

CITY OF MONTEVIDEO
CITY COUNCIL PROCEEDINGS
February 6, 2012

The city council met in regular session Monday, February 6, 2012 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, Karen Nieuwebeerta, Sandra Hodge, Al Johnsrud and Bryce Curtiss. Mayor Debra Lee Fader present.

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

Council President Hodge welcomed high school students present in the audience to observe the council proceedings, inviting them to pose their questions throughout the meeting.

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

MODIFY:

ORDER OF THE AGENDA - MOVING ITEMS 7(N) AND 7(S) TO THE BEGINNING OF GENERAL BUSINESS - INASMUCH AS INDIVIDUALS ARE PRESENT TO DISCUSS THOSE ITEMS.

5(A) CONSIDER APPROVAL OF VERIFIED CLAIMS FOR THE PERIOD ENDING FEBRUARY 3, 2012 IN THE AMOUNT OF ~~\$512,237.98~~ \$520,703.23.

Modified amount reflects the addition of the following:

<u>LEGAL</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
Nelson Oyen Torvik	January services	\$3,018.54
<u>MISCELLANEOUS</u>		
Farmer's Union Oil Company	Gas	3,604.43
Orbitcom	Phone	1,842.28

7(D) CONSIDER PLANNING COMMISSION RECOMMENDATION TO APPROVE SITE PLAN FOR THE CONSTRUCTION OF AUTOMOTIVE PARTS STORE IN A B2 (HIGHWAY COMMERCIAL) ZONE BY APPLICANT O'REILLY AUTOMOTIVE, INCORPORATED.

Additional comments by staff provided regarding access easement and drainage issues.

ADD:

7(S) CONSIDER THE CITY ACTING AS A FIDUCIARY RECIPIENT FOR A MN TWINS FIELDS FOR KIDS GRANT.

It was moved by Garbe, seconded by Johnsrud and unanimously passed to approve the minutes of the council worksession of January 17, 2012 and regular meeting of January 17, 2012, as presented.

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

- None.

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 FEBRUARY 3, 2012 IN THE (MODIFIED) AMOUNT OF \$520,703.23.

5(B) LIST OF SURPLUS/SEIZED ITEMS FOR SALE BY THE POLICE DEPARTMENT.

5(C) USE OF MAIN STREET FOR ST. PATRICK'S DAY PARADE ON SATURDAY, MARCH 17, 2012 BEGINNING AT 5:15 P.M.

6. Public Hearings.

- None.

7. General Business.

As approved earlier, the order of the agenda was modified, to consider items 7(N) and 7(S) at this time.

7(N) DISC GOLF.

Earlier in 2011, the park board and council approved the concept of installing frisbee golf in Lagoon Park. Since that time, a proposal has been submitted from Jason Buckingham and Sunset Lodge #109 which was presented to the park board for consideration at its meeting on February 2nd. The park board recommended that the general plan, including design and fund raising, may proceed at this time. Jason Buckingham was present to address questions/concerns raised by the council. Greg Schwaegerl, Public Works Director, was also present for the discussion.

Buckingham outlined potential funding sources, including the Montevideo Area Community Foundation (match grant \$2,500.00); individual donation drive by Sunset Lodge (\$2,700.00); Wal-Mart Community Foundation (match grant \$2,500.00). He noted that any shortages from grant writing would first be made up through additional fund raising. If funds cannot be secured for the entire project, the project scope would be scaled back.

Staff noted that once grant funds are submitted to the city to cover the cost of the project, equipment would be purchased by the city and actual construction could proceed.

It was moved by Garbe, seconded by Johnsrud and unanimously passed to approve the general plan, including equipment and layout; approve the donation/financing plan, as submitted; and, approve the ordering of equipment upon 100% of funds being donated.

7(S) MN TWINS FIELDS FOR KIDS GRANT.

Doug Broich was present to request that the city apply for a MN Twins Fields for Kids Grant to make improvements at Windom Field and the high school field. (Grant monies must be run through a 501(c)3 organization or a governmental agency.) Broich explained that the grant is available for up to \$10,000, with a local match of cash or in-kind. A fund raising campaign has been started with local donations already being committed to the project.

It was moved by Johnsrud, seconded by Curtiss and unanimously passed to authorize staff to submit the grant application and to act as the fiduciary recipient.

