

CITY OF ST. CLOUD CITY COUNCIL PROCEEDINGS
Monday, September 9, 2019
6:00 PM
City Council Chambers

1. **PLEDGE OF ALLEGIANCE**
2. **MOMENT OF SILENCE FOR OUR MEN AND WOMEN SERVING IN THE ARMED FORCES**
3. **ROLL CALL: Councilmembers Present:** Carol Lewis, Mike Conway, Jeff Goerger, George Hontos, Paul Brandmire, Steve Laraway, Dave Masters

SPECIAL RECOGNITION:

4. **RECOGNITION OF THE 100TH ANNIVERSARY OF MINNESOTA'S RATIFICATION OF WOMEN'S SUFFRAGE AND THE 19TH AMENDMENT TO THE UNITED STATES CONSTITUTION**
Mayor Dave Kleis recognized the League of Women Voters St. Cloud Area and the young women of the St. Cloud Youth Leadership Academy in honor of the 100th Anniversary of Minnesota's ratification of Women's Suffrage and the 19th Amendment to the United States Constitution.

CONSENT AGENDA:

5. **APPROVAL OF AGENDA**
ACTION TAKEN: LEWIS/LARAWAY/APPROVED 7-0
6. **APPROVAL OF THE MINUTES FROM THE REGULAR COUNCIL MEETINGS HELD AUGUST 5, 2019 & AUGUST 19, 2019**
ACTION TAKEN: BRANDMIRE/CONWAY/APPROVED 7-0

Councilmember Brandmire pulled item for further discussion. It was moved by Councilmember Brandmire, seconded by Councilmember Conway to approve. Councilmember Brandmire noted three clerical errors. Motion unanimously approved.
7. **MAYOR KLEIS' RE-APPOINTMENT TO THE ECONOMIC DEVELOPMENT AUTHORITY COMMISSION; AND APPOINTMENT TO THE HOUSING & REDEVELOPMENT AUTHORITY BOARD**
ACTION TAKEN: LEWIS/LARAWAY/APPROVED 7-0
8. **APPLICATION FOR A TEMPORARY ON-SALE INTOXICATING LIQUOR LICENSE FOR THE SCSU UNIVERSITY FOUNDATION TO BE USED IN CONJUNCTION WITH THE HUSKY GROWTH FUND REUNION TAKING PLACE IN CENTENNIAL HALL SEPTEMBER 27, 2019**
ACTION TAKEN: LEWIS/LARAWAY/APPROVED 7-0
9. **APPLICATION FOR A TEMPORARY ON-SALE INTOXICATING LIQUOR LICENSE FOR THE SCSU UNIVERSITY FOUNDATION TO BE USED IN CONJUNCTION WITH A SESQUICENTENNIAL GALA SEPTEMBER 26, 2019**
ACTION TAKEN: LEWIS/LARAWAY/APPROVED 7-0

