

Draft Council Minutes

City Adm. Bldg. Owatonna, Minnesota Tuesday, February 17, 2009 7:00 o'clock P.M.

City Council met in regular session in the Council Chambers of the City Administration Building, with Council President Thompson presiding. Present were Council Members Abraham, Moen, Ellingson, Wittrock, Svenby, Falk, and Thompson. Also present were Mayor Kuntz, City Administrator Busse, City Attorney Walbran, Director of Parks and Recreation McKay, and Assistant City Clerk Hill.

Following the *Pledge of Allegiance* and welcome by Council President Thompson, Council Member Ellingson moved approval of the agenda for February 17, 2009, and Council Member Falk seconded the motion. All council members voting aye, the motion passed.

With nobody present wishing to be heard during *Public Comment*, Council President Thompson recapped the expenses for the period. *Bills* presented for payment totaling \$478,790.41 were accepted on motion by Council Member Wittrock and seconded by Council Member Abraham. All council members voting aye, the motion passed.

Council President Thompson explained that council members review the *consent agenda* items prior to each council meeting, question individual items during the approval process, and approve them under one motion during the public meeting. Council Member Moen moved and Council Member Svenby seconded approval of the *consent agenda* items as presented. All council members voting aye, the following list of consent agenda items was approved.

- **Minutes of the City Council meeting held February 3, 2009.**
- **Application for Temporary On-Sale Liquor License from Owatonna Business & Professional Women** for annual Women of Achievement Event at the Owatonna Arts Center, 435 Garden View Lane, on March 13, 2009.
- **Application for Parade Permit from Zuhrah Shrine** for parade to be held on May 16, 2009, starting at 2:00 p.m. at Rose Street and North Cedar Avenue.
- **Board and Commission Minutes and Reports:**
 - ✓ Park and Recreation Board Minutes of February 9, 2009.
 - ✓ Building Inspection Department Comparison Report through January 31, 2009.
 - ✓ Fire Department Monthly Activity Report through January 2009.

During *Licenses and Permits*, City Administrator Busse reported on requests from Just One More, 149 West Bridge Street, to hold a public dance and extend their liquor license premises to the 100 block of West Bridge Street on Friday, June 12, 2009, from 6:00 p.m. to midnight, in conjunction with the 134th Minnesota State Fire Department Association Conference to be held in Owatonna on June 11 through 13, 2009. She also stated that she had spoken with the Chief of Police earlier, and he had recommended at least two police officers and two special deputies as sufficient security for this event with 400 or more people in attendance. During discussion, Council Member Abraham made note of the City's noise ordinance and recommended changing the end time of the public dance to 11:00 p.m. He also inquired about plans for notifying residents on the second floors of the adjacent buildings. Council Member Ellingson verified that the summer Crazy Daze street dance also had closed down at 11:00 p.m. Council Member Falk asked how many people they anticipated showing up for this event and about the benefactor of the fundraiser. Council President Thompson asked about restricted access from

their establishment to the public dance only. Council Member Svenby asked if access would be maintained on the sidewalks for the adjacent businesses and if they were still planning on setting up on Thursday for the public dance event on Friday. Council Member Moen requested clarification on what time the band would close down. City Administrator Busse added that the City Planner had recommended making sure they inform their neighbors of the event. Cathy Miller and Gary Wiese from Just One More displayed a large map to Council and pointed out the proposed locations for the band, closed off streets, identification of check spots, and fence line. Ms. Miller noted that they have insurance but their insurance company will not issue a certificate of insurance for the premises extension until approved by Council and that they are expecting 400 to 600 people. Mr. Wiese explained that the cover charge into the dance would be used for expenses for the event and the remainder would be donated to the City of Owatonna Fire Department. Ms. Miller stated that they are planning on controlling access with the use of wristbands. She also stated that they would only need to set up on Friday night and that she had talked with most of the adjacent businesses who would be closed in the evening except for the American Legion and It's 5 O'clock Somewhere. She stated she would send out notification in writing to the neighbors a month prior to the event in order to inform them of the event and perhaps issue them a pass. They would shut down the band at 11:00 p.m. and allow people to congregate with law enforcement officers present until midnight. Council Member Abraham moved approval of the public dance request from 6:00 p.m. to 11:00 p.m. pending submission of a certificate of liquor liability insurance naming the City as additional insured. Council Member Falk seconded the motion. All seven (7) council members voting aye, the motion passed.

