

CITY OF MONTEVIDEO  
CITY COUNCIL PROCEEDINGS  
July 7, 2008

The city council met in regular session Monday, July 7, 2008 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, Mike Diggins, Marvin Garbe, Bryce Curtiss and Karen Nieuwbeerta. Absent: None. Mayor Curtiss present.

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

It was moved by Garbe, seconded by Curtiss and unanimously passed to approve the agenda, with the acceptance of additional information provided for Items 7(A) and 7(B) - 2007 Audit document and Fiesta Cash Flow Budget, respectively - and with the following addition:

**ADD:**

**7(J)            CONSIDER SETTING BUDGET WORKSESSION DATES.**

It was moved by Nieuwbeerta, seconded by Garbe and unanimously passed to approve the minutes of the regular city council meeting of June 16, 2008 and adjourned meeting of June 24, 2008, as presented.

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

Leland Foos was present to address the council in regards to two flag issues at the cemetery and during the Fiesta parade. Foos stated that the American flag was improperly displayed during the Fiesta Parade; however, he did not feel it was done so maliciously or intentionally. Speaking on behalf of the VFW, he suggested that flag etiquette issues be broadcast on Channel 8 and the radio, with information also provided in the American-News to educate people on the issue.

Council President Hodge stated that the council would be discussing cemetery issues during Agenda Item 7(C) and the Fiesta activities during Agenda Item 7(B) and asked Foos to stay for those discussions.

4(A) PRESENTATION OF EMPLOYEE SERVICE AWARD.

Mayor Curtiss presented an employee service award certificate to City Manager Steve Jones, recognizing 10 years of employment with the City of Montevideo.

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

- 5(A) VERIFIED CLAIMS FOR THE PERIOD ENDING JULY 3, 2008 IN THE AMOUNT OF \$845,692.12, NOTING THAT ALL BUT 5% OF THE \$43,852.84 EXPENDITURE FOR FIRE TURNOUT GEAR WILL BE REIMBURSED BY A GRANT AND HIGHLIGHTING THE \$13,658.36 EXPENDITURE FOR FAIRGROUNDS EQUIPMENT UPDATE (\$15,000.00 ESTIMATED).

6. Public Hearings.

None.

7. General Business.

7(A) 2007 AUDIT REVIEW.

Nancy Aagesen, Dana F. Cole & Company, LLP, was present to review and discuss the 2007 Audit. Ms. Aagesen highlighted sections of the audit, including the Independent Auditors' Report, Management's Discussion & Analysis, Basic Financial Statements and Supplemental Information. Aagesen stated that no deficiencies were identified.

Council commended Ms. Aagesen and city staff on a job well done.

7(B) FIESTA REPORT.

Donna Krueger and Angel Molden were on hand to update the council on Fiesta events for 2008 and to request financial assistance in 2009. Ms. Krueger reviewed their cash flow budget statement for the year ending 6/30/08, which shows cash (at end of year) of \$3,895.97. However, there remains an outstanding loan of \$5,000.00, which has carried over for several years (interest only payments being made.)

Council discussed a possible contribution towards Fiesta 2009. City Attorney Nelson discussed the legalities of spending city funds for this type of activity, noting that while the city cannot legally gift money, it can make specific payments for an activity deemed to be beneficial to the community for economic development or tourism purposes.

Krueger indicated that the Fiesta Committee discussed adding a fireworks display to the 2009 festivities. She has obtained a preliminary estimate of \$5,000 for a 30-minute display. Council members indicated a willingness to discuss funding this request at its upcoming budget worksessions. It was also noted that the city "contributes" to Fiesta by providing in-kind services.

In a related matter, Leland Foos discussed the issue of the improper display of the American flag on the back of a float during the Fiesta parade. This was done by a Hispanic church group who had displayed their flag above the American flag. Foos reiterated his earlier comments, stating that education of proper flag etiquette is key. Krueger stated this was simply an oversight and agreed to work with members of the VFW or others during the parade next year to ensure proper flag placement.

#### 7(C) CEMETERY REGULATIONS.

At the June 16, 2008 city council meeting, the council held a discussion about actions city staff took to enforce current cemetery rules and regulations regarding gravesite flowers and other decorations. Since that time, staff has drafted some changes to the city's existing resolution which they believe makes those rules and regulations clearer. Staff had also provided excerpts from other municipal cemeteries for review by the council. Public Works Director Greg Schwaegerl and Cemetery Sexton Brad Weckwerth were on hand for the discussion.

