

CITY COUNCIL PROCEEDINGS

AGENDA ITEM

February 23, 2015

1. Following the Pledge of Allegiance, a regular meeting of the City Council of the City of St. Cloud, Minnesota, was held on February 23, 2015 at 6 p.m. in the City Council Chambers.
2. Moment of Silence for our men and women serving in the Armed Forces.
3. Councilmember present were Goerger, Gohman, Hontos, Johnson, Lewis, Libert, and Masters.

Consent Agenda:

4. **APPROVAL OF AGENDA.** ACTION TAKEN: Approved.
5. **CONFIRM MAYOR'S APPOINTMENT TO THE CIVIL SERVICE BOARD.** ACTION TAKEN: Approved the appointment of Angie Nelson to a term to commence immediately and expire June 30, 2016.
6. **APPROVE TRAVEL EXPENSES FOR COUNCIL PRESIDENT GOERGER AND COUNCIL MEMBER LIBERT TO ATTEND THE AREA PLANNING ORGANIZATION CONGRESSIONAL VISIT.** ACTION TAKEN: Masters/Lewis moved approval. Motion carried unanimously.
7. **ORDINANCE AMENDING THE RIVER'S EDGE CONVENTION CENTER ADVISORY BOARD.** ACTION TAKEN: Reading and public hearing were set for March 9, 2015.
8. **APPLICATION FOR A POOL TABLE LICENSE FOR MUY PIZZA MINNESOTA, LLC DBA PIZZA HUT #31282, 305 5TH AVE. S.** ACTION TAKEN: Approved.
9. **APPROVAL OF JOB DESCRIPTIONS FOR:**
 - A) **REVISED JOB DESCRIPTION FOR ASSISTANT CHIEF OF POLICE**
 - B) **REVISED JOB DESCRIPTION FOR LIEUTENANT OF POLICE**
 - C) **NEW JOB DESCRIPTION FOR POLICE COMMANDER**ACTION TAKEN: Hontos/Lewis moved approval. Motion carried unanimously.

10. **APPROVAL OF REVISED JOB DESCRIPTIONS:**
 - A) **FIRE CHIEF**
 - B) **CHIEF DEPUTY OF OPERATIONS**ACTION TAKEN: Approved.
11. **APPROVAL OF NEW JOB DESCRIPTION: AIRPORT OPERATIONS AND MAINTENANCE.**
ACTION TAKEN: Approved.
12. **APPROVE A JOINT RESOLUTION OF THE CENTRAL MN CITIES OF ST. CLOUD, SARTELL, SAUK RAPIDS, WAITE PARK, ST. JOSEPH, AND ST. AUGUSTA ADVOCATING SUPPORT FOR CERTAIN LEGISLATIVE ISSUES AND PROPOSALS OF COMMON INTEREST OR CONCERN.** ACTION TAKEN: Hontos/Johnson moved approval of the resolution. Councilmember Hontos questioned why the I-94 expansion was not included in the list. Mayor Kleis noted that this item is in the APO's plan and should be added. Hontos/Libert moved to amend the resolution by including that I-94 in the area be expanded (to 3 lanes). Motion carried unanimously. After some additional discussion Hontos/Gohman moved to amend the amended resolution to change Item 1 – Commercial Air Service – to be a more general statement and not specific to air service. Motion carried unanimously. The resolution, as amended, carried unanimously. Resolution was adopted and assigned number 2015-2-19.
13. **RESOLUTION ACCEPTING A GRANT FUNDED BY THE US/DOT NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA) THROUGH THE DEPARTMENT OF PUBLIC SAFETY'S OFFICE OF TRAFFIC SAFETY (OTS) FOR A PROJECT ENTITLED "DWI ENFORCEMENT OFFICER" DURING THE PERIOD OF OCTOBER 1, 2014 THROUGH SEPTEMBER 30, 2017.** ACTION TAKEN: Approved. Resolution was adopted and assigned number 2015-2-20.
14. **RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR SEBERGER NEIGHBORHOOD IMPROVEMENTS – AREA E, CONTRACT 2014-02E.** ACTION TAKEN: Approved. Resolution was adopted

and assigned number 2015-2-21.

