not take any formal action. It was the engineer's suggestion that the council consider removing and replacing the entire bituminous surface with new bituminous to a depth of 4" due to the high traffic. This would result in a net increase to the city of \$10,000-\$12,000.

It was moved by Garbe, seconded by Johnsrud and unanimously passed to authorize the improvements, as indicated, with the understanding that the engineer will pursue financial support by Mn/DOT.

8. Ordinances.

- None.

9. Discussion and Miscellaneous.

- ▶ Council member Garbe cited two areas where trees need trimming: 1) County Road 41 to the north (by the former Co-Op Credit Union building) and 2) Sheridan & 16th.
- ▶ Council member Garbe stated there is no street sign at Ashmore & 17th.
- ▶ Brief discussion was held about Xcel Energy's schedule for new street light installation (William Avenue/County Road 41, Central Park, etc.)
- ▶ Council discussed signage along Highway 7 for Legion Drive, Ashmore Avenue, 16th Street and a possible 17th Street sign over the semaphore at Highway 7/17th Street intersection.

Following discussion, it was moved by Garbe, seconded by Curtiss and unanimously passed to erect signage alongside Highway 7 within city right-of-way to identify 16th Street and Legion Drive.

- ▶ Council member Johnsrud inquired as to the status of the Highway 7 project. Several comments were made, including: 1) shoulders are currently being worked on; 2) a portion of the concrete had failed and is currently being redone; and, 3) targeted 8/15 opening (prior to beet hauling season).
- ▶ City Manager Jones informed the council that Al Franken's staff had been in Montevideo on Wednesday, July 29th. Included in the discussion was the issue of possible cost overruns on the levee project.
- ▶ Council member Garbe stated he had recently submitted a \$3.9 Million grant application for six counties for financial assistance with police department records management/information sharing.
- ▶ City Manager Jones informed the council that Community Development Director Haggemiller had applied for and received two grants for a housing study update.
- ▶ City Manager Jones informed the council that the city did not get the COPS Grant.
- ▶ Brief discussion was held on the recent OSHA inspection.

Meeting adjourned at 8:50 P.M.

Glennis A. Lauritsen, Secretary

Approved by council August 17, 2009:

Sandra Hodge, President