

CITY OF MONTEVIDEO
CITY COUNCIL PROCEEDINGS
June 7, 2010

The city council met in regular session Monday, June 7, 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: Sandra Hodge, Bryce Curtiss, Marvin Garbe, Al Johnsrud and Karen Nieuwbeerta. Absent: None. Mayor Jim Curtiss present.

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

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

MODIFY:

5(A) CONSIDER APPROVAL OF VERIFIED CLAIMS FOR THE PERIOD ENDING JUNE 4, 2010 IN THE AMOUNT OF ~~\$882,076.79~~ \$890,501.02.

Modified amount reflects the following additional items:

MISCELLANEOUS

Farmer's Union Oil Company	Gasoline	\$ 4,558.98
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UTILITY

Sanitary Products	Membranes/Headers w/Pads - WWTP	2,180.25
Troy's Electric Company	Temporary install/flood pumps	1,685.00

7(L) CONSIDER RESOLUTION ACCEPTING VARIOUS GIFTS/GRANTS FROM KNIGHTS OF COLUMBUS COUNCIL 1551 FOR OUTDOOR POOL SCHOLARSHIPS VARIOUS ORGANIZATIONS AND INDIVIDUALS.

This item has been amended to reflect a number of gifts/donations received, as follows:

<u>Name</u>	<u>Description</u>	<u>Amount</u>
Knights of Columbus	Pool Scholarship	\$ 200.00
Monte Youth Sports	Pool Scholarship	50.00
Kiwanis Club	Pool Scholarship	100.00

<u>Name</u>	<u>Description</u>	<u>Amount</u>
Henning-Erickson Auxiliary	Pool Scholarhsip	25.00
MN Community Foundation	Piano at Senior Center	7,654.34

It was moved by Johnsrud, seconded by Curtiss and unanimously passed to approve the minutes of the regular meeting of May 17, 2010, as presented.

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

4(A) SHERIDAN PARK CONCERNS.

Paul Johnson, 109 North 8th Street, had requested to be heard on concerns he had relative to Sheridan Park; however, Mr. Johnson was not present.

5. Consent Agenda.

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

5(A) VERIFIED CLAIMS FOR THE PERIOD ENDING JUNE 5, 2010 IN THE (MODIFIED) AMOUNT OF \$890,501.02.

6. Public Hearings.

- None.

7. General Business.

7(A) CRAZY DAYS USE OF CITY PROPERTY.

Two applications were received for the use of main street for the annual Crazy Days activities on July 23, 2010. The first application was submitted by the Chamber of Commerce for the use of main street, from Nichols Avenue to Artigas Plaza, and the use of the city sidewalks for a sidewalk chalk competition in the Artigas Plaza area. The second application was submitted by the MN National Guard for the use of main street, from Artigas Plaza north to Sherman Avenue, for an inflatable obstacle course next to the Chamber's event. Both requests are for Friday, July 23, 2010, between 6:00 A.M. and 9:00 P.M.

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

7(B) CONDITIONAL USE PERMIT - MARY HAFF, DBA/PERFECT PAWS.

Community Development Director Nick Haggemiller was present to state that on May 24, 2010, the Montevideo Planning Commission held a public hearing to consider a request by Mary Haff, dba/Perfect Paws, for a conditional use permit to allow the operation of an animal clinic/kenneling facility in a B-1 Zone to be located adjacent to 1209 Black Oak Avenue. Following the hearing, the commission unanimously recommended approval, with the following conditions:

1. Permitted entity must abide by any active law or city ordinance concerning animals. Examples include leashing of animals, dog barking, kenneling activities, etc.
2. Permitted entity must maintain an active Minnesota Kennel License through the Minnesota Board of Animal Health. [It is staff's understanding that this permit has already been obtained by the applicant. If this C.U.P. is executed, that documentation will be requested and made part of the file.]
3. Permitted entity may not have any outside storage, except for the aforementioned fenced area for animals and fenced/screened area for refuse.
4. Permitted entity may not have more than three cats or dogs (total) outside at any time.
5. Permitted entity must provide, via site plan, building permit application documentation of how screening will be provided outside the business. This screening must be approved by the City of Montevideo through the fence permit process and through the site plan review.
6. Permitted entity must provide via site plan, building permit application documentation of where/how refuse disposal will be handled. This must also be approved by the City of Montevideo staff prior to construction.
7. Permitted entity must have the planning commission and city council review and accept the site plan.
8. 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 planning commission's recommendation for issuance of the conditional use permit, as presented.