15. **RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR 22ND STREET SOUTH IMPROVEMENTS, CONTRACT 2015-01, S.A.P. 162-153-002.** ACTION TAKEN: Approved. Resolution was adopted and assigned number 2015-2-22.
16. **RESOLUTION RECEIVING CITY ENGINEER'S REPORT AND SETTING A PUBLIC HEARING FOR MARCH 9, 2015, TO CONSIDER 2015 BITUMINOUS STREET RESURFACING IMPROVEMENTS ON CLEARWATER ROAD FROM 22ND TO 33RD STREET SOUTH.** ACTION TAKEN: Lewis/Libert moved approval of the resolution. Steve Foss, City Engineer noted that there is no current funding for this project and the project is scheduled to be constructed in 2016. Motion failed 0-7.

Open Forum:

Mel Tadych, 2118 18th St. S. Mr. Tadych expressed concerns that when contacting City Hall in regard to Charter – no one would help him. He was channeled to 4 different people and concluded with City Attorney Matt Staehling. He stated that he never received a call back.

Public Hearings:

17. **APPLICATION FOR A SMALL BREWER OFF-SALE INTOXICATING AND BREWERY TAP ROOM ON SALE INTOXICATING LICENSE FOR LUPINE BREWING COMPANY, LLC DBA LUPINE BREWING COMPANY, 3320 3RD STREET NORTH.**
Gregg Engdahl, City Clerk, presented the application and recommended approval pending receipt of: Favorable reviews from Planning Dept., Fire Dept., and Health Dept.; Corrected liquor liability insurance certificate; Determination of correct property address; and Phone number of licensed premises. Council President Goerger opened the public hearing. The following individual testified:

James Anderle, 781 Meander Rd., Hanover, MN. Mr. Anderle is the owner of the business and was present for any questions.

Council President Goerger closed the public hearing. Libert/Gohman moved approval. Motion carried unanimously.

18. APPLICATION FOR AN ON-SALE INTOXICATING LIQUOR LICENSE FOR GUYNS, LLC (GUY SPRENGER) DBA KONRAD'S, 27 7TH AVENUE NORTH.

Gregg Engdahl, City Clerk, presented the application and recommended approval pending favorable reviews from the Health, Fire, Planning, and Building Safety offices and the issuance of a certificate of occupancy. Council President Goerger opened the public hearing. The following individual testified:

Guy Sprenger, 625 5th Ave. N. Mr. Sprenger is the owner of business and was present for any questions.

Council President Goerger closed the public hearing. Johnson/Libert moved approval. Motion carried unanimously.

19. APPLICATION FOR ON-SALE INTOXICATING AND SPECIAL SUNDAY LIQUOR LICENSES FOR MUY PIZZA MINNESOTA, LLC DBA PIZZA HUT #31282, 305 5TH AVENUE SOUTH, SUITE 190.

Gregg Engdahl, City Clerk, presented the application and recommended approval pending receipt of favorable reviews from the Planning, Fire, Health and Building Safety Offices and issuance of a certificate of occupancy. Council President Goerger opened the public hearing. The following individual testified:

Doug Prickett, 715 Westchester Avenue, Shakopee. Mr. Prickett is the owner of the business and was present for any questions.

Council President Goerger closed the public hearing. Masters/Gohman moved approval. Motion carried unanimously.

20. A) ORDINANCE REZONING PROPERTIES LOCATED BETWEEN COUNTY ROAD 75 AND THE WESTERN LINE OF SECTION 1, TOWNSHIP 123 NORTH, RANGE 28 WEST AND BETWEEN 255TH STREET AND THE ST. CLOUD CITY LIMITS, EXCLUDING 25033

COUNTY ROAD 7 FROM C5, HIGHWAY COMMERCIAL DISTRICT TO I1, LIGHT INDUSTRIAL DISTRICT. LOCATION: 2101, 2102, 2109, 2110, 2117, 2125, 2205 251ST STREET; 2106 AND 2124 252ND STREET; 2105, 2116, 2165, AND 2225 255TH STREET; 25177 AND 25183 21ST AVENUE; AND 25112, 25113, 25122, 25123, 25135 22ND AVENUE.

