

CITY OF MONTEVIDEO  
CITY COUNCIL PROCEEDINGS  
October 5, 2009

The city council met in regular session Monday, October 5, 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: Al Johnsrud, Karen Nieuwbeerta, Bryce Curtiss, Sandra Hodge and Marvin Garbe. Absent: None. Mayor Jim Curtiss absent.

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

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

**MODIFY:**

**AGENDA DOCUMENT TO INCLUDE ITEM 8(D) - CONSIDER INTRODUCTION OF ORDINANCE AMENDING 6-1-9 OF THE MONTEVIDEO CITY CODE TO CREATE SCHOOL ZONE.**

Revised Agenda provided. The materials were provided for this issue; however, item 8(D) was not listed on the Agenda document itself.

**5(A) CONSIDER APPROVAL OF VERIFIED CLAIMS FOR THE PERIOD ENDING AUGUST 14, 2009 IN THE AMOUNT OF \$1,179,645.74 \$1,181,312.91.**

Modified amount reflects the addition of the following:

<u>AIRPORT</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
Heather Floral & Nursery	Grass seed/fertilizer	\$1,667.17

A modification is also necessary to the *description portion of the claims list*, as follows:

<u>AIRPORT</u>	<u>DESCRIPTION</u>
City of Montevideo	Landscaping & Seeding= <del>Sanitary Sewer Project</del>

**7(B) CONSIDER PLANNING COMMISSION RECOMMENDATION FOR APPROVAL OF CONDITIONAL USE PERMIT REQUEST BY JOHN JORGENSEN TO ALLOW A MEAT MARKET/PROCESSING FACILITY IN AN I1 DISTRICT AT 123 PARKWAY DRIVE.**

Two letters have been submitted and are provided.

It was moved by Nieuwbeerta, seconded by Johnsrud and unanimously passed to approve the minutes of the regular meeting of September 21, 2009, as presented.

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

- None.

5. Consent Agenda.

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

5(A) VERIFIED CLAIMS FOR THE PERIOD ENDING OCTOBER 2, 2009 IN THE (MODIFIED) AMOUNT OF \$1,181,312.91.

6. Public Hearings.

- None.

7. General Business.

7(A) VARIANCE REQUEST - REAR YARD SETBACK - JORGENSEN.

The Montevideo Board of Zoning Adjustment held a public hearing September 28, 2009 to consider a request by John Jorgenson, 1509 North 17<sup>th</sup> Street, for a variance to allow construction to within 9' of the required 20' rear yard setback on property located at 123 Parkway Drive. Following the hearing, the board unanimously recommended approval of the variance.

John Jorgenson was present to address questions/concerns raised by the council.

As a point of clarification, Council President Hodge asked Jorgenson if he intended to build an addition to the existing structure. Jorgenson stated that he plans to add an enclosed structure and cooler to the west side of the building.

City Manager Jones stated that in this particular case, the exact property lines are somewhat questionable as they abut a vacated street to the south and an old river channel to the west. In addition, the property is odd sized, similarly shaped to a triangle. It was questionable as to defining the request as a side yard or rear yard. In an I1 District, side yards require only a 10' setback, whereas rear yards require 20' setbacks. Therefore, staff took the most conservative definition, stating that this is, in fact, a rear yard.

It was moved by Nieuwbeerta, seconded by Garbe and unanimously passed to accept the Board of Zoning Adjustment recommendation and approve the variance, as requested.

7(B) CUP REQUEST - JOHN JORGENSON - MEAT MARKET/PROCESSING FACILITY.

The Montevideo Planning Commission held a public hearing September 28, 2009 to consider a request by John Jorgenson, 1509 North 17<sup>th</sup> Street, for a conditional use permit to allow the operation of a meat market/processing facility in an I1 Light Industrial Zone at 123 Parkway Drive. After discussion, the commission unanimously recommended approval of the conditional use permit, with the following conditions:

1. Permitted entity must submit documentation proving the project is approved/licensed by the State of Minnesota. Additionally, the permitted entity must display said documentation in a visible location inside the retail establishment.
2. Permitted entity may not have any outside storage, including but not limited to: animals, trailers parked in excess of what is allowed under ordinance, foreign matter or materials, carcasses or animals, waste or other debris. Normal business waste in appropriate container IS allowed.
3. An industrial user agreement must be approved concerning the wastewater treatment/usage between permitted entity and the City of Montevideo.
4. Permitted entity must take proper precautions to ensure the project is minimally visible from Smith Park. Note: Currently, there is a tree line acting as a natural fence thereby screening the building. This tree line, or similar, must be maintained to protect the character of the adjacent park.