10. **APPLICATION FOR A TEMPORARY ON-SALE INTOXICATING LIQUOR LICENSE FOR THE SCSU UNIVERSITY FOUNDATION TO BE USED IN CONJUNCTION WITH AN ALUMNI ASSOCIATION AWARDS RECEPTION IN ATWOOD MEMORIAL CENTER SEPTEMBER 27, 2019**
ACTION TAKEN: LEWIS/LARAWAY/APPROVED 7-0
11. **APPLICATION FOR A TEMPORARY ON-SALE INTOXICATING LIQUOR LICENSE FOR THE SCSU UNIVERSITY FOUNDATION TO BE USED IN CONJUNCTION WITH THE SCHOOL OF EDUCATION FOR A CAMPUS LAB ALUMNI REUNION PICNIC**
ACTION TAKEN: LEWIS/LARAWAY/APPROVED 7-0
12. **APPLICATION FOR A TEMPORARY ON-SALE INTOXICATING LIQUOR LICENSE FOR ST. CLOUD PRIDE FOR AN EVENT TO BE HELD AT LAKE GEORGE ON SATURDAY, SEPTEMBER 21, 2019**
ACTION TAKEN: LEWIS/LARAWAY/APPROVED 7-0
13. **RESOLUTION AUTHORIZING THE ISSUANCE OF AN OFF-SITE CHARITABLE GAMBLING PERMIT TO THE CENTRAL MN NOON OPTIMIST CLUB AT MIDTOWN SQUARE MALL ON SEPTEMBER 21, 2019**
ACTION TAKEN: LEWIS/LARAWAY/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-9-112
14. **APPLICATION FOR AN ON-SALE INTOXICATING AND SPECIAL SUNDAY LIQUOR LICENSE FOR SEARLES ON 5TH AVE, LLC DBA SEARLES ON FIFTH AVE, 18 5TH AVENUE SOUTH.**
ACTION TAKEN: LEWIS/LARAWAY/APPROVED 7-0
15. **RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO APPROVE AN INCREASE IN THE CHANGE FUND FOR THE ST. CLOUD POLICE DEPARTMENT**
ACTION TAKEN: LEWIS/LARAWAY/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-9-113
16. **RESOLUTION AUTHROZING ISSUANCE AND SALE OF \$4,745,000 GENERAL OBLIGATION STREET RECONSTRUCTION BONDS, SERIES 2019A**
ACTION TAKEN: LEWIS/LARAWAY/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-9-114
17. **RESOLUTION AUTHORIZING ISSUANCE AND SALE OF \$2,505,000 GENERAL OBLIGATION INFRASTRUCTURE MANAGEMENT FUND BONDS, SERIES 2019B**
ACTION TAKEN: LEWIS/LARAWAY/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-9-115
18. **RESOLUTION REGARDING THE SUPPORT OF A JOB CREATION FUND APPLICATION IN CONNECTION WITH CENTRAL MCGOWAN, INC PROJECT**
ACTION TAKEN: LEWIS/LARAWAY/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-9-116
19. **RESOLUTION AUTHORIZING CITY ADMINISTRATION TO EXECUTE AGREEMENTS RELATED TO SOLAR ENERGY SUBSCRIPTIONS WITH GREENMARK SOLAR**
ACTION TAKEN: LEWIS/LARAWAY/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-9-117

20. RESOLUTION RECEIVING CITY ENGINEER'S REPORT AND SETTING A PUBLIC HEARING FOR SEPTEMBER 23, 2019, TO CONSIDER 33RD STREET SOUTH FROM COUNTY ROAD 136 TO COOPER AVENUE SOUTH IMPROVEMENTS

ACTION TAKEN: LEWIS/LARAWAY/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-9-118

PUBLIC HEARINGS:

21. RESOLUTION ADOPTING THE PRELIMINARY TAX LEVY AND BUDGET FOR THE 2020 GOVERNMENTAL FUNDS

ACTION TAKEN: BRANDMIRE/MASTERS/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-9-119

Finance Director Ruth Wipper introduced item. Same levy and budget Mayor Kleis presented to Council on August 5, 2019. Council conducted four work sessions in August to discuss. No recommended changes. This is a preliminary tax levy and budget. Final will be adopted in December.

Council President Goerger opened the Public Hearing. No one spoke. Council President Goerger closed the Public Hearing. It was moved by Councilmember Brandmire, seconded by Councilmember Masters to approve. No discussion. Motion unanimously passed. Resolution adopted and assigned 2019-9-119.

22. RESOLUTION AUTORIZING A SPECIAL TAX LEVY AND BUDGET FOR THE ST. CLOUD ECONOMIC DEVELOPMENT AUTHORITY (EDA) FOR PAYMENT IN 2020

ACTION TAKEN: LEWIS/LARAWAY/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-9-120

Finance Director Ruth Wipper introduced item. Special tax levy and budget for the EDA. Discussed by City Council on August 7, 2019. Item also approved by the Economic Development Authority Board. This is the only opportunity for the Council to approve this tax levy. Must be certified by September 30, 2019.

Council President Goerger opened the Public Hearing.

Kay Steiner, 1221 – 22nd St S, Apt 223, Sartell, MN – requested explanation of the EDA. Wipper explained that the EDA was created in 2010. This is a special taxing levy for their operations. Property tax payers within the city of St. Cloud pay this tax levy.

No additional speakers. Council President Goerger closed the Public Hearing. It was moved by Councilmember Lewis, seconded by Councilmember Laraway to approve. Councilmember Lewis commented that the EDA does not levy to the full extent possible under state law. Councilmember Laraway commented on the EDA and their function and effectiveness. No additional discussion. Motion unanimously passed. Resolution adopted and assigned 2019-9-120.