7(C) CONDITIONAL USE PERMIT - JAMIE PAULING, 101 SOUTH 5TH STREET.

Community Development Director Nick Haggemiller explained that on May 24, 2010, the Montevideo Planning Commission held a public hearing to consider a request by Jamie Pauling, 101 South 5th Street, for a conditional use permit to allow the construction of an accessory building exceeding 1,000 square feet. Mr. Pauling's proposal is for a 1,296 square foot building. Following the hearing, the commission unanimously recommended approval, 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 other zoning restrictions.
3. Permitted individual will not be granted permits to construct or place any additional accessory structures.
4. 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.

Jamie Pauling was present to address questions/concerns raised by the council.

It was moved by Garbe, seconded by Nieuwbeerta and unanimously passed to approve the planning commission's recommendation for issuance of the conditional use permit, as presented.

7(D) \$50,000 MCDC LOAN TO TOM & MARCIA RYMAN.

The Montevideo Community Development Corporation (MCDC) approved a \$50,000 loan at 4% interest to Tom & Marcia Ryman, dba/Nirvana Salon. Loans executed by the MCDC must be approved by the council. The loan is for a business expansion into the lower level of the building at 209 South First Street. It was noted that this would be a fully collateralized loan. Staff noted that no conflict exists due to the fact that Tom Ryman is an employee of the City of Montevideo inasmuch as the MCDC is a separate non-profit organization.

It was moved by Garbe, seconded by Johnsrud and unanimously passed to approve the \$50,000 loan from the MCDC Economic Development Revolving Loan Fund #806.

7(E) 2010 STREET IMPROVEMENT PROJECT BID AWARD.

Bids were received at 2:00 P.M. on Thursday, May 27, 2010 for the proposed 2010 Street Improvement Project. Four (4) bids were submitted, with the low bidder being Duininck Brothers of Prinsburg, MN at \$923,198.48. Engineer's estimate for the project was \$1,062,000.

It was moved by Curtiss, seconded by Johnsrud and unanimously passed to award the bid to Duininck Brothers, as presented.

7(F) ASSESSED COSTS - 2010 STREET IMPROVEMENTS.

The contract price for the 2010 Street Improvements is \$923,198.48, and the expenses incurred or to be incurred for such improvements is \$230,799.62, for a total cost of the improvements of \$1,153,998.10. The portion of the cost to be assessed against benefitted property owners is \$203,797.94.

MARVIN GARBE OFFERED RESOLUTION NO. 2973, A RESOLUTION DECLARING COST TO BE ASSESSED AND ORDERING PREPARATION OF PROPOSED ASSESSMENT, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2973 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(G) FINAL HEARING SCHEDULED - 2010 STREET IMPROVEMENTS.

AL JOHNSRUD OFFERED RESOLUTION NO. 2974, A RESOLUTION FOR HEARING ON PROPOSED ASSESSMENT (7/6/10), AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2974 WAS SECONDED BY BRYCE CURTISS. THOSE VOTING IN FAVOR OF MOTION: AL JOHNSRUD, BRYCE CURTISS, KAREN NIEUWBEERTA, MARVIN GARBE AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(H) BOND SALE.

City Finance Director Jan Flaherty was present to state that in order to provide funding to pay for the construction of the 2010 improvements and the refunding of the Series 2002A Bonds, the city needs to sell bonds. A savings of approximately \$17,000 will be realized as a result of the sale of the refunding of the Series 2002A Bonds. A resolution has been drafted that calls for the sale of bonds on July 6, 2010 and authorizes city staff to work with Ehler's & Associates to facilitate that sale.

BRYCE CURTISS OFFERED RESOLUTION NO. 2975, A RESOLUTION PROVIDING FOR THE SALE OF APPROXIMATELY \$1,650,000 GENERAL OBLIGATION BONDS, SERIES 2010, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2975 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(I) TEMPORARY ON-SALE ACCESSORY USES - FIESTA DAYS.

The VFW and Inn Like Flinn have both submitted applications for temporary permits for special events accessory use; outdoor areas in conjunction with Fiesta Days. All of the necessary support documentation has been submitted. Outside music is being proposed for both events.