5. Transfer of permit to new owner/operator must be approved by the city.
6. 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 animal processing in an I1 District.

John Jorgenson was present to address questions/concerns raised by the council.

In addition to materials previously submitted, the council had been supplied with letters from two adjacent property owners - Bill Pauling, 132 West Nichols Avenue and Kelly Pauling, 120 West Canyon Avenue. Both letters expressed concerns about the proposed use.

Council member Johnsrud asked if there were additional approvals needed for this project. Jorgenson explained that he is working with the Department of Ag and Department of Health to secure their approvals. When asked what would happen if those entities denied approval, it was surmised that the project would not proceed.

City Manager Jones noted that in addition to the conditional use permit, Jorgenson would be required to enter into an industrial user agreement for the processing of wastewater, similar to the agreement with Jennie-O.

Council member Johnsrud asked whether the park board had discussed this issue, inasmuch as the facility would border a public park. City Manager Jones explained that there had been no park board participation, that this is not typical in the consideration of a conditional use permit. To expound, Jones asked what the next step would be if the park board had denied the use. Jones stated that the area is zoned appropriately for this type of use and that the conditions recommended by the planning commission would adequately safeguard the surrounding properties.

Council member Garbe stated he had received a phone call from a citizen on this issue. One of their concerns was that of outside activity. Garbe referred to condition #2 which addressed storage, including live animals.

Council member Johnsrud stated he felt condition #4 to be important, inasmuch as he had received public comment about protecting the public park.

Jorgenson explained the means by which animals would be hauled to his facility, i.e., by an 8' x 22' or 24' trailer. He added that the interior capacity for storage of animals was approximately 30, and that he would have no more than five (5) live animals at one time.

The issue of odor was discussed briefly. Council referred to the two letters submitted from the city managers of Appleton and Dawson, which indicated they had received no complaints from the public on their local butcher shops.

Brief discussion was held on the two additional letters submitted from Bill Pauling and Kelly Pauling. Both letters expressed concern relative to odor, animal containment, environmental issues, and truck traffic. Jorgenson addressed each of those concerns.

Community Development Director Nick Haggemiller was present and stated that he had received a number of comments from four different people on this issue. He stated that most of the citizen concerns had been addressed by the planning commission and its list of conditions. Haggemiller added that there is a long laundry list of Department of Ag items which Jorgenson will need to complete prior to opening.

It was moved by Curtiss, seconded by Nieuwbeerta and unanimously passed to approve the conditional use permit, as requested, and with conditions 1-6 recommended by the planning commission.

Inasmuch as Superintendent Dr. Luther Heller was in attendance, Item 8(D) was considered at this time.

8(D) ORDINANCE DESIGNATING "SCHOOL ZONES."

The traffic safety committee had recommended that the city look at posting lower speed limits around the schools. "School zones" must be designated before the council has the right to change the speed limit.

Dr. Luther Heller, Superintendent of Schools, was present to address the council. Heller spoke in favor of lower speed limits as a means to curtail potential accidents and to protect the safety of the students. Heller stated the school would be very appreciative of any help the city could provide.

BRYCE CURTISS INTRODUCED ORDINANCE #894, AN ORDINANCE AMENDING 6-1-9 OF THE MONTEVIDEO CITY CODE BY ADDING SECTION 9, SCHOOL ZONE.

The printed order of the agenda resumed.

7(C) PURCHASE AGREEMENT WITH MIDC.

The Montevideo Industrial Development Corporation (MIDC) has taken steps to acquire land along Ashmore Avenue and are interested in trading future assessments for road improvements for land. The engineer's estimate of assessment value ranges from \$15,863.00 to \$26,4378.54, depending upon type of improvements provided (overlay/replacement/new). Estimated value of land in accordance with Minnesota Extension Office information is \$25,080.

The council had discussed this issue at its September 21, 2009 meeting. At that time, staff indicated that this is equitable on part of value and beneficial because it would help the city acquire land that needs to be protected within the Airport A Zone. This would also allow the MIDC the ability to acquire and possibly develop the adjacent industrial land.

MARVIN GARBE OFFERED RESOLUTION NO. 2939, A RESOLUTION AUTHORIZING THE ACQUISITION OF LAND, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2939 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(D) SET-UP PERMIT - INN LIKE FLINN.