23. RESOLUTION AUTHORIZING A SPECIAL TAX LEVY FOR THE HOUSING AND REDEVELOPMENT AUTHORITY FOR PAYMENT IN 2020

ACTION TAKEN: MASTERS/CONWAY APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-9-121

HRA Finance Director Karen Rizer introduced item. Proposed levy represents 29% of the HRA Central Office costs budget and 3% of projected 2020 revenues. Approved by the HRA Board on July 24, 2019 and discussed by the City Council at August 7, 2019 Budget Meeting. HRA focuses on low income and affordable housing, providing 720 units in St. Cloud; administer the federal housing choice voucher program; and provides rehab and payment programs for homeowners.

Council President Goerger opened the Public Hearing. No one spoke. Council President Goerger closed the Public Hearing. It was moved by Councilmember Masters, seconded by Councilmember Conway to approve. Councilmember Brandmire inquired on what additional funding the HRA receives. Rizer commented that the bulk of funding comes from the federal government (approximately 56%). Councilmember Masters commented that the HRA does not levy to the full extent authorized. Councilmember Conway commented about HRA staff. No further discussion. Motion unanimously passed. Resolution adopted and assigned 2019-9-121.

24. PUBLIC HEARING TO CONDITION CERTIFICATION OF DELINQUENT UTILITY ACCOUNTS TO THE COUNTY AUDITOR FOR COLLECTION WITH THE PROPERTY TAXES PAYABLE IN 2020

ACTION TAKEN: MASTERS/LARAWAY/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-9-122

Finance Director Ruth Wipper introduced item. Annual certification of unpaid utility bills. 660 accounts for a total of \$541,712.41.

Council President Goerger opened the Public Hearing. No one spoke. Council President Goerger closed the Public Hearing. It was moved by Councilmember Masters, seconded by Councilmember Laraway to approve. Councilmember Conway commented on total delinquent amount of \$541,712.41 that taxpayers are covering. Councilmember Laraway inquired what the ramifications if homeowners do not pay. Public Services Director Patrick Shea commented that this is the ramification for those who chose not to pay. The City does not shut water off. No further discussion. Motion unanimously passed. Resolution adopted and assigned 2019-9-122.

~~**25. PUBLIC HEARING TO CONSIDER CERTIFICATION OF DELINQUENT TREE REMOVAL CHARGES TO THE COUNTIES FOR COLLECTION WITH TAXES PAYABLE IN 2020**~~

26. PUBLIC HEARING TO CONSIDER CERTIFICATION OF DELINQUENT WEED REMOVAL/GRASS MOWING CHARGES TO THE COUNTIES FOR COLLECTION WITH TAXES PAYABLE IN 2020

ACTION TAKEN: LEWIS/MASTERS/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-9-123

Health & Inspections Director Matt O'Brien introduced item. 26 unpaid accounts for a total of \$3,187.42.

Council President Goerger opened the Public Hearing. No one spoke. Council President Goerger closed the Public Hearing. It was moved by Councilmember Lewis, seconded by Councilmember Masters to approve. Councilmember Lewis commented on disappointment in several companies that are included on the list. No further discussion. Motion unanimously passed. Resolution adopted and assigned 2019-9-123

27. PUBLIC HEARING TO CONSIDER CERTIFICATION OF DELINQUENT NUISANCE ABATEMENT CHARGES TO THE COUNTIES FOR COLLECTION WITH TAXES PAYABLE IN 2020

ACTION TAKEN: LEWIS/LARAWAY/TABLED 7-0

Health & Inspections Director Matt O'Brien introduced item. 57 unpaid accounts for a total of \$45,580.04.

Council President Goerger opened the Public Hearing.

Emily Bode, 232 15th Ave S, St. Cloud – commented on nuisance and requested to speak with someone regarding a resolution

Cheri Anderson, 412 30th Ave N, St. Cloud – commented on nuisance and plan to re-side. Payment made. Does not understand why outstanding fee.

Mike Kloss, 301 3rd Ave S, St. Cloud – commented on nuisance and dates services rendered were earlier than deadline. Believed this was cleared up and citation dismissed.

Ben Watercott, 753 24th Ave N, St. Cloud – commented on nuisance and dates service rendered were prior to letter received by homeowner. Service Master did not render the services they should have for the fine received.

Joseph Palmersheim, 1031 33rd Ave N, St. Cloud – commented on nuisance abatements which were done prior to him purchasing the property.

Council President Goerger closed the Public Hearing. Council President Goerger asked O'Brien his suggestion for moving forward with Public Hearing. O'Brien comfortable with tabling full item. It was moved by Councilmember Lewis, seconded by Councilmember Laraway to table. No further discussion. Motion to table unanimously passed.