At this time, the order of the agenda resumed.

7(A) PURCHASE OF METER READING HANDHELD RADIO READS.

Utilities Superintendent Byron Hayunga was present to discuss the need to purchase new radio read handhelds for meter reading activity. The new handhelds would be upgrades to the 3000/4000 series currently used by the utilities department and would read both old and new radio read meters, as well as touch read meters. HD Supply has submitted a price for the upgrades of \$12,931.88 (tax included.) Funds for the purchase would come from the utility capital improvement fund where \$15,000.00 is budgeted for this purpose.

It was moved by Garbe, seconded by Nieuwbeerta and unanimously passed to approve the purchase of two (2) AR5502 series handhelds for a total cost of \$12,931.88.

7(B) TANKER/FLUSHER TRUCK TANK REPLACEMENT.

Public Works Director Greg Schwaegerl was present to explain that the tank on the 1993 tanker/flusher truck has deteriorated to the point where it needs to be replaced. The interior of the tank is pitted and now the exterior is showing signs of failure as well. Two options were explored by staff: 1) replacing the truck and tank; and, 2) replacing just the tank. Cost of replacing the truck is not feasible at the present time, since the unit wasn't due for replacement until 2015. Tank replacement ranged from \$24,500 for a new stainless steel tank to \$4,700 for a poly tank.

After researching the tanks, it is staff's recommendation that a poly tank and mounting skid be purchased from Abner Sales in Benson, MN, for a total cost of \$5,041.29 (tax included). The tank would be mounted on the 1993 Ford chassis, with all removals and mounting being done by public works staff.

It was moved by Johnsrud, seconded by Curtiss and unanimously passed to authorize the purchase, as recommended by staff.

7(C) SITE PLAN - CHIPPEWA ENTERPRISES.

Nick Haggemiller, Assistant City Manager for Community Development, was present to discuss the site plan submitted by Chippewa Enterprises for the construction of a 64' x 140' adult day training and habilitation center at 808 Ashmore Avenue. Haggemiller stated that the planning commission had met on January 23rd to review the plan and recommended approval, as presented, subject to city staff review/approval of the final drainage and grading plan.

It was moved by Garbe, seconded by Nieuwbeerta and unanimously passed to approve the site plan, as submitted, subject to city staff review/approval of the final drainage and grading plan.

7(D) SITE PLAN - O'REILLY AUTOMOTIVE.

Nick Haggemiller, Assistant City Manager for Community Development, discussed the site plan submitted by O'Reilly Automotive for the construction of an 80' x 80' retail store on Lot 1, Block 1 - Ost Addition (2509 East Highway 7). Haggemiller stated that the planning commission had met on January 23rd to review the plan and recommended its approval, as presented.

Haggemiller explained that at a later date, the city received detailed information concerning the access easement and drainage for the site. Upon review, the city is requesting the following additional modifications to the site plan to be completed by O'Reilly:

- Adding an additional manhole at the bend near the trash pad (northwest corner of the building.)
- Modifying as to include a smaller pipe for discharge from the bottom of the pond into this manhole, with an overflow at a higher elevation into the same manhole, eliminating the need for the weir. By doing so, this would allow flows during normal rain events, but full capacity during heavy rain events. Further, by eliminating the weir, there is no standing water in the pipe and no sedimentation or mosquito control issues.
- In places where riprap is required, the city proposes using Mn/DOT Class 3.

It was moved by Johnsrud, seconded by Nieuwbeerta and unanimously passed to approve the site plan, as presented, including the additional modifications outlined and recommended by staff.

7(E) FINANCING FOR BUYOUTS IN SMITH ADDITION.

Nick Haggemiller, Assistant City Manager for Community Development, was present to discuss possible funding sources to finance the 50% match grant requirement associated with the acquisition and demolition of three residential properties in Smith Addition. The total anticipated project cost is \$142,400. The flood mitigation grant will provide 50% (\$71,200) of the total project cost; a local match of the remaining 50% is required to move forward with the project.

The following sources were outlined:

Small Cities Development Program Funding (leftover/returned funds)	\$30,130
EDA Contribution	32,000
Capital Improvement Program	7,805
Community Development Block Grant Fund	1,265
TOTAL	\$71,200

It was moved by Garbe, seconded by Nieuwbeerta and unanimously passed to direct staff to proceed with acquisition of the properties using the funding sources listed above.