Next, Council Member Falk moved approval of the request from Just One More, 149 West Bridge Street, to extend their on-sale liquor license premises to include the 100 block of West Bridge Street on Friday, June 12, 2009, from 6:00 p.m. to midnight (pending certificate of liquor liability insurance). Council Member Abraham seconded the motion. All council members voting aye, the motion passed.

Next, City Administrator Busse reported that Steele County Assessor Glen Purdie had provided notice of the recommended date and time for the City of Owatonna's 2009 Local Board of Appeal and Equalization (LBAE) on Monday, April 27, 2009, at 7:00 p.m. in Council Chambers. She also stated that the State requires at least one of the council members in attendance to have taken LBAE training within the last four years. The training certification for the four council members who did receive the training previously, expires in May 2009. Busse stated that the next training takes place on March 24 in Mankato. Council Members Svenby, Abraham, and Thompson expressed interest in attending the training. Council Member Abraham moved approval of setting the date and time for the City's Local Board of Appeal and Equalization for Monday, April 27, 2009, at 7:00 p.m. in Council Chambers, as recommended by the Steele County Assessor's Office. Council Member Svenby seconded the motion. All seven (7) council members voting aye, the motion passed.

City Attorney Walbran presented a request for authorization from Council to execute and record a release of land from Declaration of Protective Covenants for Owatonna Industrial Park No. 3 as it applies to the sale of property in MNSCU. He reminded Council that just after Christmas, the City had conveyed lots north of Riverland College Campus to MNSCU. One of the conditions of that transaction was that a restrictive covenant placed on property back in 1995 requiring the purchaser commence construction within in a year be taken off, because that would not be consistent with MNSCU's plan to have the land for further development of their college campus. Walbran further explained that the restriction granted to the City an option to repurchase if the purchaser did not commence construction within that one year. MNSCU has requested that the City release the MNSCU

property from this restriction. Council President Thompson asked if there anything in place to prevent MNSCU from deciding to sell the property. Walbran responded that state statute does address and protect that from occurring. Council Member Abraham moved to authorize execution and recording of the Release of Land from Declaration of Protective Covenants for Owatonna Industrial Park No. 3. Council Member Ellingson seconded the motion. All seven (7) council members voting aye, the motion passed.

Director of Parks and Recreation McKay presented a request to purchase property on the north side of Dartts Park, adjacent to the Chuck Fuller Baseball Field. McKay explained that an issue had arisen when the light pole on the third base side of the Chuck Fuller Baseball Field at Dartts Park was mistakenly constructed on the adjacent property owner's lot by three feet. (The survey in 1993 showed the light pole to be on city property). McKay explained that the property owner bordering the park to the north recently had their land surveyed by Hosfield and Associates who determined that the light pole is indeed on their property. In addition, a 50 foot by 200 foot section of their property is being used by spectators and baseball players warming up for games. The property owner, Lorraine Kniefel, has requested that the City purchase this portion of their property due to liability concerns. McKay further explained that the property owner had originally asked for \$15,000 but has since reduced the asking price to \$5,000. The funds to acquire this addition to Dartts Park could come out of the parkland acquisition reserve fund, which has a balance of over \$21,000. Council Members Falk asked what would prevent spectators from moving up higher onto the private property if this section was purchased by the City. McKay responded that part of the agreement is for the City to plant a row of flowering crab trees on the City's northern boundary, and the terrain is conducive to spectators playing catch east and west as the hill rises up to the north. Council Member Falk moved approval of this request to purchase property. Council Member Moen seconded the motion. All council members voting aye, the motion passed.