28. PUBLIC HEARING TO CONSIDER CERTIFICATION OF DELINQUENT ADMINISTRATIVE CITATION CHARGES TO THE COUNTIES FOR COLLECTION WITH TAXES PAYABLE IN 2020

ACTION TAKEN: LARAWAY/LEWIS/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-9-124

Health & Inspections Director Matt O'Brien introduced item. 140 unpaid accounts for a total of \$87,560.00.

Council President Goerger opened the Public Hearing. No one spoke. Council President Goerger closed the Public Hearing. It was moved by Councilmember Laraway, seconded by Councilmember Lewis to approve. Councilmember Lewis commented on email from Bob Abel. Also commented on several well-known

companies receiving administrative citations. They should be taking care of their properties. No further discussion. Motion unanimously passed. Resolution adopted and assigned 2019-9-124.

29. CONSIDERATION OF RESOLUTION ADOPTING SPECIAL ASSESSMENT ROLL 2 FOR 2018 PUBLIC IMPROVEMENTS

ACTION TAKEN: PART A (33RD ST S PROPERTY IMPROVEMENTS OMITTED)
LEWIS/BRANDMIRE/APPROVED 6-1 (HONTOS OPPOSED)
RESOLUTION ADOPTED AND ASSIGNED 2019-9-125

ACTION TAKEN: PART B (33RD ST S PROPERTY IMPROVEMENTS)
MASTERS/CONWAY/APPROVED 6-0 (LARAWAY ABSTAINED)
RESOLUTION ADOPTED AND ASSIGNED 2015-9-130

City Administrator Matthew Staehling indicated that Councilmember Laraway does own property in assessment roll (33rd St property improvements) and will be recusing himself from voting on that item. Item 29 will be divided into two parts – Part A & Part B.

City Engineer Steve Foss introduced item. Roll consists of 4 major components. 1) 33rd St S improvements; 2) a private sewer repair for 221 10th Ave N; 3) tax forfeit properties sold since Roll No. 1 hearing earlier this year; and 4) 7 properties brought back from Roll No. 1 (4 contesting from Pan Neighborhood project and 3 properties choosing to receive city services as a result of Cty Rd 74 project to service Tech H.S.)

Council President Goerger opened the Public Hearing for Item A.

Private sanitary sewer repair for 221 10th Ave N.

No one spoke.

Re-certified assessments for tax forfeited properties sold.

No one spoke.

Central Park Pan Neighborhood Improvements.

Kevin Carpenter, 2919 Veterans Drive, St. Cloud – oppose assessments as property value did not increase equal to improved amounts.

Cty Rd 74 Sewer Improvements

Baron VanBuren, 3644 Cty Rd 74, St. Cloud - oppose assessments as property value did not increase equal to improved amounts. Requested that his property does not get assessed again when future improvements are made.

President Goerger closed the Public Hearing. Councilmember Brandmire requested clarification on assessments. Councilmember Masters inquired on if this is a standard practice across the state. Foss confirmed it is. Each situation is different and is a challenge to assess. City Administrator Matthew Staehling commented that each community handles special assessments differently. St. Cloud's current policy was reaffirmed by Council Spring 2019. If property owner questions benefit to property, they may conduct a private appraisal and discuss market value impact with City

Administration. The current policy is a fair approximation of special benefit. It is not exact, but rather a fair approximation. Councilmember Masters commented that these improvements, although not visible, are necessary and does add to value of home.

Councilmember Laraway requested information on what the law states and what other cities do to handle these assessments. Councilmember Brandmire requests the same. Also, requested if the correct interpretation of the law is a dollar for dollar value increase based on the work completed. Staehling confirms that he interprets the law that way and does not disagree with Mr. Carpenter on the law. The question remains on what the special benefit is to the homeowner. Only an appraisal can determine that. Councilmember Brandmire commented that the current infrastructure is over 50 years old and every homeowner in the city should have, and does have, their "turn" in upgrading the infrastructure.

Councilmember Lewis commented that the option is either special assessments or property tax increases. We all have our turn in paying these costs.

Councilmember Hontos commented on the minimal market value increase. The question is how consistent the city's policy is with state statute. Would like further research.

Councilmember Conway requested clarification on County Road 74 assessments. Foss commented that property owners will not incur additional assessments when time comes to expand in neighborhood.

City Administrator Matthew Staehling commented that Special Benefit and the Special Assessment Policy should not be separated. Policy is designed to closely follow special benefit.