B) RESOLUTION AMENDING THE 2003 COMPREHENSIVE PLAN FUTURE FROM COMMERCIAL TO INDUSTRIAL FOR THE PROPERTIES LISTED ABOVE.

Matt Glaesman, Community Development Director, presented the rezoning and update on the Comprehensive Plan and noted that the Planning Commission recommended approval. Council President Goerger opened the public hearing. The following individuals testified:

Kent Courier, 2109 251st Street. Mr. Courier would like to see the area stay zoned commercial. He questioned what the rezoning would do to his taxes.

Braden Hughes, 25033 Co. Rd. 7. Mr. Hughes concerns are as follows: Impact to his northern edge or property; Impact to traffic in the area; Impact of potential increase in crime with change to Light Industrial area; and Impact to his property value. He also noted that his windows face area of increase in building/traffic. He wonders how the City will ensure his privacy. Mr. Hughes also noted that he isn't receiving City services in regard to fire/police. When he had a call the St. August volunteer department came and the sheriff's office came.

Council President Goerger closed the public hearing. To address Mr. Hughes concern on privacy, Mr. Glaesman noted that any future development of the area would require Screening or buffering. He also noted that under the current zoning – Highway Commercial – the area is zoned to allow a broad range of uses. He also noted the I1 zoning uses are consistent with the existing character of the Augusta Business Park. Michael Williams, City Administrator, commented on the issue of fire/emergency services and noted that he should receive service from St. Cloud. Dispatch will need to be contacted to resolve this issue. Masters/Johnson moved approval of Item A – *Ordinance rezoning properties located between County Road 75 and the western line of Section 1, Township 123 North, Range 28 West and between 255th Street and the St. Cloud City limits, excluding 25033 County Road 7 from C5, Highway Commercial*

District to I1, Light Industrial District. Motion carried 6-1; Councilmember Johnson voted against. Ordinance was assigned number 2615. Libert/Masters moved approval of item B – *Resolution amending the 2003 Comprehensive Plan Future from Commercial to Industrial for the property listed above.* Motion carried 6-1; Councilmember Johnson voted against. Resolution was adopted and assigned number 2015-2-23.

21. **CONSIDERATION OF RESOLUTION ORDERING 9TH AVENUE SOUTH FROM 4TH STREET SOUTH TO UNIVERSITY DRIVE BITUMINOUS RESURFACING IMPROVEMENTS.**

Steve Foss, City Engineer, presented the improvements. Council President Goerger opened the public hearing. No one testified. Council President Goerger closed the public hearing. Masters/Gohman moved approval. Motion carried unanimously by roll call vote. Resolution was adopted and assigned number 2015-2-24.

22. **A) AN ORDINANCE GRANTING A FRANCHISE TO CC VII OPERATING, LLC, L/K/A CHARTER COMMUNICATIONS (“GRANTEE”) TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE SYSTEM IN THE CITY OF ST. CLOUD, MINNESOTA (“CITY”); SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS.**

B) RESOLUTION APPROVING AN AGREEMENT WITH CHARTER COMMUNICATIONS REGARDING THE REMOVAL OF ABANDONED PLANT AND CABLE FACILITIES.

Matt Staehling, City Attorney, presented an overview of the history and current relationship between the City and Charter Communications. He noted that there are issues that remain open and, therefore, does not recommend approval of the agreement. One of the issues is in regard to Charter and the fact that they moved the PEG access channels. This move was a violation of the current franchise agreement. Mr. Staehling introduced Brian Grogan, who represents the City as legal counsel. Mr. Grogan gave a brief presentation and noted that there are no other similar agreements between a cable company and city. Another issue that has been a problem is the

removal of abandoned cable equipment throughout the City. Council President Goerger opened the public hearing. The following individuals testified:

Murray Muff, 575 Prospect Ct. NE – Mr. Muff expressed many concerns in regard to Charter Communication. He feels that they do ‘bad business’ and an agreement with them should not take place. Charter has many contradictions when it relates to his account. He questioned the cost the City has incurred relating to Charter and the franchise agreement – not including employee hours/wages. He also inquired about the survey that was completed since he never saw the results. He also questioned the City on what they have done to attract other cable service.