City Manager Jones reviewed the draft resolution. Schwaegerl discussed man hours needed for mowing/trimming at the cemetery, which are 45 hours for mowing and 40 hours for weed whipping.

President Hodge stated that although this was not a public hearing, she would allow public comment. Several audience members addressed the council, including: Barb Kvaal, 1321 North 17<sup>th</sup> Street; Wayne Thalberg, 213 North 6<sup>th</sup> Street; Leland Foos, 819 North 7<sup>th</sup> Street; Karen Kepner, 536 North 4<sup>th</sup> Street; Jan Bothun, Watson; Local funeral directors Mike Dahl and Everett Bain; and Dianna Johnson, 1418 North 4<sup>th</sup> Street.

The discussion focused on the draft resolution language which addressed specifics for what is/is not allowed on and around the gravesites. The need for further clarification was identified for an “approved” urn and plant “stands,” as well as discussion about placement of such items in proximity to the marker itself. A desire was also voiced by citizens to allow solar lights.

Mike Dahl, Anderson Funeral Home Director, said that in the past, the city had a cemetery committee. It was his suggestion that a committee be reinstated to review these issues and make a recommendation to council, which could be comprised of the local funeral directors, city staff, one or two council members, and membership from the general public.

City staff was directed to advertise for citizens on the cemetery committee, asking that they call city hall to submit their name for consideration. The name(s) will then be randomly selected for membership and an official appointment made at the July 21, 2008 city council meeting.

7(D) GOLF CART ORDINANCE DISCUSSION.

Council member Nieuwbeerta had received inquiries regarding the use of golf carts in Montevideo and asked that a discussion be held for the benefit of the public. Council reviewed existing ordinance language which allows “the operation of motorized golf carts on designated roadways within the city by persons having a valid permit issued by the city...” Certain conditions exist for that operation and are spelled out within the ordinance.

7(E) TWO-FINGER IDENTIFICATION UNIT.

A Joint Powers Agreement had been received by the state for the provision of one (1) IBIS Wireless RDT4s to the Montevideo Police Department for use in a squad car for rapid identification purposes. The unit would allow the department to run fingerprints of individuals who are suspected of providing false identification or have no identification available. The equipment is free and is portable. Police Chief Christopher was on hand to discuss the use of this equipment, noting that he believes this would be very helpful when dealing with identity theft issues. Christopher had submitted a memorandum to the council in support of the agreement.

It was moved by Garbe, seconded by Diggins and unanimously passed to authorize the mayor and city manager to execute the agreement.

7(F) LIBRARY FUNDING ISSUE.

The city had previously received a request for an additional \$10,000 in funding for the library and tabled the request pending further information on use of prior years capital funds and its effect on “maintenance of effort” and until the newly formed library sub-committee had met.

According to Pioneerland Library System Director John Houlahan, if the additional funding comes out of a prior year’s capital fund, it is exempt from maintenance of effort. It is staff’s opinion, however, that the intent of the law was to allow entities to pay for one-time items (furnace repairs, etc.) and it is not the intent to allow the payment of day-to-day expenses out of capital as a means to “hide” it from maintenance of effort.

No action taken.

7(G) PROPOSED SEWER RATES.

Staff continues to work on a spreadsheet of various financial scenarios and is awaiting additional information in order to prepare a proposed rate plan. Inasmuch as the information is not yet available, it was the consensus of the council to table this agenda item until the next meeting.

7(H) TRANSIT AGREEMENT FOR 2009.

MIKE DIGGINS OFFERED RESOLUTION NO. 2853, A RESOLUTION ENTERING INTO AN AGREEMENT WITH THE MINNESOTA DEPARTMENT OF TRANSPORTATION (MN/DOT) OFFICE OF TRANSIT TO PROVIDE TRANSPORTATION SERVICES FOR 2009, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2853 WAS SECONDED BY MARVIN GARBE. THOSE VOTING IN FAVOR OF MOTION: MIKE DIGGINS, MARVIN GARBE, KAREN NIEUWBEERTA, BRYCE CURTISS AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(I) KNIGHTS OF COLUMBUS GIFT.

