

Draft Council Minutes

City Adm. Bldg. Owatonna, Minnesota Tuesday, August 18, 2009 7:00 o'clock P.M.

City Council met in regular session in the Council Chambers, with Council President Thompson presiding. Present at roll call were Council Members Abraham, Wittrock, Svenby, Falk, and Thompson. Absent at roll call were Council Members Moen and Ellingson. (Council Member Ellingson arrived later.) Also present were Mayor Kuntz, City Administrator Busse, City Attorney Walbran, City Engineer Johnson, Community Development Director Strand, Chief of Police LaDue, and Assistant City Clerk Hill.

Following the *Pledge of Allegiance* and welcome, Council President Thompson announced the withdrawal by applicant of item 2.4b – request to block off a portion of 18th Street SW – from the agenda. **Council Member Svenby moved and Council Member Abraham seconded approval of the agenda for August 18, 2009, with the change. All five (5) council members present voting aye, the motion passed.**

Chief of Police LaDue welcomed the family members of newly promoted Sergeant Jason G. Petterson and newly hired Police Officer Joseph T. Swenson. LaDue noted that Swenson replaces an officer that left early last year and Petterson's promotion was budgeted with the resignation of a former captain. After LaDue's background of each officer, Mayor Kuntz proceeded to administer the oath of office to the officers and then family members pinned on their badges. LaDue announced a reception in the Arts Center for the two officers, and Council President Thompson congratulated them on behalf of the Council.

During *Public Comment*, Victorino Peña Perez addressed Council regarding the playing of music from his ice cream truck, for which he applied, paid the fee, and was granted a street vendor license. He explained that the police had stopped him and advised him that city ordinance prohibits him from playing music from his ice cream truck. Mr. Perez explained that ringing a bell does not work and no music means no business for him. He asked Council to tell him how loudly to play his music and he would respect that. City Administer Busse commented that staff did experience complaints from the community and is working on an amendment to the ordinance to bring back to Council on September 1. Council President Thompson asked if there was anything that could be done in the meantime, and City Attorney Walbran advised Council of a conflict in the city ordinance where the vendor's ordinance does not permit the playing of music, which falls under a different ordinance requiring an additional fee of \$50 per day. Council Member Wittrock asked if Council could make a motion to temporarily suspend the ordinance in this case. City Attorney Walbran replied that Council cannot legally go against what the ordinance currently prohibits and will bring the amended ordinance back for Council action on September 1.

Council Member Ellingson arrived at 7:18 p.m.

Brad Kollmann, law enforcement liaison with the Minnesota Department of Public Safety, presented the Owatonna Police Department (OPD) with a certificate of commendation for their outstanding commitment to safety and well-being of citizens through traffic outreach and education. Mr. Kollman also presented the 2009 Outstate All Star award to Officer Swenson for his dedication to traffic safety and noted this was the second consecutive year he received this award. Council President Thompson congratulated the OPD, reported on his ride along and witness to a routine traffic stop that resulted in something more serious, and announced a two-minute break to allow audience members to exit to the Arts Center reception.

At 7:33 p.m., Council President Thompson continued with the agenda and recapped the expenses for the period. **On motion by Council Member Wittrock and seconded by Council Member Falk, bills presented for payment totaling \$1,824,261.33 were accepted. All six (6) council members present voting aye, the motion passed.**

Council Member Abraham moved and Council Member Svenby seconded approval of the following list of *consent agenda* items with the withdrawal of item 2.4b, request to block off a portion of 18th Street SW. All six (6) council members present voting aye, the following list of consent agenda items was approved.

- Minutes of City Council meeting held August 3, 2009.
- Application for parade permit from OHS Student Council for parade to be held October 2 beginning at 1:30 p.m. at corner of Rose Street and North Cedar Avenue.
- Application for Exempt Permit from Owatonna Arts Center to conduct raffle on September 12 at 435 Garden View Lane.
- Minutes and Reports:
 - ✓ Planning Commission Minutes of August 11, 2009.
 - ✓ West Hills Commission Minutes and letter of August 11, 2009, regarding Owatonna Arts Center Entry Addition.
 - ✓ Building Inspection Department Comparison Report through July 31, 2009.
 - ✓ Fire Department Monthly Activity Report through July 2009.
- Request to block off Lancer Drive NE between 812 Lancer Drive and 820 Lancer Drive on Saturday, August 22 from 2:00 p.m. to 12:00 a.m. for a neighborhood block party.
- Request from Cabela's to hold a trap shooting demonstration at Cabela's by professional shooter Tom Knapp from 1:00 p.m. to 2:00 p.m. on Saturday, September 19.
- Renewal T-hangar lease agreement with Dave Viegut.

