

CITY OF MONTEVIDEO  
CITY COUNCIL PROCEEDINGS  
September 6, 2011

The city council met in regular session Tuesday, September 6, 2011 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: Marvin Garbe, Al Johnsrud, Bryce Curtiss, Karen Nieuwbeerta and Sandra Hodge. Absent: None. Mayor Debra Lee Fader 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 Curtiss, seconded by Nieuwbeerta and unanimously passed to approve the agenda, as presented, with the following modifications:

**ACTION      ITEM DESCRIPTION:**

**Add:            5(C)    CONSIDER AUTHORIZATION FOR USE OF CITY PROPERTY (NORTH 6<sup>TH</sup> STREET, BLACK OAK TO EUREKA AVENUE) BY ST. JOSEPH CATHOLIC CHURCH FOR ITS FALL FESTIVAL ON SEPTEMBER 18, 2011, 8:00 A.M. TO 4:00 P.M.**

**Add:            5(D)    CONSIDER APPLICATION FROM JANELL SWANSON, 127 ORCHARD CIRCLE, FOR USE OF ORCHARD CIRCLE FOR A NEIGHBORHOOD POTLUCK SUPPER ON MONDAY, SEPTEMBER 12, 2011, 4:30-7:30 P.M.**

**Add:            7(Q)    CONSIDER BOULDER PURCHASE FOR DAM PROJECT.**

It was moved by Garbe, seconded by Johnsrud and unanimously passed to approve the minutes of the Budget Worksession of August 15, 2011 and regular meeting of August 15, 2011, 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 SEPTEMBER 2, 2011 IN THE AMOUNT OF \$442,832.77.
- 5(B) APPLICATION FROM THE CHURCH OF ST. JOSEPH FOR AN EXEMPTION FROM LAWFUL GAMBLING REQUIREMENTS TO CONDUCT BINGO AND RAFFLE ACTIVITIES AT THE PARISH CENTER, 512 BLACK OAK AVENUE, IN CONJUNCTION WITH THEIR FALL FESTIVAL.
- 5(C) APPLICATION FOR USE OF CITY PROPERTY (NORTH 6<sup>TH</sup> STREET, BLACK OAK TO EUREKA AVENUE) BY ST. JOSEPH CATHOLIC CHURCH FOR ITS FALL FESTIVAL ON SEPTEMBER 18, 2011, 8:00 A.M. TO 4:00 P.M.
- 5(D) APPLICATION FROM JANELL SWANSON, 127 ORCHARD CIRCLE, FOR USE OF ORCHARD CIRCLE FOR A NEIGHBORHOOD POTLUCK SUPPER ON MONDAY, SEPTEMBER 12, 2011, 4:30-7:30 P.M.

6. Public Hearings.

- None.

7. General Business.

7(A) PRELIMINARY 2012 TAX LEVY.

Finance Director Jan Flaherty was present to discuss the proposed preliminary 2012 tax levy, which reflects a 3.5% increase over the 2011 levy, rather than the initial increase of 7.17% as indicated during the budget worksessions. Total proposed 2012 levy is \$1,786,400. Flaherty explained briefly how the levy will be funded, based on the changes to the State Market Value Homestead Credit.

Council member Garbe suggested a 5% increase instead, with the understanding that the amount could be decreased in December, if necessary. Staff noted that the 1.5% difference would result in approximately \$25,000.

MARVIN GARBE OFFERED RESOLUTION NO. 3050, A RESOLUTION ESTABLISHING THE PRELIMINARY 2012 TAX LEVY (@ 5%), AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3050 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(B) PRELIMINARY 2012 BUDGET.

City Manager Jones explained that recommendations from the council worksessions of July 25<sup>th</sup> and August 15<sup>th</sup> were incorporated into the preliminary budget document, showing total revenues of \$11,550,960 and total expenditures of \$11,759,125. Jones noted that the proposed 2012 Budget is very similar to the 2011 Budget document.

AL JOHNSRUD OFFERED RESOLUTION NO. 3051, A RESOLUTION ESTABLISHING THE PRELIMINARY 2012 TAX LEVY, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3051 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(C) 2012 EDA TAX LEVY.

Community Development Director Nick Haggemiller was present to request an EDA tax levy of .01813% of the taxable market value of the City of Montevideo. Haggemiller explained that the levy is used for programming purposes and is crucial for the operation of the EDA.

MARVIN GARBE OFFERED RESOLUTION NO. 3052, A RESOLUTION AUTHORIZING A TAX LEVY FOR USE BY THE EDA, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3052 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) PUBLIC COMMENT MEETING DATE - 2012 BUDGET.

It was moved by Johnsrud, seconded by Nieuwbeerta and unanimously passed to set the date/time of December 5, 2011, 7:00 P.M., as the public comment meeting at which the council would discuss the 2012 budget and levy. Final budget would then be adopted at the regular council meeting on December 19, 2011.