City Engineer Steve Foss commented that all items are satisfied. The City is recommending Roll as is currently represented to the Council.

Councilmember Hontos not comfortable with moving forward considering Minnesota law. Worth getting clarification. City Attorney Renee Courtney commented on Special Benefits test. Case law supports the city's application of this test. If homeowner appeals the assessment, the city can obtain an appraisal. If appraisal returns with no market value change, assessments would be adjusted accordingly and applied to property taxes city wide. Councilmember Goerger commented that Special Assessments are part of owning a property in the City.

It was moved by Councilmember Hontos that 2919 Veterans Drive and 838 30th Ave N be removed from Assessment Roll for city to obtain an appraisal. Motion failed for lack of second.

It was moved by Councilmember Lewis, seconded by Councilmember Brandmire to approve Part A. Councilmember Hontos commented on his concern for pushing this issue forward another issue and requested a discussion on the matter. Motion passed 6-1 with Councilmember Hontos opposed. Resolution adopted and assigned 2019-9-125.

Council President Goerger opened the Public Hearing for Item B. No one spoke. Council President Goerger closed the Public Hearing. It was moved by Councilmember Masters, seconded by Councilmember Conway to approve Item B. No further discussion. Motion unanimously passed. Resolution adopted and assigned 2019-9-130.

30. CONSIDERATION OF CERTIFICATION OF DELINQUENT SNOW REMOVAL CHARGES TO THE COUNTIES FOR COLLECTION WITH TAXES PAYABLE IN 2020

ACTION TAKEN: MASTERS/LARAWAY/APPROVED 7-0 (CHARGE RELATED TO 1801 MAPLE LANE TABLED)

RESOLUTION ADOPTED AND ASSIGNED 2019-9-126

Public Services Director Patrick Shea introduced item. 21 unpaid accounts for a total of \$3,360.

Council President Goerger opened the Public Hearing.

Ann Litchy Martinez, 1801 Maple Lane – opposed charge as she was on vacation when snow removal occurred. Requested reduction or dismissal of charge.

No further speakers. Council President Goerger closed the Public Hearing. It was moved by Councilmember Masters, seconded by Councilmember Laraway to approve all charges except for 1801 Maple Lane. 1801 Maple Lane tabled until September 19, 2019. Councilmember Conway inquired if amendment to motion be considered to table entire item for two weeks. Councilmember Masters does not think that is necessary. Motion unanimously passed. Resolution adopted and assigned 2019-9-127.

31. CONSIDERATION OF RESOLUTION ORDERING 25TH AVENUE NORTH AND UPPER PAN SANITARY SEWER REROUTING IMPROVEMENTS

ACTION TAKEN: MASTERS/LEWIS/FAILED 5-2 (CONWAY & BRANDMIRE OPPOSED)

City Engineer Steve Foss introduced item. Three parts to this project. Between 8th & 12th, reconstruction of existing infrastructure, north of that, improvements to sanitary sewer system, and 3rd component is mill and overlays from County Rd 75 to 12th Street North. Assessments limited to a four-block section between 8th and 12th Streets North which includes adding a sidewalk to the east side of the road as is consistent with major arterial roads in the city. No additional property takings required. Sidewalk will be within public right-of-way. No extenuating circumstances that would require Council not to follow their policy. 25% of cost assessed to those in four-block section.

Council President Goerger opened the Public Hearing.

Duane Henning, 2407 8th Street North – addressed the 1919 pipe that runs from Hwy 15 to 9th Avenue North with intention to replace this four-block section. Concerned about piecing together each section over a period.

Nathaniel Court, 1048 25th Ave North – opposed to the sidewalk; proposed sidewalk will not allow parking two cars deep on his driveway.

Kari Court, 1048 25th Ave North – opposed to the sidewalk; presented petition from 20+ neighbors also opposed to the sidewalk

No further speakers. Council President Goerger closed the Public Hearing.

It was moved by Councilmember Masters, seconded by Councilmember Lewis to approve. Councilmember Masters requested Foss to comment to sidewalks on both sides of road. Foss commented that the city is a strong advocate of complete streets. North Junior High and Madison Elementary close by and considered destinations for which safety must be considered. This is the most cost-effective time to add sidewalk. Property owners are not assessed for the sidewalk. Councilmember Hontos inquired on if the city is working within the city's right-of-way. Foss commented that the city, although utilized as private, will be working within the city's right-of-way. Councilmember Brandmire commented that the ordinance states that a sidewalk must be added if work on 25th is to be completed. But, he does understand those who do not want a sidewalk. He will be voting no. Councilmember Lewis commented that there are underlying issues below the street that need repair. Councilmember Conway commented that he agrees with Councilmember Brandmire regarding the sidewalk. We need to give consideration to the property owners.