7(F) ABATEMENT OF NUISANCE AT 569 GRAVEL ROAD.

Haggemiller discussed the steps city staff had taken to abate a nuisance at 569 Gravel Road (downed tree debris). Notices have been sent to the property owner, with no resolve. Therefore,

a resolution has been drafted directing the property owner to abate the nuisance or appear before the council within 30 days.

MARVIN GARBE OFFERED RESOLUTION NO. 3090, A RESOLUTION DIRECTING THE ABATEMENT OF NUISANCE AT 569 GRAVEL ROAD, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3090 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) INTERNET CRIMES AGAINST CHILDREN TASK FORCE.

Police Chief Adam Christopher was present to request that one of the police officers be authorized to become a member of Internet Crimes Against Children Task Force (ICAC). The membership would allow such officer to be trained in investigation of internet child pornography and exploitation cases. Such membership requires a joint powers agreement with the Bureau of Criminal Apprehension (BCA), which has been provided to the council for its review and consideration. A resolution has also been provided which authorizes execution of the agreement. The BCA would provide or reimburse for related training and equipment expenses.

AL JOHNSRUD OFFERED RESOLUTION NO. 3091, A RESOLUTION APPROVING EXECUTION OF JOINT POWERS AGREEMENT, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3091 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) PERA ELIGIBILITY - PART-TIME POLICE OFFICER TED ARGABRIGHT.

MARVIN GARBE OFFERED RESOLUTION NO. 3092, A RESOLUTION PROVIDING FOR ELIGIBILITY INTO PUBLIC EMPLOYEES RETIREMENT ASSOCIATION (PERA) POLICE & FIRE FUND, AND MOVED ITS ADOPTION. MOTION FOR ADOPTION OF RESOLUTION NO. 3092 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(I) PARK DEPARTMENT MOWERS.

Public Works Director Greg Schwaegerl was present to discuss the purchase of three (3) mowers for use in the park department. In order to get the lowest price, staff recommends purchasing the

mowers from the local John Deere vendor (Kibble Equipment) under a state (Iowa) bid contract for an after trade price of \$4,969.68. The Iowa state contract would be utilized inasmuch as Kibble Equipment is not an authorized vendor for the MN state contract. Schwaegerl added that costs under the MN state contract from another authorized vendor would result in a much higher cost (\$11,135.00 + tax.)

It was moved by Garbe, seconded by Curtiss and unanimously passed to purchase three (3) Z920 54" deck mowers from John Deere Corporation off of the Iowa state contract through Kibble Equipment.

7(J) UTILITY TRACTOR REPLACEMENT.

Public Works Director Schwaegerl discussed the need to replace a 1971 140 Farmall tractor with a new unit. The tractor would be equipped with an attached mower deck and would be used to mow some of the larger areas, such as Camp Release, Mn/DOT right-of-way and the Gravel Road area by the levee. Schwaegerl stated that (similar to the mower purchase) in order to get the lowest price, staff recommends purchasing from the local John Deere vendor under a state (Iowa) bid contract but use Kibble Equipment as the vendor. Schwaegerl added that costs under the MN state contract from another authorized vendor would result in a much higher cost (\$32,699.00 + tax.)

It was moved by Nieuwbeerta, seconded by Curtiss and unanimously passed to purchase a new John Deere 4720 from Kibble Equipment through the IA-DOT state bid contract for a price of \$29,993.83.

7(K) GROOMER MOWER DECK PURCHASE.

Public Works Director Schwaegerl discussed the need to purchase a 72-inch mid-mount groomer mower deck for use in the park department. The deck would be mounted under the 4720 John Deere tractor (approved for purchase in the previous agenda item.) The mower deck would also be purchased from Kibble Equipment under the IA-DOT state bid contract and would include installation of mid-mount hydraulic valves. Total cost would be \$4,003.71. Schwaegerl noted that costs under the MN state contract from another authorized vendor would result in a much higher cost (\$4,879.00 + tax.)

It was moved by Johnsrud, seconded by Garbe and unanimously passed to authorize the purchase of the 72-inch mid-mount groomer mower deck from Kibble Equipment through the IA-DOT state bid contract for a total price of \$4,003.71.