Mayor Kleis responded that the survey results were available online and can be provided. He also noted that he sent a letter to all viable cable company options inviting them to St. Cloud. He did not receive any interest.

Al Dahlgren, 8929 St. Wendell Township – Mr. Dahlgren was not speaking on behalf of the School Board – but he noted that the School District did send a note to Charter asking that the public access channels be placed back to where they were.

Mel Tadych, 2118 28th St. S. – Mr. Tadych expressed his concerns of the amount of City resources being spent on legal counsel and on holding study sessions in regard to Charter. He feels that the City needs to hold Charter accountable. He noted that he filed a complaint with the Better Business Bureau.

LeeAnn Herrera, 16900 Cedar Ave., Rosemount – Ms. Herrera is a representative of Charter Communications. She noted that Mr. Grogan presented an accurate portrayal of where the City and Charter were in the process of negotiations. She expressed that Charter Communications has made a considerable investment in the City of St. Cloud.

Diane Braegelman, 32827 River Oaks Lane – Ms. Braegelman expressed concern about poor customer service that she received from Charter. The sales person was misleading and lied to her. She is frustrated and dissatisfied.

Council President Goerger closed the public hearing. Councilmembers expressed their frustration with the lack of progress with Charter Communications. Councilmember Hontos expressed his concern about the abandoned cable equipment that exists throughout the City. He questioned Ms. Herrera, Charter Communication, whether a stipulation could be added to the agreement that Charter is responsible to remove all

of the abandoned cable equipment. Ms. Herrera noted that there shouldn't be any left in the community and will look into this. The City Councilmembers discussed the existing issues that need to be finalized. In addition they want to see enforcement of the franchise agreement – which includes moving the PEG channels back to their original channels. Libert/Hontos moved approval of the *Ordinance granting a franchise to CC VII Operating, LLC, L/K/A Charter Communications (“Grantee”) to construct, operate, and maintain a cable system in the City of St. Cloud, Minnesota (“City”); setting forth conditions accompanying the grant of the franchise; providing for regulation and use of the system; and prescribing penalties for the violation of its provisions.* Motion failed 0-7. The *Resolution approving an agreement with Charter Communications regarding the removal of abandoned plant and cable facilities* was not addressed for lack of a motion due to the Ordinance failing. Libert/Johnson moved to direct staff to continue with the current franchise enforcement. Motion carried unanimously. This gives Charter Communications 30 days to comply with the franchise agreement – move PEG channels. If they do not comply the City may schedule a public hearing to address whether a violation occurred and how to proceed with a franchise agreement.

Old Business:

23. **RESOLUTION ACCPETING THE LOW BID AND APPROVING A BUDGET FOR BEAVER ISLAND TRAIL PHASE #3.**

Mayor Kleis provided an overview of the history of the project and the asset this will be for the community. Completing this section of the Beaver Islands Trail is important for the goal of connecting all the area cities through trails. There was some discussion by Councilmember around the high cost but they did acknowledge that this will have a great impact on the downtown. Councilmember Gohman expressed her concern that possible changes could be made to bring the cost down. Hontos/Masters moved approval. Motion carried 6-1; Councilmember Gohman voted against. Resolution adopted and assigned number 2015-2-25.

Open Discussion:

- Councilmember Hontos noted an email the City Council received from a city resident in regard to the garbage carts. He would like this addressed.
- Council President Goerger mentioned that at the next Study Session (March 2) the City Council will be prioritizing issues that they want discussed at study sessions. He encouraged the Councilmembers to bring their lists.

Adjournment: There being no further business to discuss the meeting was adjourned at 9:37 p.m.

Respectfully Submitted,
Jennifer Burrows
Recording Council Secretary

City Council President
Jeff Goerger