Councilmember Masters supports the "complete streets idea" and is in favor of the motion. Councilmember Hontos inquired on how streets will be marked. Foss does not envision any change to current striping on streets. Council President Goerger agrees with Councilmember Masters and will support the resolution. We need to consider public safety.

No further discussion. City Clerk Seth Kauffman conducted a roll call vote (Roll call of 6 affirmative votes required). Motion failed 5-2 with Councilmembers Brandmire and Conway opposed.

32. RESOLUTION APPROVING THE CITY OF ST. CLOUD COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM YEAR 2018 CONSOLIDATED HOUSING AND COMMUNITY DEVELOPMENT ANNUAL EVALUATION REPORT (CAPER)

ACTION TAKEN: LARAWAY/MASTERS/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-9-127

Community Development Director Matt Glaesman introduced item. Annual performance and evaluation report details the priorities. Only significant change is the Salvation Army S.M.A.R.T. Kids Program not proceeding as planned. The \$26,000 allocation to this program was allocated to HRA instead.

Council President Goerger opened the Public Hearing. No one spoke. Council President Goerger closed the Public Hearing. It was moved by Councilmember Laraway, seconded by Councilmember Masters to approve. No discussion. Motion unanimously passed. Resolution adopted and assigned 2019-9-127.

33. A. RESOLUTION AMENDING THE LENZMEIER PLANNED UNIT DEVELOPMENT TO ALLOW USES OF THE C1, BUSINESS OFFICE DISTRICT AND C5, HIGHWAY COMMERCIAL DISTRICT AND IDENTIFY R4, TOWNHOUSE RESIDENTIAL DISTRICT AND R5, GENERAL MULTI-FAMILY RESIDENTIAL DISTRICT LOCATIONS FOR FUTURE CONSIDERATION (LOCATION: 3500 TO 3800 BLOCK OF ROOSEVELT ROAD) (HIGHWAY 75) (DPA-2019-03)

ACTION TAKEN: HONTOS/LARAWAY/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-9-128

B. RESOLUTION AMENDING THE 2015 COMPREHENSIVE PLAN'S FUTURE LAND USE DESIGNATION OF 3763 AND 3765 ROOSEVELT ROAD TO OFFICE/RESEARCH AND OUTLOT A OF LENZMEIER 3RD ADDITION TO MIXED-RESIDENTIAL

ACTION TAKEN: CONWAY/LEWIS/APPROVED 7-0
RESOLUTION ADOPTED AND ASSIGNED 2019-9-129

C. PRELIMINARY AND FINAL PLATS OF LENZMEIER 3RD ADDITION (PLAT-2019-17 & PLAT-2018-18)

ACTION TAKEN: LARAWAY/LEWIS/APPROVED 7-0

Community Development Director Matt Glaesman introduced item. Significant revision from original land use intention. Adjacent party owner requests the removal of R4 and R5 zoning.

Council President Goerger opened Public Hearing.

Tamara Calhoun, 3615 Roosevelt Rd, St. Cloud – voiced concern about traffic on frontage road

Council President Goerger closed Public Hearing. No discussion.

It was moved by Councilmember Hontos, seconded by Councilmember Laraway to approve Part A. Motion unanimously passed. Resolution adopted and assigned 2019-9-128.

It was moved by Councilmember Conway, seconded by Councilmember Lewis to approve Part B. Motion unanimously passed. Resolution adopted and assigned 2019-9-129.

It was moved by Councilmember Laraway, seconded by Councilmember Lewis to approve Part C. Motion unanimously passed.

34. ORDINANCE AMENDING THE ST. CLOUD LAND DEVELOPMENT CODE REGARDING INSTITUTIONAL IDENTIFICATION SIGNS IN RESIDENTIAL AND AGRICULTURAL DISTRICTS (LDC-2019-03)

ACTION TAKEN: LARAWAY/LEWIS/APPROVED 7-0

Community Development Director Matt Glaesman introduced item. Initiated by the Zoning Board to address item.

