

CITY OF MONTEVIDEO
CITY COUNCIL PROCEEDINGS
May 17, 2010

The city council met in regular session Monday, May 17, 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, Al Johnsrud and Karen Nieuwbeerta. Absent: Marvin Garbe. Mayor Jim Curtiss absent.

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 Johnsrud, seconded by Nieuwbeerta and unanimously passed to approve the agenda, with the following modifications:

MODIFY:

**7(B) CONSIDER APPLICATION FOR 2010 ON-SALE LIQUOR LICENSE
SUBMITTED BY THE AMERICAN LEGION POST #59, 613 LEGION DRIVE.**

City Code 3-2A-7 - Places Ineligible for License - states that "No license shall be granted within three hundred feet (300') of any school or within three hundred feet (300') of any church. Therefore, due to its proximity to the ALC, the American Legion would be ineligible.

The city attorney will be on hand to discuss available options.

7(C) CONSIDER APPROVAL OF FIESTA WEEK EVENTS.

Letter attached from the Montevideo Lions Club for the duck race event.

ADD:

**7(F) CONSIDER AFFIRMING COURT ORDER TO PROCEED WITH THE
ABATEMENT OF PROPERTY AT 313 PARK AVENUE.**

It was moved by Curtiss, seconded by Johnsrud and unanimously passed to approve the minutes of the regular meeting of May 3, 2010, 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 MAY 15, 2010 IN THE AMOUNT OF \$227,353.94.

6. Public Hearings.

- None.

7. General Business.

7(A) SUICIDE SURVIVORS WALK IN SMITH PARK.

Jessica Webster was present representing the American Foundation for Suicide Prevention. The Foundation has submitted a request for use of Smith Park on Saturday, August 28th, from 5:00 P.M. to 12:00 Midnight. Webster explained that they would like to hold a walk in the park for all suicide survivors and friends, along with encouraging those suffering depression to get help.

The group has requested use of the entire park (excluding the buildings) and includes barricading the entrances into the park. Their request indicated an estimated 50-60 participants. Staff expressed concern with blocking off the entire park, inasmuch as the group does not intend to utilize any of the buildings. Therefore, staff suggested that the public works director work with Ms. Webster to determine a walking path that would work for them and allow use of the park by others.

Ms. Webster further explained that even though the request indicated 50-60 participants, there could be upwards of 200-300, depending upon response. She stated her willingness to work with city staff to determine the best possible solution for all involved.

It was moved by Johnsrud, seconded by Nieuwbeerta and unanimously passed to approve the request, with the actual area to be utilized contingent upon participation.

7(B) AMERICAN LEGION 2010 ON-SALE LIQUOR LICENSE APPLICATION.

American Legion Post #59 has submitted an application for a 2010 liquor license for their establishment at 613 Legion Drive. The Legion currently holds a 2010 club license and has voted to move away from that and obtain a full on-sale liquor license. All of the necessary support documents have been submitted and a fee calculated for the remainder of 2010.

In reviewing the application, staff discovered an issue with the proximity of the Legion to the Area Learning Center (ALC) at 1315 Black Oak Avenue. The Legion is within 263' of the ALC. City Code 3-2A-7 - Places Ineligible for License - states that "No license shall be granted within three hundred feet (300') of any school or within three hundred feet (300') of any church." Therefore, due to its proximity to the ALC, the American Legion is ineligible for an on-sale liquor license.

Staff discussed this issue with City Attorney Janice Nelson, and she has drafted an ordinance for council consideration. The ordinance would provide an exception for B-1 and B-2 zoning districts so that the distance from a school would be reduced to 200'. The exception would be for schools only; the distance from churches would remain at 300'.

BRYCE CURTISS OFFERED ORDINANCE NO. 898, AN ORDINANCE AMENDING 3-2A-7 OF THE MONTEVIDEO CITY CODE, PLACES INELIGIBLE FOR LICENSE.

It was moved by Curtiss, seconded by Nieuwbeerta and unanimously passed to approve the application submitted by the American Legion, with the condition that the license will not be issued until after the effective date of the ordinance (mid-July).

7(C) FIESTA WEEK EVENTS.

