

CITY COUNCIL PROCEEDINGS

AGENDA ITEM:

JANUARY 12, 2009

1. Following the Pledge of Allegiance, a regular meeting of the City Council of St. Cloud, Minnesota, was called to order by City Council President Bob Johnson on January 12, 2009, at 6 p.m. in the City Council Chambers.
2. A Moment of Silence was observed for our men and women serving in the Armed Forces.
3. Roll Call. All members were present: Berg, Garven, Hontos, Johnson, Libert, Masters, and Pederson.

SPECIAL RECOGNITION:

4. Mayor Dave Kleis presented the 2008 REFLECTION OF THE YEAR AWARD to "Community Members who contributed to the realization of the St. Cloud Library." Library Board Chair Jim Pehler accepted the award on behalf of the St. Cloud Public Library Board, the Library Staff, the many people and organizations in our community who volunteered their services this past year through meetings and planning sessions, campaigning and fundraising, moving of books, boxes, and furniture, and donating endless hours of their time and talent to reach the end result---the opening of the new library. The award will be displayed at the new St. Cloud Library.

CONSENT AGENDA:

5. **APPROVAL OF AGENDA.** ACTION TAKEN: Approved with the exception of requesting separate discussions on Items 11 & 12 (by Councilmember Pederson), and Items 15 & 16 (by Councilmember Hontos).
6. **APPROVAL OF THE MINUTES AND SUMMARY OF PROCEEDINGS OF THE CITY COUNCIL MEETING HELD NOVEMBER 24, 2008.** ACTION TAKEN: Approved.
7. **APPROVAL OF THE MINUTES AND SUMMARY OF PROCEEDINGS OF THE CITY COUNCIL MEETING HELD DECEMBER 1, 2008.** ACTION TAKEN: Approved.
8. **CONFIRM MAYOR'S RE-APPOINTMENTS TO THE ST. CLOUD LIBRARY BOARD.** ACTION TAKEN: Confirmed the re-appointments of John Augustin, Danny Harris, and Nichole Thometz to their second terms to commence immediately and expire December 31, 2011.
9. **RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH SHERBURNE COUNTY SOCIAL SERVICES FOR PROGRAM SERVICES PROVIDED BY THE GREATER ST. CLOUD AREA RETIRED AND SENIOR VOLUNTEER PROGRAM (RSVP).** ACTION TAKEN: Resolution adopted and assigned number 2009-1-1.
10. **RESOLUTION AUTHORIZING THE DONATION OF MUSICAL INSTRUMENTS AND SHEET MUSIC TO THE ST. CLOUD MUNICIPAL BAND.** ACTION TAKEN: Resolution adopted and assigned number 2009-1-2.
11. **RENEWAL OF TOBACCO LICENSES FOR THE PERIOD OF JANUARY 1, 2009, THROUGH DECEMBER 31, 2009.** ACTION TAKEN: Councilmember Pederson suggested that the City Assessor's office conduct an annual check on establishments that request license renewals to make sure that property taxes are paid current on the establishments. City Clerk Gregg Engdahl concurred. Pederson/Berg moved approval of the list of Tobacco License renewals as submitted. The motion unanimously carried.

12. RENEWAL OF MISCELLANEOUS BUSINESS LICENSES AND PERMITS FOR THE PERIOD OF JANUARY 1, 2009, THROUGH DECEMBER 31, 2009. ACTION TAKEN: Councilmember Pederson pulled this issue for a separate discussion. As with Agenda Item 11, Councilmember Pederson suggested the City do an annual check on all establishments requesting renewals to make sure their property taxes aren't delinquent. City Clerk Gregg Engdahl concurred. Pederson/Garven moved approval of the miscellaneous license list as submitted for approval. The motion unanimously carried.

13. APPLICATION FOR AN EXEMPTION FROM THE CITY'S NOISE ORDINANCE FOR THE "RED BULL OPEN ICE POND HOCKEY TOURNAMENT" TO BE HELD JANUARY 24-25, 2009 AT CENTENNIAL PARK. ACTION TAKEN: Approved contingent upon receipt of favorable reviews from the Police Department.