35. A. ORDINANCE VACATING A PORTION OF 37TH AVENUE SOUTH LYING SOUTH OF 2ND STREET SOUTH AND WEST OF THE STEARNS HISTORY MUSEUM

OLD BUSINESS:

36. DISCUSSION ON COUNCIL RULES OF CONDUCT

ACTION TAKEN: MASTERS/BRANDMIRE/APPROVED/4-2 (PRIVATE BALLOT)
COUNCILMEMBER HONTOS CENSURED IN VIOLATED OF RULE #6 OF THE COUNCIL RULES OF CONDUCT.

City Clerk Seth Kauffman introduced item. Submitted to the Agenda by the Council at the motion of Councilmember Conway.

Councilmember Conway spoke regarding Council's Rules of Conduct. Feels that one of the Councilmembers violated rule #6 (Council Members respect the majority vote of the Council, and do not undermine or sabotage implementation of ordinances, policies, and rules passed by the majority) after the August 5, 2019 Council meeting when this councilmember wrote a letter to the editor in the St. Cloud Times dated August 15, 2019 (hereinafter "Letter") asking the public to reach out to their respective councilmembers and request a reconsideration to the changes to the Open Forum format. Councilmember Conway referred to this as a "hallway veto." Councilmember Conway feels the Council should uphold all decisions made by the majority and have a united front going forward. Questioned if the council should maintain the Rules of Conduct or get rid of them.

Councilmember Masters commented that he too has concerns with regard to this letter to the editor and councilmembers undermining the majority vote. Councilmember Masters commented that this has occurred on numerous occasions and called out Councilmember Hontos for his actions. Further, Councilmember Masters shared his concern that Councilmember Hontos feels he does not need to follow the rules of conduct stating that "all councilmembers should be held accountable to follow these rules."

Councilmember Laraway commented that there is a common rule among all boards – that no matter how the vote turns out, in your favor or not, a board member always support the decision of the majority once you leave the meeting. Councilmember Laraway also feels Councilmember Hontos has violated Rule #6 a couple of times. Reminded Councilmember Hontos that the council all works together for the "big picture" and need to support one another even if all aren't always in agreement.

Council President Goerger commented that Councilmember Hontos and he were the only council members president when this rule (Rule #6) was implemented and voted on and that it was brought forward by Councilmember Hontos because the council, at the time, had other council members that had a public voice being on the radio or speaking publicly often. Councilmember Hontos brought the item forward to stop that kind of rhetoric and stop the undermining and sabotage of other councilmembers. Questioned if the council wants to take further action on this violation of the rules?

Councilmember Masters commented that if the Council are going to have these Rules of Conduct, there should be consequences for someone who violates them on numerous occasions. He feels enough is enough and that council members should be held accountable to follow the rules. Councilmember Masters moved to censure Councilmember Hontos for not abiding by Rule #6 of the Council Rules of Conduct. Councilmember Conway seconded the motion.

Councilmember Hontos commented that he does not remember Rule #6 being initiated by himself. Feels that the Council is impeding on his freedom of speech rights. Feels that other councilmembers are violating Rule #7 (Council Members respect, and do not belittle, the minority opinions and votes of Council Members who are not part of the majority vote on key issues). Councilmember Hontos that when he put the Letter in the paper, he did some using his 1st Amendment rights. He stated, *"So I think the freedom of speech is something that we have to remember, that we all, as*

Americans, have a right to, and if this article that was published in the August 15th paper was annoying to some of my colleagues, I could only say that's too bad but I'm going to reread it because I think it's essential because that's what apparently a couple of 'em got a little irritated about." He proceeded to read the Letter. After which, he requested again that the Council talk about their violation of Rule #7 against him.

Councilmember Lewis commented that the right of free speech is not absolute and there are parameters by which a person has free speech. *"Once a person is elected [to office and] agree to abide by [the] rules, then that is where [the] limitations are on free speech. Because what you've done then is you belittled the people who voted in favor and you have, you have taken away the right of the majority to rule and that's not how these things work. Once you are seated as a councilmember there are expectations in terms of behaviors, in terms of what you can and cannot do, and you do not have absolute rights... and if you don't agree that's fine but then you just go on and deal with it and not make it a public statement."*