The VFW application indicates a one-day event on June 19th for the fireman's fundraising activities during the hours of 8:00 A.M. to 12:00 Midnight. The Inn Like Flinn application indicates a four-day event, June 17-20, during the hours of 3:00 P.M. to 2:00 A.M. Music for both would end at Midnight.

Discussion took place regarding the specific requested areas and fencing for the "beer gardens." Staff was directed to convey to the applicants that use of public property/ROW was strictly prohibited and that all areas where liquor is present must be fenced.

It was moved by Garbe, seconded by Johnsrud and unanimously passed to approve both applications, with the understanding that public property will not be used, appropriate fencing is in place and music will cease at Midnight.

7(J) LIQUOR LICENSING/SUNDAY LIQUOR ISSUES.

As a follow-up to the council worksession held on April 24th, staff has asked for formal action on a couple of additional liquor related issues, as follows:

1. Limited food licenses. Council had discussed the definition of the terms "restaurant," "regularly prepared" and "limited food" in conjunction with eligibility requirements for the issuance of an on-sale intoxicating liquor license. Following the discussion, the consensus was that each licensed establishment should be required to submit a copy of its menu at the time of license renewal and also that an establishment with a "limited food" license may not be a restaurant and, therefore, may not be eligible to obtain a license.

2. Sunday liquor. Council had also discussed the possibility of placing the Sunday liquor issue to a vote of the people.

It was moved by Garbe, seconded by Johnsrud and unanimously passed that a copy of an establishment's menu and food license be required to be submitted as a part of their license renewal application and that establishments with a "limited food" license only are not eligible to obtain an on-sale intoxicating liquor license from the city.

It was moved by Curtiss, seconded by Nieuwbeerta and unanimously passed to direct staff to place the issue of Sunday liquor on the ballot for the November election.

7(K) ASSISTANCE TO FIREFIGHTERS GRANT.

In 2009, the council passed a resolution funding a 5% grant match for the Assistance to Firefighters Grant Program. The grant was not funded. A resolution has been prepared for a 2010 application which needs a similar resolution. The grant would save the city the cost of providing upgraded radio equipment to the fire department. Staff informed the council that there is \$7,540 set aside in the Capital Improvement Program for the grant match.

AL JOHNSRUD OFFERED RESOLUTION NO. 2976, A RESOLUTION REGARDING AGREEMENT TO FUND 5% LOCAL SHARE OF THE ASSISTANCE TO FIREFIGHTER GRANT PROGRAM (AFGP), AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2976 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(L) ACCEPTANCE OF GIFTS/GRANTS.

Donations have been given by various organizations and individuals, including outdoor pool scholarship donations totaling \$375.00 and \$8,263.00 from the MN Community Foundation for a piano purchase at the senior center.

MARVIN GARBE OFFERED RESOLUTION NO. 2977, A RESOLUTION ACCEPTING GIFTS/GRANTS, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2977 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(M) HRA APPOINTMENT.

It was moved by Johnsrud, seconded by Curtiss and unanimously passed to ratify the mayor's reappointment of Lyle Henning and Dorothy Gilkey to the city's Housing & Redevelopment Authority Board, terms expiring June 4, 2015.

7(N) SW/WC SERVICE COOPERATIVE JOINT POWERS AGREEMENT.

In order for the city to participate in the SW/WC Service Cooperative health insurance pool, the city must enter into a joint powers agreement. An updated agreement was provided for review and consideration.

Council member Garbe asked about makeup of the Board of Directors and whether an administrative/membership fee is paid by the city. That information was not readily available; therefore, staff will research the issue further and report back to the council.

It was moved by Nieuwbeerta, seconded by Johnsrud and unanimously passed to approve the joint powers agreement, as provided.

7(O) INOPERABLE CURB BOXES.

Staff had identified two curb box valves as inoperable at 119 South 4th Street and 211 South 7th Street, making it impossible to shut off water service in the event of emergency, leaks, or non-payment of bills. The property owners were made aware of their obligation to repair the curb boxes and/or appear before the city council at this meeting. City staff had received no contact from either of the affected property owners.