A draft schedule of Fiesta Days events has been submitted by the Fiesta Board. In addition, a letter from the Montevideo Lions Club has also been received which discusses

the annual duck race. Many of the week's events take place on city property and, therefore, need approval by the city council.

It was moved by Johnsrud, seconded by Curtiss and unanimously passed to approve the various uses of city property during Fiesta Week, June 12-20, 2010.

7(D) UPDATE ON LEVEE PROJECT.

City Manager Steve Jones provided an update on the levee project, including Phase 2 (Highway 212 road raise) and Phase 3 Project/Financing. Some of the remaining construction issues include state permits, easements and/or right-of-way acquisitions. Staff estimated being one-month out on those completions.

Jones stated that the city is currently \$3 Million short in its financing for the levee. He discussed financing aspects, including current legislation and funding alternatives, as well as possible USDA funds. The USDA funds would more than likely be in the form of a loan, not a grant. Build America Bonds are also available. Staff is not anxious to go that route of borrowing funds due to the debt load that would place on the citizens. Some of the deadlines for application are coming up soon and staff will need to make some decisions by July.

This report was to update the council only; no action was taken at this time.

Council President Hodge stated that the next item on the agenda is a bus tour of various areas in the community; therefore, she suggested considering 7(F) at this time.

7(F) ABATEMENT OF 313 PARK AVENUE.

Community Development Director Nick Haggemiller was present to discuss the abatement of 313 Park Avenue. Haggemiller explained that council previously passed a resolution ordering the repair/removal/demolition of the structure on the property and, subsequently, the matter was heard in District Court. The Court Order and Judgment stated that if the Order to Repair had not been complied with by May 10, 2010, the Montevideo City Council "may summarily cause the hazardous building to be repaired, removed, or razed, and the associated debris cleaned up, as described in said order for removal..." Based on this language, the city attorney advised that the council take formal action to proceed.

Haggenmiller noted that a meeting had been scheduled with Worden for earlier in the day; however, at the last minute, Worden was not able to make the meeting, stating that his contractor was out of town six days a week. Haggenmiller reminded the council that the city had been dealing with the condition of this property for a number of years. It was staff's opinion that it is unlikely the list of required repair items outlined in the Court Order and Judgment would be completed by Worden. Therefore, staff also recommends the council take formal action to proceed.

It was moved by Curtiss, seconded by Nieuwbeerta and unanimously passed to affirm the court order to proceed with the abatement of the property at 313 Park Avenue.

At this point, Jim Bowen, co-manager of the American Legion, arrived at the meeting. Bowen was informed of earlier council action regarding their on-sale liquor license application.

7(E) TOUR OF LAGOON PARK WALLS, BRIDGES AND DAM

Beginning at 7:38 P.M., a bus tour was conducted to review the condition of the dam, bridges and walls in Lagoon Park due to damage from the 2010 flood. Staff stated that the bridges need to be repaired, but has asked that council discuss how to proceed with the walls. The dam issue is a little different, but staff asked that council view and discuss this structure as well.

Those attending the tour included: Council members Hodge, Johnsrud, Curtiss and Nieuwbeerta; City Manager Steve Jones, City Attorney Janice Nelson, City Engineer David Berryman, City Clerk Glennis Lauritsen, Community Development Director Nick Haggenmiller, John Givan, Editor of the American-News, and two members of the public.

Staff explained that the bridges and walls are over 50 years old and are considered "historic" according to FEMA rules. Funding may be available for repair of the walls. Council needs to decide whether to rebuild the structures or relocate them to another location. Council viewed scouring and cracking of the walls and bridges at a number of locations. The dam was also viewed, which shows extensive damage and/or loss of the boards. It was noted that an engineer has been hired to perform an assessment of the damages and staff will share that information with the council once received.

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Following view of those structures, council viewed the Sheridan Park area, in response to a citizen complaint regarding the playground and its proximity to a residential yard.

At 8:10 P.M., the group returned to the council chambers.

8. Ordinances.

- None.

9. Discussion and Miscellaneous.

- None.

Meeting adjourned at 8:11 P.M.

Glennis A. Lauritsen, Secretary

Approved by council June 7, 2010:

Sandra Hodge - President