14. APPLICATION FROM RED DOG HOLDINGS, LLC (MARK AUSTIN SMITH) DBA MAXIT PAWN, FOR A PAWN SHOP LICENSE FOR A STORE TO BE LOCATED AT 2119 DIVISION STREET, ST. CLOUD. ACTION TAKEN: Approved pending receipt of bond approval from City Attorney's Office.

15. PARK DEPARTMENT ITEMS:

(A) RESOLUTION SEEKING REMEDIATION GRANT PROGRAM MN DNR (NEENAH CREEK REGIONAL PARK - ISD 742 LAND ACQUISITION 70 ACRES FOR \$500,000 WITH NON-MATCHING FUNDS);

(B) RESOLUTION SEEKING REGIONAL PARK GRANT MN DNR (NEENAH PARK REGIONAL PARK - ISD 742 LAND ACQUISITION 70 ACRES FOR \$400,000 WITH A 60/40 MATCHING GRANT);

(C) RESOLUTION SEEKING REGIONAL TRAIL PROGRAM GRANT MN DNR (TRAIL CONNECTION FROM COOPER AVENUE WEST ALONG BNSF RAILROAD TO 25TH AVENUE N. FOR \$250,000 WITH A 50/50 MATCHING GRANT);

(D) RESOLUTION SEEKING LOCAL TRAIL PROGRAM GRANT MN DNR (LAKE GEORGE 1 MILE OUTER TRAIL FOR \$50,000 WITH A 50/50 MATCHING GRANT); AND

(E) RESOLUTION SEEKING FEDERAL RECREATION TRAIL PROGRAM (TRAIL CONNECTION FROM THE CIVIC CENTER TO HESTER PARK FOR \$150,000 WITH A 50/50 MATCHING GRANT).

ACTION TAKEN: Councilmember Hontos pulled this item for separate discussion. Hontos/Masters moved to adopt Resolutions C, D, & E as presented. The motion unanimously carried. Councilmember Hontos then asked whether an 18-month old appraisal accurately lists today's property values. He suggested that the current market value of the two parcels of land (70 acres) listed in Resolution A & B are listed too high considering today's market value and the fact that this is undevelopable land. Parks Director Scott Zlotnik said that the appraisal was completed in February 2008 and is acceptable by State standards. The City is looking to do a land swap with the ISD 742 on the land that connects to Neenah Creek Regional Park. Following further discussion, Hontos/Berg moved approval of Resolution A & B. The motion carried by a 6-1 vote with Councilmember Hontos voting against.

16. (A) APPROVAL OF CHANGE ORDER #13 TO THE ST. CLOUD LIBRARY PROJECT; and (B) AUTHORIZATION OF ADDITIONAL COMPENSATION TO PROJECT ARCHITECTS. ACTION TAKEN: Councilmember Hontos pulled this agenda item for separate discussion. He was pleased that this project came in under budget and noted that a General Contractor was used on the project. He noted that 10 of the 25 change orders were related to oversights made by the City's Plan Review process. He specifically cited the missing of the access through the library building to the green roof, and the additional mechanical systems needed to provide cooling in the Telecom room. City Council President Johnson reported that three of the Council members (Hontos, Pederson, and Johnson) recently met with administration to review the current City financial policies for capital improvement projects and to look at possible adjustments. Hontos/Garven moved approval of the change orders as presented. The motion unanimously carried.

17A. **APPROVAL OF GROUP 3 CHANGE ORDERS FOR POLICE HEADQUARTERS.**
ACTION TAKEN: Approved.

17B. **APPROVAL OF SEVEN BID PACKAGES FOR THE CONSTRUCTION OF THE NEW POLICE HEADQUARTERS.** ACTION TAKEN: Approved.