7(E) HAWKINS PROPERTY REPAIR AGREEMENT - WWTP ALUM TANKS.

Utilities Superintendent Byron Hayunga was present to discuss a proposed Property Repair Agreement and Warranty with Hawkins, Inc. Hayunga and City Manager Jones stated they believed there to be evidence that Hawkins filled one of the alum tanks at the wastewater treatment plant with a "hot" load of alum last fall (chemicals at a higher temperature than allowed for the tank.) As a result, that tank received some damage, and the supplier has voided the warranty (10-year warranty).

Staff explained that to replace the tank would entail demolishing a wall and not only installing a new tank but taking out a number of other items (including another tank) just to get at this tank. After consultation with SEH engineers and others in the field, staff felt that the repairs (and warranty) being proposed is a fair compromise, short of replacing the tank. Therefore, a proposed settlement agreement has been prepared for consideration by the council.

It was moved by Garbe, seconded by Johnsrud and unanimously passed to approve the agreement, as proposed.

7(F) PURCHASE CONTRACT ADDENDUM ONE - O'REILLY AUTOMOTIVE.

Community Development Director Haggenmiller was present to explain that the six-month inspection period for O'Reilly Auto expired on September 2, 2011 for the Ost Lot #1. According to the contract, after the inspection period O'Reilly Auto has 10 days to close on the property or forfeit earnest money.

Haggenmiller further explained that the city had agreed to split this parcel in order to accommodate an additional development on the west half of this lot. In order to ensure that site plans are coordinated for both developments, it is necessary to approve the proposed addendum which would give O'Reilly until October 5, 2011 to complete their inspection period. All other considerations of the original contract would remain the same.

It was moved by Curtiss, seconded by Nieuwbeerta and unanimously passed to approve Addendum One, as presented.

7(G) MCDC LOAN TO CHANDLER INDUSTRIES.

Community Development Director Haggemiller explained that Chandler Industries is seeking \$60,000 from the Montevideo Community Development Corporation (MCDC) to assist in an expansion in the Airport Industrial Park. The MCDC recommended approval of the loan, which would be interest free for the first 12 months of the note; thereafter, 4% and secured by a security agreement and UCC Filing on inventory and accounts receivable.

It was moved by Garbe, seconded by Curtiss and unanimously passed to approve the loan to Chandler Industries, as recommended by the MCDC.

7(H) LOT SPLIT VARIANCE REQUEST - 1601 SHERIDAN AVENUE.

Community Development Director Haggemiller explained that the Montevideo Planning Commission held a public hearing on August 22, 2011 to consider a lot split variance request for the property at 1601 Sheridan Avenue. The split would create two lots of slightly substandard width, but with both exceeding required square footage. Following the hearing, the commission determined that the variance was reasonable in nature, would not negatively impact the neighborhood and, therefore, recommended its approval.

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

7(I) 2012 TRANSPORTATION GRANT CONTRACT.

MARVIN GARBE OFFERED RESOLUTION NO. 3053, A RESOLUTION ENTERING INTO AGREEMENT WITH MN/DOT FOR PUBLIC TRANSPORTATION SERVICE IN THE CITY OF MONTEVIDEO, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3053 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(J) UTILITY/ACCESS EASEMENT - OST LOT #1.

Community Development Director Haggemiller was present to explain that in order to accommodate two developments on Ost Lot #1, the city had agreed to split the lot. Currently, there is a 30' utility and access easement running north and south of the far east end of the lot and, in order to meet minimum space needs for the two development proposals, this easement must be reduced to 10'.

Haggemiller further explained that the original intent of this easement was to allow for access in the event there was utility work needed and/or two developments were built on the north/south side of the parcel. However, the proposed site plan for one of the developments calls for a similar access point (privately owned/maintained) to be located in the center of the two parcels. Therefore, the full access is not needed on the far east side.

He reminded the council that a public hearing date/time was previously set for September 6<sup>th</sup>; however, proper public notices had not been sent. Therefore a new hearing date must be set.

It was moved by Johnsrud, seconded by Curtiss and unanimously passed to set a public hearing for Monday, October 3, 2011, 7:00 P.M. for this purpose.

7(K) TEMPORARY ON-SALE ACCESSORY USE - VFW.

The VFW Club has requested a permit from the council to allow an on-site, outdoor event on Saturday, September 24, 2011, for a fundraiser for A.B.A.T.E. The request indicated that all liquor and beer sales would take place inside but could be taken to the outdoor fenced-in area for consumption. The request also indicated that music would be provided, from 8:00 P.M. until 12:00 Midnight, with premises being vacated by 1:00 A.M. The main area proposed to be used is the VFW's property to the south of the building.