Councilmember Conway agreed with Councilmember Lewis that members of the council are not private citizens, that they are representing the City of St. Cloud. The very title of the Letter held Councilmember Hontos out to be representing the City of St. Cloud. Councilmembers are a governing body and must hold themselves out to be that in private, and in public. Councilmember Conway also raised concern about citing another councilmember out in the Letter. This was not appropriate as permission was not received prior to the Letter being published. Furthermore, Councilmember Conway feels that the Letter is an attack, and its comments regarding the Open Forum, is an attack on the public's right to be heard and, again, is a hallway veto, going against Rule #6. With regard to Councilmember Hontos' comments on Rule #7, Councilmember Conway stated *"now regard to #7 as you want to say we are belittling, nobody is belittling the vote that was cast, it's the actions after the vote that is the problem. That is part of the issue and if we are going to have a united front when it comes to dealing with issues of the city, don't care if it's a viable 5-5, 6-1 when that vote is done, it's a city council has made the decision and that's we're going forward. So, in response this the idea that we are private citizens is not true, I cannot go say anything, I cannot go write a letter to the editor and have it in any way shape or form unless it's very clear that I'm doing that not as a council member. But as long as I accepted that election certificate, I accepted the fact that I'm no longer a private citizen in Saint Cloud while I sit in this chair."*

Councilmember Hontos responded by stating that *"the more we talk about this the more amusing it is to me. Really, it's a joke... we all have a right to voice an opinion, ok; and going through the article and saying it's redundant of the actions. That's right, it is redundant of the actions, and that's what I was doing, I was bringing forward to the public an opportunity to know what the city council did now along with my argument that we have first amendment rights, even as an elected official and a private citizen. However, you define yourself, or whatever pair of pajamas you have on today, you can do whatever you want but the point is giving us appointment for. Even the Supreme Court has something called dissenting opinions... And they have the legal right to do that. This is America, this is not when Saddam Hussein was in Iraq or we have dictators, this is a public America and we all have a right to voice an*

opinion... let me clarify something, when we vote on something and it may be something I'm opposed to, I understand that that's the new rule. But you can't no matter how much you want, you cannot put a piece of duct tape over the opposing people's position and say they have to say I agree with it 100%. That's a bunch of bologna. The point is the rule, is a rule, I honor that, I accept that, and that's where we go forward, but the idea that I have to agree with it now that I've been outvoted, you're nuts, ok? Anybody's nuts thinking that we have a right to our own opinion and as long as you want to play these games, you know we're going to have issues all along; but point is, if I don't like something, I'm going to air my opinion about it, ok? Now, does that mean that I disrespect the council, no, not at all, no, it doesn't. It means that I disrespect the decision that was made, ok? And I have a right to say that, I have a right to speak how I feel, ok? And I'm not yelling "fire" in a public place, so the parameters of where our free speech is limited doesn't fall here, ok?"

Councilmember Masters called to question with regard to his motion to censure Councilmember Hontos for his behavior and violating rule #6. Councilmember Brandmire seconded this motion. Motion passed.

City Clerk Seth Kauffman commented that it is best practice for the motion to censure to come on a private ballot. He passed out ballots to all members.

Councilmember Brandmire inquired on what exactly a censure entails. City Administrator Matthew Staehling stated that it is simply a public rebuke of behavior.

Motion passed 4-2 in favor of the censure. Councilmember Hontos censured.

(At this time Councilmember Hontos exited the Council Chambers)

OPEN DISCUSSION & ANNOUNCEMENTS:

Councilmember Lewis requested Council to revisit T21 at next Study Session. It was moved by Councilmember Lewis, seconded by Councilmember Laraway to discuss at Study Session. Motion failed 3-3 with Goerger, Brandmire, and Conway opposed.

Councilmember Lewis requested Council to revisit Hwy 23 at next Study Session. It was moved by Councilmember Lewis, seconded by Councilmember Laraway to discuss at Study Session. Councilmember Masters recommended that Hwy 23 discussion be included in transportation discussion. Motion failed 3-3 with Goerger, Brandmire, and Conway opposed.

Councilmember Lewis extended condolences to citizens of Bahamas impacted by hurricane

ADJOURNMENT:

It was moved by Councilmember Conway seconded by Councilmember Masters to adjourn. Motion unanimously passed. Meeting adjourned at 8:11 P.M.



Seth Kauffman, Recording Secretary



Jeff Goerger, Council President

OPEN FORUM:

Pat Brusewitz, 221 36th Ave N, St. Cloud - Wondering what is being done with the Senior Highrise, Talamore, 37th ave N

Donna Boonstra, Hwy 23 Coalition, 8701 75th St SW, Raymond, MN - Highway 23 coalition president asking for St. Cloud to be a part of the organization

Kay Steiner, 68 Perimeter Dr, Sartell, MN - Comments on censure- council rules open forum should be broadcast