During *Licenses and Permits*, City Administrator Busse presented an application for a new off sale liquor license from FPWRR, LLC dba MGM Liquors – Owatonna, 1100 Frontage Road #190 for September 1, 2009 through June 30, 2010. She reported that all requirements were met by the applicant to include the certificate of liquor liability insurance and that staff recommends approval. **Council Member Falk moved approval of the new off sale liquor license; Council Member Wittrock seconded the motion. All six (6) council members present voting aye, the motion passed.**

During *Miscellaneous Actions*, City Administrator Busse reported on a request from Owatonna Arts Center for authorization to submit a grant to the Owatonna Foundation for a capital improvement plan that would include a new entrance way, elevator, gallery space, and reception area for the Arts Center. Silvan Durben, artistic director, and Scott Roberts, business director, were present for questions. Mr.

Durben explained that the Arts Center will be using the \$500,000 from the half cent sales tax as a match of funds in their grant application to the Owatonna Foundation. He stressed their objective to maintain the historical perspective of West Hills Complex intact and to observe all state and federal mandates. Mr. Durben reported that approval had been received from the Owatonna Arts Center Board of Directors and the West Hills Executive Commission. **Council Member Abraham moved approval of this request for Council authorization to submit the grant application, and Council Member Falk seconded the motion. All six (6) council members present voting aye, the motion passed.**

City Engineer Johnson presented a request for Council approval of professional engineering services by Bonestroo for the North Cedar Avenue Bridge Project. Johnson explained that the City currently has an agreement with Bonestroo for a not-to-exceed amount of \$68,920 for professional engineering services for the North Cedar Avenue Bridge project, which covers the design and administration through the bidding process. He further explained that construction staking, construction observation/administration/documentation, construction inspection, and materials testing will be provided by Bonestroo under this new agreement for a not-to-exceed amount of \$143,100. Johnson stated that the engineering costs for this project are eligible for reimbursement from the City's municipal state aid funds. **Council Member Falk moved approval of these engineering services by Bonestroo for the North Cedar Avenue Bridge Project, and Council Member Abraham seconded the motion. All six (6) council members voting aye, the motion passed.**

City Engineer Johnson presented a request for new stop sign installations and sign changes. He explained that stop signs are warranted where low volume streets meet streets with high traffic volumes. This is the case for the three new stop signs that are part of the West Bridge Street extension and the signage change for the two yield signs on Hazel Lane NE. Johnson noted minimal budget impact, which is part of the operating budget, and recommended approval. **Council Member Svenby moved approval of the installation of the stop signs at these locations; Council Member Ellingson seconded the motion. All six (6) council members voting aye, the motion passed.**

During *Board and Commission Recommendations*, Community Development Director Strand presented Conditional Use Permit No. C-1310, a request to demolish two existing buildings and construct a parking lot within an R-6 High Density Residential District and R-B Residential Business District at 245 and 249 East Broadway Street. Strand explained that the applicant, Federated Mutual Insurance Company, is proposing to purchase two existing homes to demolish and expand their existing parking lot along East Broadway Street to Grove Avenue. The applicant plans to provide underground storage for the stormwater runoff from the lot. Strand explained that while the system has not been fully designed, the demolition permits will not be issued by city staff until the final design of the storage facility is reviewed by City Engineering to insure that it meets the City's stormwater regulations. The Planning Commission recommended City Council approval of this conditional use request after holding public hearing. Council Member Falk asked about whose responsibility it would be for the maintenance and flushing out of the system every two years. Strand responded that maintenance would be the responsibility of the owner, and like rain gardens and storm ponds, this would become part of the maintenance schedule that the City would be tracking to make sure upkeep is done. Council Member Svenby asked if the property would be rezoned at a later date. Strand replied that with the removal of the small business located on the corner, it would make sense to rezone to conform to the zoning of the surrounding properties. **Council Member Falk moved approval of Conditional Use Permit No. C-1310; Council Member Svenby seconded the motion. All six (6)**

council members present voting aye, the motion passed.