7(L) 12' GROOMING MOWER PURCHASE.

Public Works Director Schwaegerl explained that the existing 12' Frontier mower is now seven (7) years old and is showing signs of wear. The mower decks were repaired a year ago and need additional repairs. Schwaegerl noted that this mower takes the place of three (3) tractor mowers. It is an essential piece of equipment for the city during the mowing season. Similar to the previous agenda items, this piece of equipment would also be purchased from Kibble Equipment under the IA-DOT state bid contract at a purchase price of \$11,034.54. Costs under the MN state contract from another authorized vendor would result in a much higher cost (\$18,909.00 + tax.)

It was moved by Curtiss, seconded by Nieuwbeerta and unanimously passed to authorize the purchase of the 12' Frontier mower from Kibble Equipment through the IA-DOT state bid contract at a purchase price of \$11,034.54.

7(M) 2012 OUTDOOR POOL SEASON.

Public Works Director Schwaegerl stated the park board had met on Thursday, February 2, 2012 and made its recommendation regarding the 2012 outdoor pool season. The pool season would run from June 11-August 26, open daily from 1PM to 8PM. Rates for 2012 would remain the same as 2011, as follows:

- ▶ Individual passes available to all age groups, resident or non-resident, in the amount of \$50.00
- ▶ Tickets (valid for 2012 season only) will be available for those who choose not to buy a season pass. Tickets will be sold in the following quantities:
 - ▶ 50 tickets for \$100.00
 - ▶ 25 tickets for \$62.50
 - ▶ 10 tickets for \$27.50
- ▶ Daily Admission will be available at the following rates:

Pool & waterslide	\$3.00/session
Wading pool	\$1.00/session
Family night swim	\$6.00/family
Lap Swim	\$2.00

It was moved by Johnsrud, seconded by Nieuwbeerta and unanimously passed to approve the 2012 Outdoor Pool Season Proposal, as recommended by the park board.

7(N) PREVIOUSLY CONSIDERED.

7(O) PARK COMPREHENSIVE PLAN.

Public Works Director Schwaegerl explained that staff has seen a rise in the amount of projects that are being proposed for inclusion into the park system. At the same time, resources have been cut, and some existing programs/projects are unfunded or underfunded. The existing park comprehensive plan was completed in 1999, and the latest comprehensive city-wide survey was conducted in 2006. Staff recommended that prior to any major new projects being attempted, a complete survey of all park assets and programs be compiled and that a new comprehensive park plan be put into place.

It was moved by Johnsrud, seconded by Garbe and unanimously passed to proceed as follows:

1. Staff complete an inventory of all park assets (including condition of the assets);
2. That a comprehensive survey to sent to residents in 2012 asking their wishes for the parks.
3. That the park board recommend, and the city council ultimately approve a new park comprehensive plan.
4. A work plan be developed that can be reflected in future budgets and CIP.

7(P) BIDS - LAGOON PARK BRIDGE REPAIRS.

In 2010, the city was approved for grant funds from FEMA and the state for repairs to the Lagoon Park bridges. Due to high water in 2011, this project was not bid out. Bids have now been taken, resulting in the following:

<u>Bidder</u>	<u>Bid</u>
Peters Construction, Inc. - Montevideo	\$29,804.00
MAAC, Inc. - Montevideo	\$31,000.00
Duininck, Inc. - Prinsburg	\$79,734.00

It was moved by Garbe, seconded by Nieuwbeerta and unanimously passed to award the bid to Peters Construction, Inc. in the amount of \$29,804.00.

7(Q) 2012 BOARD OF APPEAL & EQUALIZATION MEETING DATE(S).

It was moved by Nieuwbeerta, seconded by Garbe and unanimously passed to designate the date of Monday, April 23, 2012, from 6:00-6:30 P.M. for the purpose of a Board of Appeal & Equalization Meeting. If necessary, a second meeting for resolution of challenges raised at the first Board of Equalization will be suggested by the county assessor on the 23rd (likely just prior to the regular council meeting on May 7th.)

7(R) ASSESSMENT PLAN FOR 2012 ORCHARD CIRCLE IMPROVEMENTS.

