

CITY OF MONTEVIDEO
CITY COUNCIL PROCEEDINGS
May 18, 2009

The city council met in regular session Monday, May 18, 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 Attorney Janice M. Nelson and City Engineer David Berryman.

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

It was moved by Garbe, seconded by Curtiss and unanimously passed to approve the minutes of the regular city council meeting of May 4, 2009, as presented.

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

None.

5. Consent Agenda.

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

5(A) VERIFIED CLAIMS FOR THE PERIOD ENDING MAY 15, 2009 IN THE AMOUNT OF \$259,061.83.

6. Public Hearings.

6(A) FINAL PUBLIC HEARING - 2009 STREET & UTILITY IMPROVEMENTS.

President Hodge called a public hearing to order at 7:03 P.M. to consider the 2009 Street & Utility Improvement Project and to consider the final assessments proposed. The entire public hearing was recorded on video tape and will be kept in accordance with the Minnesota State Retention Schedule.

City Engineer Berryman reviewed information contained in a handout prepared for the hearing. The handout provided final front foot assessments for the projects, in

accordance with the city's adopted assessment policy. Each project was reviewed, as follows:

Project 1 - Sherman Avenue, 7th Street to 11th Street:

30' street width, street reconstruction, replace curb & gutter - \$39.84/LF (preliminary hearing estimate was \$46.20/LF.)

There were no persons present to be heard on Project 1.

Project 2 - Cemetery Road Improvements:

This is a non-assessable project and no persons were present to be heard.

Project 3 - Frontage Road Overlay, Between County Road 15 and 17th Street:

This is a non-assessable project and no persons were present to be heard.

Project 4 - Storm Sewer Between Buckeye Drive and 19th Street:

12" storm sewer draining back yards between 19th Street and Buckeye Drive - \$1,679.00 per parcel (preliminary hearing estimate was \$1,872.00/parcel.)

Todd Hay, 118 Buckeye Drive, was present to address the council. Hay stated that he was the "instigator" of this petitioned project but now has some concerns and wished to relay concerns he had heard throughout the neighborhood as well, including:

- He asked to see routing plans/costs prior to agreeing to the project;
- Felt the disturbed areas (flower gardens, trees, etc.) don't need to be disturbed;
- Felt there may be other options to the proposed easements, i.e., an easement across Lauritsen Addition property to an existing stub-out;
- Thought the property owners may be able to more feasibly provide the improvements on their own;
- Based on his credentials of being a licensed civil engineer, he questioned the type of materials proposed, costs, etc.; and,
- Simply did not know whether the benefit outweighed the disturbances at this point.

Staff explained to Hay the purpose of the final hearing which is to review costs and proposed assessments associated with the projects, not to debate the improvement design. Hay was reminded that the property owners had petitioned the city for this improvement and that public testimony had been taken at the first public hearing on the proposed improvements (March 2, 2009). The problems are not caused by runoff in the city streets, but rather by the houses being built too low. City Manager Jones added that this project is being heavily subsidized by the City of Montevideo. It is a \$34,000 project, with property owners being responsible for \$15,111.

Kevin Roggatz, 104 Buckeye Drive, was present to ask for a response to a question he posed at a previous council meeting (not the public hearing) regarding whether a storm sewer “waiver” was granted to the developer of the Englewood Estates area. City Manager Jones explained that staff had researched the issue and found no information. He added that the city does not grant “waivers” for development projects; but rather, that each project is reviewed to determine its specific needs. At the time the area was platted (sometime during the 1970's), the area would have been reviewed to determine drainage needs. None of the city's research showed any drainage patterns in that area.

Joel Olson, 1808 East Sheridan Avenue, was present to state his support of the project, although he felt that a storm sewer should have been required at the time the area was developed. City Engineer Berryman opined that the natural flow may have been cut off as the development occurred.

Dwayne Knutsen, 114 Buckeye Drive, was present to state that he felt this was a good project. In fact, he stated that property values should be higher because of the improvements. He asked that consideration be given to established gardens in determining location of the permanent easements.

Maurice Erickson, 205 South 19th Street, was present to state his concern over the standing water on the Lauritsen property which is adjacent to his property. City Engineer Berryman discussed drainage in that area.

Scott VanBinsbergen, 105 South 19th Street, was present to inquire about location and appearance of the catch basins. City Engineer Berryman explained that there would be four (4) “domed” catch basins in the area, with open grates. VanBinsbergen stated that when he signed the petition, he was told that the improvement would be at no cost to the property owners. City Manager Jones stated that at no time had the city made that statement.

Mitch Stueck, 115 South 19th Street, was present to ask whether the permanent easement could be moved on the south side instead of through his lot. He is concerned that the proposed location may cause future issues for placement of a storage building. City Engineer Berryman discussed the proposed easements, noting that the permanent utility easements will be approximately 10-15' in total width. Berryman said they will certainly try to lessen the encroachment into the yards.

Council President Hodge asked whose responsibility it is to make the final decision to proceed with this project. City Manager Jones explained that the public hearing held in March made the determination to go ahead with the project, secure bids, etc. It is now the council's responsibility to authorize the special assessment roll (costs) for the project. Jones reminded the council that this project is in response to a petition submitted by the property owners. By a show of hands, the property owners in attendance voted in favor of the project.