It was moved by Garbe, seconded by Nieuwbeerta and unanimously passed to approve the request, as submitted.

7(L) DATE CHANGE - AMERICAN LEGION TEMPORARY LIQUOR LICENSE.

The American Legion Post #59 had previously obtained permission from the council to submit an application to the State of Minnesota for a temporary on-sale liquor license to serve liquor at the TACC on August 26, 2011, in conjunction with a wedding reception.

The date of the event has now been changed to December 31, 2011; therefore, the date change needs approval. Staff noted that a copy of the original application (for 8/26/11) was re-submitted to the state, who had approved the change.

It was moved by Curtiss, seconded by Johnsrud and unanimously passed to approve the change of date, as noted.

7(M) JOINT POWERS AGREEMENT WITH BCA - CITY ATTORNEY'S OFFICE.

A Joint Powers Agreement has been drafted between the City of Montevideo, on behalf of its prosecuting attorney and the MN Department of Public Safety Bureau of Criminal Apprehension (BCA), whereby they provide and give access to BCA computer terminals (CJIS) within the city attorney's office. The agreement would allow the city attorney's office to utilize the criminal justice data communications network.

It was moved by Nieuwebeerta, seconded by Garbe and unanimously passed to approve the agreement, as presented.

7(N) WATER TOWER IMPROVEMENTS/ADDITIONS.

Utilities Superintendent Hayunga and City Manager Jones discussed proposed improvements/additions to the water tower, including paint and other items necessary to enable the tower to house the advanced communication equipment (antennas, handrails, electronics shed). For the most part, these additions will be paid for out of the county grants funds for the electronic equipment. Staff recommended approving proceeding with plans to add new handrails and to build an internal shed to house the electronic equipment.

It was moved by Johnsrud, seconded by Curtiss and unanimously passed to authorize the improvements/additions, as noted.

7(O) RECONSTRUCTION OF HIGHWAY 29.

As a part of the September 15<sup>th</sup> meeting, the council had discussed the condition of State Highway 29 in Montevideo, and had instructed staff to prepare a resolution asking for support from Mn/DOT for its reconstruction. A resolution was prepared for council consideration.

BRYCE CURTISS OFFERED RESOLUTION NO. 3054, A RESOLUTION REGARDING RECONSTRUCTION OF STATE HIGHWAY 29 IN MONTEVIDEO,

AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3054 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. RESOLUTION PASSED 5-0.

7(P) USE OF CONTINGENCY FUND - GOVERNOR'S PHEASANT HUNT.

City Manager Jones explained that the 1<sup>st</sup> Annual Governor's Pheasant Opener will be held in Montevideo. Technically speaking the Chamber of Commerce is the host; however, practically speaking, this has been a city run event. A draft budget for the event was prepared and outside sponsors have been sought; however, staff requested the council commit to "up to \$5,000," as is needed. The city attorney advised that use of these funds (which are intended to better the community through economic development activities) would be an approved use of city funds.

It was moved by Garbe, seconded by Johnsrud and unanimously passed to approve the use of up to \$5,000 from the city's Contingency Fund for this purpose, if needed.

7(Q) BOULDER PURCHASE FOR DAM PROJECT.

City Manager Jones explained that the Department of Natural Resources (DNR) would like the city to acquire an additional 50 boulders, using the U.S. Fish & Wildlife Grant. Bids have been taken, with the low bid being submitted by Schoep & Sons Contracting, in the amount of \$6,500 plus tax.

It was moved by Nieuwbeerta, seconded by Curtiss and unanimously passed to authorize the purchase, as indicated.

8. Ordinances.

8(A) ADOPTION OF ORDINANCE NO. 912.

IT WAS MOVED BY MARVIN GARBE THAT ORDINANCE NO. 912, AN ORDINANCE REZONING A PORTION OF LAND FROM R1, SINGLE-FAMILY RESIDENTIAL TO B2, HIGHWAY BUSINESS DISTRICT, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF ORDINANCE NO. 912 WAS SECONDED BY BRYCE CURTISS. THOSE VOTING IN FAVOR OF MOTION: MARVIN GARBE, BRYCE CURTISS, AL JOHNSRUD, KAREN NIEUWBEERTA



Minutes/City Council  
September 6, 2011  
Page No. 9

AND SANDRA HODGE. THOSE VOTING AGAINST MOTION: NONE.  
ORDINANCE PASSED 5-0.

9. Discussion and Miscellaneous.

Council member Johnsrud reminded council and viewing audience of the 10<sup>th</sup> anniversary of 9/11 and asked that the victims and their families be remembered at this time.

Meeting adjourned at 7:58 P.M.

---

Glennis A. Lauritsen, Secretary

Approved by council September 19, 2011:

---

Sandra Hodge - President