Next, City Administrator Busse presented Resolution No. 9-09, "A Resolution Calling for a Public Hearing on Proposed Charter Amendment Providing for City Elections in Even Number Years." She reported that the Charter Commission is recommending to the Council that they consider amending the City Charter to move the City elections from odd to even years. City Attorney Walbran prepared the necessary notice to hold a public hearing on March 17, and then Council can consider appropriate action at that time. Council Member Wittrock inquired about the number of votes by Council required to amend the Charter. City Attorney Walbran responded that state statute requires an affirmative vote by all council members. Walbran explained that if Council does not pass the request, then the Charter Commission could require Council to place the item on the ballot in the fall election. Council Member Ellingson moved adoption of Resolution No. 9-09. Council Member Falk requested that the vote by Council to take place on March 17 after the public hearing. Walbran said it would just require a motion by Council after the public hearing. Council Member Abraham seconded the motion to adopt Resolution No. 9-09. Council Member Moen stated he would not be present on March 17 to vote. Council Member Falk noted he would not be present on April 7. After discussion, Council Member Ellingson amended his original motion to adopt Resolution No. 9-09 setting public hearing to April 21 when all council members would be present, and Council Member Abraham amended his original second to the motion. All seven (7) council members voting aye, Council President Thompson declaring Resolution No. 9-09 calling for public hearing on April 21, 2009, adopted.

Next, Council Member Abraham introduced and moved adoption of Resolution No. 10-09, "A Resolution Calling for a Public Hearing on Proposed Charter Amendment Providing that Appointment

to City Boards and Commissions Shall be Limited to City Residents,” and setting public hearing for April 21. Council Member Svenby seconded the motion. During council discussion, Council Members Falk and Wittrock asked for clarification regarding procedures for a commission, board, or council member appointed or elected while living within city limits or a specific ward and then moving outside city limits or their ward during their term. City Attorney Walbran explained that it would be up to the body to determine if that is a vacancy. All seven (7) council members voting aye, Council President Thompson declared Resolution No. 10-09 setting public hearing for April 21, 2009, adopted.

During *Flood and Stormwater Projects – verbal update*, City Administrator Busse reported that the permanent and temporary construction easements necessary to install the emergency overflow pipe from the southeast field pond to Bixby Road have been acquired from the Owatonna Cornerstone Evangelical Free Church, along with the permanent easement from Chad and Jennifer Spinler at 1905 Richway Lane SE. She also reported that Matt Caron and Melissa Hanson at 905 18th Street SE have received all the documentation for the permanent easement and have indicated that they are agreeable to grant it to the City. Busse explained that City Engineer Johnson and she had met with Jeff Kath and Jayne Barber, property owners at 870 Richway Lane SE, to discuss related issues. She also spoke with Mr. Kath on the phone and asked if he needed additional information. Mr. Kath had said they needed additional time to discuss and would get back to them. Council Member Moen requested a summary of all the property owners along the path of the easement. Busse responded that signatures are needed yet from the Caron/Hanson property and Kath/Barber property.

During *Council Comment*, Mayor Kuntz reported that the OCUC land transfer to the MNSCU campus had taken place earlier that day and was another great accomplishment for the City of Owatonna. He also reported that Governor Pawlenty spoke in town about the budget and continues to be a supporter of LGA cuts for 2009 and 2010, which presents a challenge for City staff in making the budgets work. Mayor Kuntz also announced that April is a time when boards and commissions open up for reappointments, and anybody interested in serving should contact him. He complimented Officers Duchene and Hunt on their efforts during a serious medical incident with a young child. Council President Thompson wrapped up with a reminder to drive safely and watch for bicyclists and motorcyclists.

There being no further business to come before the Council, Council Member Wittrock moved to adjourn. Council Member Moen seconded the motion. All seven (7) council members voting aye, the meeting adjourned at 7:36 p.m.

Dated February 17, 2009

Respectfully submitted,

/s/ Deborah J. Hill, Assistant City Clerk