The Knights of Columbus Council 1551 would like the city to accept a donation of \$300.00 from its gambling funds proceeds. Their wish is that the council would then relay the funds to the Fiesta Committee to be used towards Fiesta Days activity costs.

MARVIN GARBE OFFERED RESOLUTION NO. 2854, A RESOLUTION ACCEPTING GIFT, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 2854 WAS SECONDED BY MIKE DIGGINS. THOSE VOTING IN FAVOR OF MOTION: MARVIN GARBE, MIKE DIGGINS, BRYCE CURTISS, KAREN NIEUWBEERTA AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. RESOLUTION PASSED 5-0.

7(J) BUDGET WORKSESSION DATES.

It was moved by Garbe, seconded by Curtiss and unanimously passed to set the following budget worksession dates/times:

- ▶ Monday, August 4, 2008, 5:30 P.M. - City Hall Conference Room.
- ▶ Monday, August 11, 2008, 5:30 P.M. - City Hall Conference Room.
- ▶ Monday, August 18, 2008, 5:30 P.M. - City Hall Conference Room

8. Ordinances.

8(A) ADOPTION OF ORDINANCE NO. 877.

IT WAS MOVED BY MARVIN GARBE THAT INTRODUCED ORDINANCE NO. 877, AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 10 OF THE MONTEVIDEO CITY CODE BY ADDING A NEW SECTION 6, ENTITLED "CONSTRUCTION EROSION CONTROL," BE ADOPTED. MOTION FOR ADOPTION OF ORDINANCE NO. 877 WAS SECONDED BY BRYCE CURTISS. THOSE VOTING IN FAVOR OF MOTION: MARVIN GARBE, BRYCE CURTISS, MIKE DIGGINS, KAREN NIEUWBEERTA AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE. ORDINANCE PASSED 5-0.

8(B) INTRODUCTION OF ORDINANCE NO. 878 (NOISE ORDINANCE).

Council discussed a draft “unnecessary disturbances” (noise) ordinance which had been prepared by the city attorney. After review of the proposed language, it was the consensus of council to modify 4-1-3H2 as follows, “No person shall operate or permit operation of a radio, sound system, public address system, loudspeaker or any other noise amplifier on public or private property if the sound produced by the same is audible within fifty (50) feet of the speakers producing the sound.”

MARVIN GARBE INTRODUCED ORDINANCE NO. 878, AS MODIFIED, AN ORDINANCE AMENDING SECTION 3H OF CHAPTER 1 OF TITLE 4 OF THE MONTEVIDEO CITY CODE, “UNNECESSARY DISTURBANCES.”

8(C) INTRODUCTION OF ORDINANCE NO. 879 (BARKING DOG ORDINANCE).

Council discussed a draft ordinance prepared by the city attorney addressing the definition of a habitually or frequently bark or cry (barking dog ordinance.) Following review, it was the consensus of council to modify the definition, as follows: “Habitually or frequently barking or crying means barking or crying ~~continuously~~ intermittently for at least ten minutes ~~with less than one minute interruption~~, which barking or crying is audible off the premises where the dog is located at the time of the incident.”

BRYCE CURTISS INTRODUCED ORDINANCE NO. 879, AN ORDINANCE AMENDING SECTION 1 OF CHAPTER 4 OF TITLE 5 OF THE MONTEVIDEO CITY CODE, BY ADDING A DEFINITION OF HABITUALLY OR FREQUENTLY BARK OR CRY.

9. Discussion and Miscellaneous.

- ▶ Council briefly discussed the storm sewer improvements in the area of Wolfe Avenue & North 6<sup>th</sup> Street.
- ▶ Council member Garbe submitted two property addresses to be checked for nuisance issues - loud music at 203 North 7<sup>th</sup> Street and pickup parked across sidewalk at 111 North 3<sup>rd</sup> Street.
- ▶ Council asked for an update on the status of the former Hill Grocery property at 418 North 5<sup>th</sup> Street. Staff noted that a letter has been sent to the property owner which

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offered the city's assistance in abating the nuisances (rodent infestation, structural issues).  
To date, no response has been received. A follow-up letter will now be sent .

Meeting adjourned at 9:57 P.M.

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Glennis A. Lauritsen, Secretary

Approved by council July 21, 2008:

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Marvin E. Garbe, Acting President