Community Development Director Strand moved on to the next item on the agenda, Variance No. 1311, a request to place two 32 square foot internally lighted wall signs within the B-3 Central Business District at 124 South Oak Avenue. He explained that the applicant, Fast Wireless, is proposing to install a 32 square foot internally lighted wall sign along East Main Street to replace an existing 60 square foot internally lighted sign and a 32 square foot internally lighted sign along South Oak Avenue to replace an existing 32 square foot internally lighted sign. The applicant is taking on Verizon products and service and the company requires this type of signage. Strand reminded Council of the sign ordinance revisions adopted for the B-3 zoning district in late 2006. The amendments are intended to get downtown signage to be more pedestrian oriented and more historically accurate to the original signage on the buildings. It was noted at the time of adoption there would be the likelihood of variances being granted to address existing nonconforming signs in parts of the B-3 district that are not part of the downtown core. Strand reported that after holding public hearing, the Planning Commission recommended City Council approval of this variance request based on the following: 1) the proposed signage, although nonconforming by type of signage, does bring the signage on the building into compliance for size and 2) the site of the proposed signage does not contain an architecturally significant building. **Council Member Wittrock moved approval of Variance No. 1311; Council Member Ellingson seconded the motion.** Council Member Falk noted his disappointment that the applicant did not attend the Planning Commission public hearing. **All six (6) council members present voting aye, the motion passed.**

During *Resolutions*, City Engineer Johnson reported receiving three bids on July 21, 2009, for the 2009 Cedar Avenue Bridge Over Maple Creek and Street and Sidewalk Improvements Project with the lowest responsible bidder being Minnowa Construction Inc. of Harmony, Minnesota, for \$1,122,647.05, which was \$67,352.95 or 5.66 percent under the Engineer's estimate. Johnson explained that funding for this project is from the American Recovery and Reinvestment Act (ARRA) of 2009 or economic stimulus money granted the City and recommended approval. **Council Member Abraham introduced and moved adoption of Resolution No. 49-09, "A Resolution Accepting Bid and Awarding Contract," to Minnowa Construction, Inc. Council Member Svenby seconded the motion.** Council President Thompson confirmed with City Engineer Johnson that the bridge replacement was already scheduled and work had begun using local state aid funds. Council Member Svenby asked about the timeline for construction. Johnson responded that project specifications require the project be substantially complete by December 1. **All six (6) council members present voting aye, the Resolution No. 49-09 was declared adopted.**

City Administrator Busse presented Resolution No. 50-09, "A Resolution Approving Application for Premises Permit," from the Owatonna Youth Hockey Association (OYHA) to conduct lawful gambling under a lease agreement with Weber's Bar at 218 North Cedar Avenue. Busse explained that although Weber's is now closed, the owner has indicated intent to reopen in mid September and the OYHA wants to have all their paperwork in order since the Minnesota Gambling Control Board is requiring the OYHA to reapply as a new premises permit for that location. **Council Member Abraham moved adoption of Resolution No. 50-09; Council Member Ellingson seconded the motion. All six (6) council members voting aye, the motion passed.**

City Engineer Johnson presented for Council approval Supplemental Agreement No. 1 with Crane Creek Asphalt Inc. for the 2009 Curb & Gutter and Bituminous Surfacing Project for an additional

\$13,924. He explained that the owner of the two properties on Creekside Lane NE just west of Deer Trail Lane NE has requested to have that section of roadway improved with concrete curb and gutter and bituminous surfacing. The owner is aware of the assessments associated with the improvement and has signed a Waiver of Public Hearing. Johnson further explained that the contractor has agreed to perform the work at an estimated cost of \$13,924.84, and the entire cost of the project will be reimbursed from assessments levied to the abutting properties at the typical seven percent over a ten year period. **Council Member Ellingson moved approval of Supplemental Agreement No. 1 with Crane Creek Asphalt Inc.; Council Member Falk seconded the motion. All six (6) council members voting aye, the motion passed.**

During *Flood and Stormwater Projects Update*, City Engineer Johnson provided a brief verbal update on the progress of the southeast storm sewer project. He reported that the contractor had indicated that excavation of the storm pond would begin the first week in September with substantial completion by December. Council President Thompson noted that the area is staked out and ready to start excavation.

During the *Council Comment*, Mayor Kuntz issued a reminder that candidate filings open for council member at large and three wards on Tuesday, August 25. He also noted that the Building Inspection Monthly Report through July 2009 reported 27 new single family dwellings this time last year compared to 5 new single family dwellings this year and the value of permits at \$59 million last year compared to \$19 million this year. He stated this was a sign that the economy is down. Council Members Abraham, Ellingson, and Wittrock encouraged all to enjoy the Steele County Free Fair. City Administrator Busse announced the next Council study sessions on September 1 in Council Chambers at 5:00 p.m. for the 2010 proposed budget and 6:00 p.m. for the Rose Street pathway. Council President Thompson wrapped up with a reminder to be safe at the fair.

There being no further business to come before the Council, Council Member Svenby moved to adjourn. Council Member Ellingson seconded the motion. All six (6) council members present voting aye, the meeting adjourned at 7:57 p.m.

Dated August 18, 2009

Respectfully submitted,

/s/ Deborah J. Hill, Assistant City Clerk