18. **APPROVAL OF THE PRELIMINARY AND FINAL PLAT OF MODEL COLLEGE.**
ACTION TAKEN: Approved subject to the stated conditions.

19. **RESOLUTION SETTING PUBLIC HEARING FOR FEBRUARY 9, 2009, TO CONSIDER SPECIAL ASSESSMENT ROLL 2 FOR 2008 PUBLIC IMPROVEMENTS.**
ACTION TAKEN: Resolution adopted and assigned number 2008-1-8.

20. **APPLICATIONS FOR RENEWAL OF SPECIAL PARKING ZONE PERMITS FOR 2009.** ACTION TAKEN: Approved list as submitted.

21. **RESOLUTION APPROVING THE COOPERATIVE CONSTRUCTION AGREEMENT WITH THE MINNESOTA DEPARTMENT OF TRANSPORTATION (MN/DOT) FOR THE RECONSTRUCTION OF HIGHWAY 23 BETWEEN WASHINGTON MEMORIAL DRIVE AND 4TH AVENUE SOUTH, AND THE RECONSTRUCTION OF 9TH/10TH AVENUE BETWEEN 1ST AND 4TH STREETS SOUTH.** ACTION TAKEN: Resolution adopted and assigned number 2009-1-9.

22. **APPROVAL OF GROUP 3 CHANGE ORDERS FOR THE ST. CLOUD REGIONAL AIRPORT TERMINAL EXPANSION PROJECT.** ACTION TAKEN: Approved as submitted.

OPEN FORUM: Kelly Filla, 24415 17th Avenue, Sales Manager for the St. Cloud Convention & Visitors Bureau, announced that the CVB is putting in a bid for the 2012 Can-Am Games, a huge Olympic-style sporting event. The event promotes physical fitness and camaraderie among and between law enforcement and fire service personnel and agencies from Canada and the United States. The Host Site for the 2010 Can-Am Police-Fire Games will be Dublin, Ohio. The dates for the 2010 Games are August 15-22, 2010. Ms. Filla is hopeful that St. Cloud is being considered as the 2012 Host site.

OLD BUSINESS:

23. **A CONDITIONAL USE PERMIT 2007-04 FOR LISA AND MIKE POWELL TO ALLOW A STABLE AT 25246 33RD AVENUE SOUTH.** Community Development Director Matt Glaesman gave a brief overview of the recent court decision regarding Lisa and Mike Powell's conditional use permit request to allow a stable at 22546 33rd Avenue N. The Zoning Board of Appeals had denied the applicant's request for a conditional use permit in July 2007. On October 27, 2007, the City Council upheld the ZBA's decision. However, in December 2007, the Judge of District Court, the Honorable John H. Scherer, issued an order that overturned the City Council's action. City Attorney Jan Petersen explained that the City Council must approve the conditional use permit; however, the City has been given authority to apply reasonable conditions/restrictions. City Planning staff had prepared a number of conditions and provided a copy of a draft resolution to the Council reflecting such conditions/changes. Hontos/Libert moved approval of the resolution as presented on January 12, 2009. Council discussion ensued. Libert/Hontos moved to table this issue until such time that the Stearns County Soil and Waste Conservation District recommends a manure stabilization plan. The motion unanimously carried.

24. **RESOLUTION DEFERRING CONSTRUCTION OF RAILROAD QUIET ZONE IMPROVEMENTS ON 4½ STREET NE.** Public Services Director Steve Gaetz explained

that the initial cost estimate for this improvement project was \$93,600, with an adjustment increased to \$105,000 submitted to the Council on November 24, 2008. However, based upon recent information received from BNSF, the revised project cost has increased to an estimated \$180,000. Mayor Kleis commented that the reality is that the City must start making budget cuts; and therefore, recommended this project be deferred. Councilmember Garven commented that deferring the project is certainly unfortunate, but is the responsible thing to do. Councilmember Libert concurred, noting that this is just the beginning of budget cuts. Following discussion, Libert/Masters moved to approve adoption of the resolution to defer the project. The motion unanimously carried. The adopted resolution was assigned number 2009-1-10.