There were no other interested persons present to speak to this issue; therefore, Council President Hodge closed the public hearing at 7:48 P.M.

MARVIN GARBE OFFERED RESOLUTION NO. 2911, A RESOLUTION ADOPTING ASSESSMENT, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2911 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. General Business.

7(A) AWARD OF BID - 2009 STREET IMPROVEMENT PROJECT.

Bids were received on April 16, 2009 for the proposed 2009 improvement projects, as follows:

<u>Bidder:</u>	<u>Bid:</u>
Central Specialties Alexandria, MN	\$300,891.35
Bituminous Paving Ortonville, MN	\$279,195.50

<u>Bidder:</u>	<u>Bid:</u>
Duininck Brothers, Inc. Prinsburg, MN	\$285,629.30
Riley Brothers, Inc. Morris, MN	\$284,665.00

It was moved by Curtiss, seconded by Nieuwbeerta and unanimously passed to award the bid to Bituminous Paving in the amount of \$279,195.50.

7(B) SALE OF BONDS.

In order to provide funding to pay for the construction of the 2009 improvements, the city needs to sell bonds. A resolution has been prepared which calls for the sale of bonds on June 1, 2009 and authorizes city staff to work with Ehler's & Associates to facilitate that sale. The bonds will cover the costs of non-state aid improvement projects.

AL JOHNSRUD OFFERED RESOLUTION NO. 2912, A RESOLUTION PROVIDING FOR THE SALE OF \$335,000 GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2009A, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2912 WAS SECONDED BY BRYCE CURTISS. THOSE VOTING IN FAVOR OF MOTION: AL JOHNSRUD, BRUCE CURTISS, KAREN NIEUWBEERTA, MARVIN GARBE AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(C) CONDITIONAL USE PERMIT - JOE SCHULTZ, 715 SOUTH 10TH STREET.

On May 11, 2009, the Montevideo Planning Commission unanimously approved a conditional use permit to allow the construction of a 1,080 square foot garage. City Code requires a conditional use permit for accessory structures larger than 1,000 square feet. Approval was recommended, with the following conditions:

1. Permitted individual must ensure all city building codes and ordinances are followed concerning the construction of the accessory structure;
2. Permitted individual must cooperate fully with the city zoning administrator to ensure construction is done in accordance with pre-established setbacks, height restrictions and the like;

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 proposed developments.

Community Development Director Nick Haggemiller was present to address questions/concerns raised by the council.

It was moved by Garbe, seconded by Johnsrud and unanimously passed to approve the conditional use, with conditions as recommended by the planning commission.

7(D) BEER GARDEN APPLICATIONS - ROCK THE PARK.

The VFW and American Legion had both applied for a Temporary 3.2 Percent Malt Liquor On-Sale License during the Chamber of Commerce's "Rock the Park" event on July 11, 2009. This would allow the sale of 3.2% malt liquor and 3.2% Mike's Hard Lemonade.

Rock the Park Representative Mike Dupere, VFW Representative Jonathan Schiller, American Legion Representative Marvin Garbe and Police Chief Adam Christopher were present to address questions/concerns raised by the council. Dupere explained that this request is similar to past years. The entire Lagoon Park will be used as the beer gardens, with an entry point for checking ID's.

It was moved by Nieuwebeerta, seconded by Curtiss and unanimously passed to approve the Temporary 3.2 Percent Malt Liquor On-Sale License for the American Legion Post #59, as requested.

It was moved by Garbe, seconded by Johnsrud and unanimously passed to approve the Temporary 3.2 Percent Malt Liquor On-Sale License for the VFW Post #380, as requested.

7(E) BEER GARDEN APPLICATION - FIESTA DAYS.

The American Legion Post #59 had made application for a Temporary 3.2 Percent Malt Liquor On-Sale License on June 20-21, 2009 in conjunction with Fiesta Days. This beer gardens would take the place of the Fire Relief Association event. As a member of the Legion, Council member Garbe was available to address questions/concerns raised by the council and Police Chief Adam Christopher was also in attendance.

It was moved by Johnsrud, seconded by Curtiss and unanimously passed to approve the Temporary 3.2 Percent Malt Liquor On-Sale License for the American Legion Post #59, as requested.

7(F) BEER GARDENS APPLICATION - TRAM.

The American Legion Post #59 had made application for a Temporary 3.2 Percent Malt Liquor On-Sale License on June 27, 2009 in conjunction with TRAM. The license would be for the operation of a beer gardens at Smith Park on July 27, 2009. It was noted that the application did not address fencing or restroom issues. As a member of the Legion, Council member Garbe was available to address questions/concerns raised by the council and Police Chief Adam Christopher was also in attendance.

Council discussed the fencing issue, with Council President Hodge expressing her concern over opening up the entire park. Police Chief Christopher said, from a public safety standpoint and for clean-up efforts, it would be better to have a designated area. Hodge added that she has concerns with beverages being purchased and distributed by the purchaser to under age individuals.