KAREN NIEUWBEERTA OFFERED RESOLUTION NO. 2978, A RESOLUTION ORDERING REPAIR OF INOPERABLE CURB BOXES AT 119 SOUTH 4TH STREET AND 211 SOUTH 7TH STREET, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2978 WAS SECONDED BY BRYCE CURTISS. THOSE VOTING IN FAVOR OF MOTION: KAREN NIEUWBEERTA, BRYCE CURTISS, AL JOHNSRUD, MARVIN GARBE AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

8. Ordinances.

8(A) ADOPTION OF ORDINANCE NO. 898.

The city council introduced this ordinance at the May 17, 2010 meeting. The ordinance amends City Code 3-2A-7 - Places Ineligible for License - to read: "No license shall be granted within

three hundred feet (300') of any school or within three hundred feet (300') of any church except that in a B-1 or B-2 zoning district, the distance for no license from a school shall be two hundred feet (200'). There would be no change to the 300' distance requirement from a church.

IT WAS MOVED BY BRYCE CURTISS THAT ORDINANCE NO. 898, AN ORDINANCE AMENDING 3-2A-7 OF THE MONTEVIDEO CITY CODE, "PLACES INELIGIBLE FOR LICENSE," BE ADOPTED. MOTION FOR ADOPTION OF ORDINANCE NO. 898 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. ORDINANCE PASSED 5-0.

8(B) DRAFT ORDINANCE - LIQUOR LICENSING ISSUES.

The council held a worksession on April 26, 2010 to discuss liquor licensing issues. As a result of that discussion, the city attorney had prepared an ordinance amending current city code language. In addition, staff had attended a State Liquor Control Division training that brought up a few additional issues for possible further changes, as follows:

1. (Live Performance) Theaters. State Statute 340A.404 authorizes the issuance of an on-sale intoxicating liquor license, an on-sale wine license, or an on-sale malt liquor license to (live performance) theaters. Sales are restricted to patrons attending an event at the theater; no walk-in business and no "open bar business."
2. Consumption & Display (Set-up) Permits. State Statute permits set-up permits in areas the city does not, i.e., bed & breakfast facilities, resorts, and any establishment licensed for the sale of 3.2% malt liquor.
3. Exclusions From License Limits. State Statute 340A.413, Subd. 4 excludes from license limits the following: Clubs (or congressionally chartered veterans organizations), restaurants, wine license, theaters that are issued licenses under Section 340A.404, hotels and bowling centers. Since the city can only issue licenses to business that are excluded from license totals, an unlimited number of licenses may be issued. Current city code sets seven (7) as the limit of on-sale liquor licenses the city can issue. By using the state definition, the city could issue additional licenses.
4. Caterers Permits. Currently, anyone who holds a liquor caterers permit can sell liquor incidental to food service in the community, without a local permit. The caterer must hold a permit from the state but need only notify the police or sheriff prior to the event. (This is not asking permission; it is notification.)

It was the consensus of the council that items 1-3 be incorporated into a new draft ordinance for consideration at the June 21st meeting and, inasmuch as this does not seem to be an issue, that no language be drafted for the caterers permit issue at this time.

9. Discussion and Miscellaneous.

- ▶ Council member Garbe asked about the speed bump along the east end of the Wal-Mart service road. It was noted that staff was aware of it and that it would be repaired this summer.
- ▶ Council member Garbe noted the condition of Cemetery Road, which joins into State Road to the south of the Ralph Anderson residence. Ownership and maintenance responsibilities of this section of road was discussed, as well as drainage issues. It was suggested that perhaps the city could cooperate with Sparta Township to share in the costs of needed repairs/improvements.
- ▶ Council member Garbe asked whether the city's building official was aware of any language regarding radio frequency requirements for any new building construction. Staff will check with the building department.
- ▶ Council member Garbe commended the local police/ambulance services for their response to his family's recent 9-1-1 emergency call. Garbe publically stated his appreciation of the community's excellent medical services.
- ▶ City Manager Jones briefly discussed the city's debt forecasting and stated the likelihood of no street projects in 2011. The city typically increases the debt levy by 3% per year; in 2011, the debt load increase will be 5-6%. If 0% is realized in 2012, this will bring it back to the 3% per year level. Also discussed was the future of Town Road.

Meeting adjourned at 8:22 P.M.

Glennis A. Lauritsen, Secretary

Approved by council June 21, 2010:

Sandra Hodge - President