It was moved by Curtiss and seconded by Nieuwbeerta to approve an application for state consumption & display (set-up) permit and approval of a 2009 city set-up license for Gary Flinn, dba/Inn Like Flinns, 305 South First Street. Those voting in favor of motion: Curtiss, Nieuwbeerta, Garbe and Hodge. Those voting against motion: Johnsrud. Motion passed 4-1.

7(E) FARM RENTAL PROPERTY BIDS.

Bids were received for the farm rental property which surrounds the Montevideo-Chippewa County Airport site on Wednesday, September 30, 2009. Bids encompass the 2010-2011 crop years. The bidding resulted in three successful bidders, and staff recommended the council award the bids as follows:

Parcels A & D to Gregg Enevoldsen at \$102.00/acre  
Parcels B, E, and F to Mark Grussing at \$203.10/acre  
Parcel C to Mark Schultz at \$75.00/acre

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

7(F) FEMA SUB-GRANT AGREEMENT.

In early 2009, the President declared 28 counties in Minnesota as major disaster areas. Chippewa County was included in that declaration. The State of Minnesota, acting through its Commissioner of Public Safety, Division of Homeland Security & Emergency Management, has prepared a sub-grant agreement for federal assistance, which is required in order to request flood disaster assistance funds from FEMA.

AL JOHNSRUD OFFERED RESOLUTION NO. 2940, A RESOLUTION AUTHORIZING EXECUTION OF SUB-GRANT AGREEMENT, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2940 WAS SECONDED BY KAREN NIEUWBEERTA. THOSE VOTING IN FAVOR OF MOTION: AL JOHNSRUD, KAREN NIEUWBEERTA, BRYCE CURTISS, MARVIN GARBE AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

8. Ordinances.

8(A) APPROVAL OF ORDINANCE #891.

This ordinance was introduced at the September 8, 2009 city council meeting and changes the time when motor vehicles need to be removed from streets during snow emergencies, from 9:00 A.M. to 8:00 A.M.

IT WAS MOVED BY MARVIN GARBE THAT ORDINANCE NO. 891, AN ORDINANCE AMENDING 6-2-4B OF THE MONTEVIDEO CITY CODE, SNOW REMOVAL; PARKING RESTRICTED, BE ADOPTED. MOTION FOR ADOPTION OF ORDINANCE NO. 891 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. ORDINANCE PASSED 5-0.

8(B) APPROVAL OF ORDINANCE #892.

This ordinance was introduced at the September 8, 2009 city council meeting and restricts parking on First Street (between State Road and Canton Avenue) between the hours of 2:00 A.M. and 6:00 A.M.

IT WAS MOVED BY AL JOHNSRUD THAT ORDINANCE NO. 892, AN ORDINANCE AMENDING 6-2-7 OF THE MONTEVIDEO CITY CODE, DOWNTOWN BUSINESS DISTRICT PARKING RESTRICTED, BE ADOPTED. MOTION FOR ADOPTION OF ORDINANCE NO. 892 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. ORDINANCE PASSED 5-0.

8(C) APPROVAL OF ORDINANCE #893.

This ordinance was introduced at the September 8, 2009 city council meeting and removes First Street from the official list of one-way streets.

IT WAS MOVED BY AL JOHNSRUD THAT ORDINANCE NO. 893, AN ORDINANCE AMENDING SECTION 6-3-1 OF THE MONTEVIDEO CITY CODE, ONE-WAY STREETS, BE ADOPTED. MOTION FOR ADOPTION OF ORDINANCE NO. 893 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. ORDINANCE PASSED 5-0.

9. Discussion and Miscellaneous.

9(A) SMITH ADDITION ROAD CLOSURES.

Staff had provided a map and recommendation that the council consider closing (not vacating) parts of two streets in Smith Addition (Chippewa Street and Second Avenue). These areas are little used and no houses remain on the two streets.

Following discussion, it was the consensus of council to proceed in this manner. Staff noted that notices will be given to Smith Addition residents, informing them that the



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council will discuss the issue at its October 19<sup>th</sup> meeting and make a formal decision at that time.

- Council member Curtiss informed the council that an open house has now been scheduled for the new hospital. The date is Sunday, October 25<sup>th</sup>, 1:00-4:00 P.M.

Meeting adjourned at 7:58 P.M.

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Glennis Lauritsen, Secretary

Approved by council October 19, 2009:

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Sandra Hodge - President