Following discussion, it was moved by Johnsrud and seconded by Nieuwbeerta to approve the Temporary 3.2 Percent Malt Liquor On-Sale License for the American Legion Post #59, as requested, with no fencing requirements. Those voting in favor of motion: Johnsrud, Nieuwbeerta, Garbe and Curtiss. Those voting against motion: Hodge. Motion carried 4-1.

7(G) ACCOUNTING POLICIES & PROCEDURES.

Finance Director Jan Flaherty was present to explain that new auditing standards require the city's auditors to evaluate and test implementation of the city's internal controls. In order to do this, the auditors need to have an up-to-date accounting policies and procedures manual, which states who is responsible for each step in the accounting functions. Flaherty stated that these policies are essentially the internal controls the city has been operating under for many years; however, new auditing standards now require that the policies be in written form.

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

7(H) SMALL CITIES GRANT FUND DISBURSEMENT.

A rental rehabilitation project has been submitted for approval, in conjunction with the Small Cities Grant. The project reflects \$13,476.00 in grant funds and \$8,984.00 in other matching sources (personal funds), for a total project cost of \$22,460.00.

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

7(I) USE OF CDBG FUND 202.

Community Development Director Nick Haggemiller was present to request use of \$6,328 in CDBG funds to cover some of the demolition costs accrued at the former Hill Grocery site. These funds originated from loans taken out in 1979 and must be used on housing related projects. Haggemiller noted that to date, demolition costs are just over \$13,000. The EDA will cover the remaining costs.

It was moved by Garbe, seconded by Nieuwbeerta and unanimously passed to approve the use of the funds, as requested.

7(J) STREET LIGHT REQUEST - ORCHARD CIRCLE.

Some of the residents in Orchard Circle had requested that the city review the lighting situation and add a light on the street (at the turn in the cul-de-sac). Staff reviewed the site and found that because there is a curve in the cul-de-sac, the existing lights at either end are not sufficient and another light is warranted. Staff considers it to be both a traffic and pedestrian safety issue.

It was moved by Johnsrud, seconded by Garbe and unanimously passed to authorize the installation of a new light, as requested. It was noted that the installation will be added to that of other requested lighting.

7(K) ONE-YEAR ASSESSMENT SERVICES AGREEMENT.

The city currently has a two-year assessment agreement with Chippewa County for them to offer appraisal services to the city which expires May 31, 2009. A new one-year agreement has been drafted by the county at a price of \$51,965, which reflects a 3% increase over the current agreement. It was explained by staff that the reason for the change to a one-year agreement was to accommodate the need for the exempt property

valuation in 2010 (conducted every six years). Two-year agreements would then be recommended by the county assessor after 2010.

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

7(L) USE OF CITY PROPERTY - FIESTA EVENTS.

A draft schedule of Montevideo Fiesta Days (64th annual) was presented by staff. The schedule includes events taking place on city property, i.e., Smith and Lagoon Parks, city streets for the parades, etc. An overall approval was requested.

It was moved by Nieuwbeerta, seconded by Garbe and unanimously passed to approve the use of city properties by Fiesta, Inc., June 15-21, 2009.

7(M) GIFT FROM KNIGHTS OF COLUMBUS.

The Knights of Columbus Council 1551 would like the city to accept a donation of \$500.00 from its gambling funds proceeds. Their wish is that the council would then relay the funds to be used for Tyler Ruether's Eagle Scout Project. The project involves labeling of the city's catch basins (which is an MS/4 requirement), so this is of great benefit to the city.

MARVIN GARBE OFFERED RESOLUTION NO. 2913, A RESOLUTION ACCEPTING GIFT, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2913 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(N) MAYORAL APPOINTMENT TO THE LPA (CITY'S HRA).

Steve O'Connell's term on the City's Housing & Redevelopment Authority Board expires June 4, 2009. It is the responsibility of the mayor to appoint representatives to the board, subject to council review. Mayor Curtiss recommends reappointment of Mr. O'Connell to another five-year term, expiring June 4, 2014.

It was moved by Johnsrud, seconded by Nieuwbeerta and unanimously passed to ratify the mayor's appointment of Steve O'Connell to the LPA Board, term expiring 6/4/2014.

8. Ordinances.

- None.

9. Discussion and Miscellaneous.

- ▶ City Engineer Berryman updated the council on the levee project and wetland mitigation issues. City Manager Jones added that the city is looking at hiring an individual from Northfield, MN to conduct the land negotiations (approx. 40 properties).
- ▶ City Manager Jones stated that it is official - the city will be receiving a \$4.5 Million Public Facilities Authority (PFA) grant for the wastewater treatment plant facilities modifications.
- ▶ Council member Garbe reminded everyone of the Memorial Day services on Monday, May 25th: 10:00 A.M. at St. Joseph Catholic Cemetery, 10:30 A.M. at Terrace Lawn Memory Gardens and 11:00 A.M. at Sunset Cemetery.

Meeting adjourned at 8:33 P.M.

Glennis A. Lauritsen, Secretary

Approved by council June 1, 2009:

Sandra Hodge, President