City Manager Jones explained that the city has an existing assessment policy for road and utility construction, but in some cases the policy cannot take into account all issues. The plan itself allows the council to make alterations as needed. In the case of Orchard Circle, because of oddly configured lots due to the cul-de-sac, not all lots have the same or similar front footage to the road, even if lot sizes are similar in nature. Because of this, the council needs to discuss and develop a fair assessment plan prior to taking bids and assessing the project.

City Engineer Berryman reviewed the memorandum he had prepared for this issue, which outlined four (4) methods of calculating the assessments:

- Method 1 - Actual frontage
- Method 2 - Square footage
- Method 3 - Average
- Method 4 - Adjusted frontage based on a 25' setback

Berryman's recommendation was for either Method 3 (average) or Method 4 (25' setback line.) He noted that Method 3 is probably more fair than Methods 1 and 2, but lots with less usable frontage are assessed the same as those with three times the usable frontage. Method 4 increases the small pie shaped frontages and reduces the large frontages, but not to the extent of the average Method 3. It also takes into account the difference in usable frontage. Staff recommended using Method 4.

After considerable discussion, however, the council felt that Method 2 - square footage - would be the best method of calculation, and the most defensible.

It was moved by Garbe, seconded by Curtiss and unanimously passed to use Method 2 for calculating assessments on Orchard Circle, noting that Lot A does not have direct access to Orchard Circle, except for 71' and, therefore, the assessments for it would be calculated based on that 71' and not the square footage of the entire parcel.

7(S) PREVIOUSLY CONSIDERED.

8. Ordinances.

8(A) SNOWMOBILE ORDINANCE MODIFICATIONS.

Police Chief Adam Christopher was present to explain that the police department has received many requests from residents to operate Class 2 ATV's on city streets. The city's current ordinance language does not allow such operation. In addition, the city's ordinance currently

combines snowmobiles and ATV's and does not address the Class 2 ATV's. Therefore, the city attorney has drafted a revision to the city's snowmobile ordinance which removes references to all-terrain vehicles. A second ordinance has been developed to address all-terrain vehicles (see Agenda Item 8(B)).

Christopher had provided a picture of varying types of ATV, which showed types that would be allowed under a new ordinance and those that would not be allowed. The information also listed the following miscellaneous provisions for those types allowed:

- Must be 18 years old and have a valid ID
- Permit required from the city (same as golf cart permit)
- Max of 25 mph and cannot be used on State or U.S. Highways
- Registered by the State and must have proof of insurance
- DWI laws and open bottle laws apply.

Council President Hodge stated she has dealt with licensing of these type of vehicles, in her profession at the Chippewa County License Bureau. Hodge cautioned that once the door is open, the city needs to be prepared to deal with all issues associated.

FOLLOWING DISCUSSION, MARVIN GARBE INTRODUCED ORDINANCE NO. 913, AN ORDINANCE AMENDING VARIOUS PROVISIONS OF CHAPTER 4 OF TITLE 6 OF THE MONTEVIDEO CITY CODE, SNOWMOBILES AND ALL-TERRAIN VEHICLES.

8(B) NEW ATV ORDINANCE.

As stated in the previous agenda item, the city attorney has developed a new all-terrain vehicle ordinance to include Class 2 ATV's. Police Chief Christopher explained that these vehicles are typically the side-by-side "workhorse" type ATV's. He stated that the larger Class 2's are typically used by companies, or for ag-related activity, and by responsible drivers.

Council member Nieuwbeerta asked whether snow removal activity would be allowed on city sidewalk or other rights-of-way under the new ordinance, inasmuch as she has seen blades attached to the front of ATV's for that purpose. Following discussion, the city attorney was directed to revise the ordinance to include language to provide for this activity.

AL JOHNSRUD INTRODUCED ORDINANCE NO. 914, ALL TERRAIN VEHICLES.

9. Discussion and Miscellaneous.

- ▶ City Engineer Berryman stated that the Chippewa River dam removal is slated for mid-late summer.

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- ▶ Council member Garbe stated that the American Legion will be participating in a Wreaths Across America Program by selling wreaths @ \$15.00 each to be placed at the gravesites of veterans. He stated that there are 666 sites throughout the nation, with 13 of those sites located in Minnesota. Kickoff for the program is scheduled for December 15th.

Meeting adjourned at 8:28 P.M.

Glennis A. Lauritsen, Secretary

Approved by council March 5, 2012:

Sandra Hodge - President