NEW BUSINESS:

25. A) **APPLICATION FOR RENEWAL OF VALET PARKING LICENSE FOR PRESTIGE PARKING FOR PARKING SERVICES PROVIDED AT MI FAMIGLIA RESTAURANT, 912 ST. GERMAIN STREET; and B) APPLICATION FOR RENEWAL OF VALET LOADING ZONE PERMIT FOR 2009.** Council President Johnson announced that two documents were distributed to the Council at the meeting: (1) a document entitled “Valet Loading Zone Discussion” prepared by Hans Mische of Jules’ Bistro; and (2) a copy of an email received from Pegg Gustafson, Executive Director of the Downtown Council. He said that although this was not a public hearing, ten-minutes of public testimony would be allowed. Public Services Director Steve Gaetz gave opening comments including a brief overview of the situation, noting that the Downtown Parking Committee, in general, feels that valet parking is a good idea as it allows increased on-street parking. Gaetz noted that the valet service hours run Friday and Saturday evenings from 6 p.m. to 1 a.m. He had contacted the directors of the Paramount Theatre and Germain Towers, and both indicated no opposition. He noted, however, that there are issues and concerns from the owners of Mind, Body, and Spirit and Jules’ Bistro. Council President Johnson opened the floor to public testimony. The following individuals spoke: Mr. Brian Alsaker, owner of Prestige Parking & Valet, LLC, responded to several of the issues listed on the document provided by Mr. Mische at the meeting. Mr. Alsaker said that he had extended a reduced rate for valet service to Jules’ Bistro, but the offer was rejected. He feels that valet service helps to alleviate parking problems by increasing available parking downtown, and requested renewal of his license. Mr. Hans Mische, owner of Jules’ Bistro, addressed the City Council. He said that he was speaking on behalf of his business and his neighboring business, Mind, Body, and Spirit, owned by Merri Weis and Joan Stokes. In his opinion, he saw this as preferential treatment for a certain business, and in his perspective, felt there wasn’t a need for valet service at Mia Familia. However, he asked the Council to table this issue. He hoped to reconvene with the group of affected individuals to find a mutual, workable solution. Council discussion ensued. Masters/Garven moved to table this issue to the January 26, 2009, meeting to allow representatives of Prestige Valet; Mia Familia; Mind, Body, and Spirit; Jules’ Bistro; Downtown Council; and City staff to meet and reach potential solutions and options for City Council consideration. The motion carried by a 5-2 vote with Councilmember Hontos and Council President Johnson voting against.

OPEN DISCUSSION & ANNOUNCEMENTS:

26. **DISCUSSION REGARDING WINTER PARKING RESTRICTIONS.** (Requested by Councilmember Garven) Councilmember Garven said she was contacted by a resident who asked whether the City could establish permits/exemptions to our winter parking regulations for short-term parking situations. Public Services Director Steve Gaetz spoke to the issue and displayed a map of the City's Seasonal Parking Ban Zones and restrictions. He suggested that he could draft a proposed ordinance establishing exemptions to Seasonal Parking Ban restrictions for the Council's review. Council President Johnson suggested that 15-minutes be allotted at the February 2 Study Session to discuss this issue further.

27. Councilmember Libert asked Mayor Kleis to give an update on our City's snow plowing. Mayor Kleis expressed his gratitude to City staff for the exemplary job they are doing with keeping the roads open and clear. He affirmed there are no plans for any budget reductions in road plowing/snow removal. The fact is our current Minnesota winter weather has created a strained situation for keeping our streets cleared of snow and ice.

ADJOURNMENT:

It was moved by Councilmember Libert, seconded by Councilmember Berg, to adjourn the meeting at 8 p.m. The motion unanimously carried.

City Council President Bob Johnson

Respectfully submitted by

Sandy Hilsen
Recording Council Secretary