

CITY COUNCIL PROCEEDINGS

AGENDA ITEM

May 4, 2015

1. Following the Pledge of Allegiance, a regular meeting of the City Council of the City of St. Cloud, Minnesota, was held on May 4, 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 THE MAYOR'S REAPPOINTMENT TO THE PLANNING COMMISSION.** ACTION TAKEN: Confirmed the appointment of Jake Anderson to his second term to commence immediately and expire April 30, 2020.
6. **APPLICATION FOR TEMPORARY ON-SALE INTOXICATING LIQUOR LICENSE FOR THE MUNSINGER/CLEMENS BOTANICAL SOCIETY FOR EVENTS TO BE CONDUCTED IN MUNSINGER/CLEMENS GARDENS ON JULY 16 AND AUGUST 18, 2015.** ACTION TAKEN: Approved.
7. **RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH AFSCME COUNCIL 65, LOCAL 758, ASSISTANT ATTORNEYS.** ACTION TAKEN: Approved. Resolution was adopted and assigned number 2015-5-46.
8. **RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH DISTRICT 165 OF THE INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS (AFL-CIO).** ACTION TAKEN: Approved. Resolution was adopted and assigned number 2015-5-47.
9. **RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH LAW ENFORCEMENT LABOR SERVICES, LOCAL #281, POLICE SERGEANTS.** ACTION

TAKEN: Approved. Resolution was adopted and assigned number 2015-5-48.

10. **AN ORDINANCE AMENDING SECTION 540 OF THE CODE OF ORDINANCES ENTITLED, "MUNICIPAL ATHLETIC COMPLEX (MAC) FEES."** ACTION TAKEN: Reading and public hearing were set for May 18, 2015. Assigned proposed Ordinance number 2015-13.
11. **PROFESSIONAL SERVICES AGREEMENT WITH APEX EFFICIENCY SOLUTIONS FOR THE STREET LIGHT UPGRADE PROJECT.** ACTION TAKEN: Johnson/Masters moved approval. Motion carried unanimously.
12. **STREET LIGHT UPGRADE PROJECT EQUIPMENT PURCHASE.** ACTION TAKEN: Approved.
13. **RESOLUTION SUPPORTING METROPLAINS LLC'S MHFA TAX CREDIT APPLICATION FOR THE SUNVILLA ESTATES HOUSING PROJECT.** ACTION TAKEN: Approved. Resolution was adopted and assigned number 2015-5-49.
14. **AFFIRM PRIOR APPROVAL OF THE PRELIMINARY PLAT OF GRANITE CITY CROSSINGS.** ACTION TAKEN: Approved a one year extension of preliminary plat.
15. **RESOLUTION DECLARING THE RESIDENCE AT 1742 2ND STREET NORTH IN THE CITY OF ST. CLOUD TO BE HAZARDOUS BUILDING PURSUANT TO MINNESOTA STATUTES 463.15 AND 463.16.** ACTION TAKEN: Approved. Resolution was adopted and assigned number 2015-5-50.
16. **RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR I-94 BUSINESS PARK PLAT 12 STREET IMPROVEMENTS, CONTRACT 2015-19.** ACTION TAKEN: Approved. Resolution was adopted and assigned number 2015-5-51.
17. **2015 CRACK SEAL IMPROVEMENTS:**
 - A) **ACCEPTANCE OF QUOTE FROM ASTECH CORP. FOR CRACK SEAL IMPROVEMENTS ON 9TH/10TH AVENUE FROM 4TH STREET SOUTH TO SAUK RAPIDS REGIONAL BRIDGE, CONTRACT 2015-16.**
 - B) **ACCEPTANCE OF QUOTE FROM ASTECH CORP FOR CRACK SEAL IMPROVEMENTS ON 8TH**

AVENUE NORTH, CONTRACT 2015-17.

ACTION TAKEN: Both items were approved.

18. **RESOLUTION RECEIVING CITY ENGINEER'S REPORT AND SETTING A PUBLIC HEARING FOR MAY 18, 2015, TO CONSIDER RAILROAD QUIET ZONE IMPROVEMENTS AT 4 ½ STREET N.E..**

ACTION TAKEN: Approved. Resolution was adopted and assigned number 2015-5-52.

19. **22ND STREET SOUTH IMPROVEMENTS, CONTRACT 2015-01, S.A.P. 162-153-002:**

A) **RESOLUTION ACCEPTING LOW BID FOR 22ND STREET SOUTH IMPROVEMENTS, CONTRACT 2015-01, S.A.P. 162-153-002.**

B) **RESOLUTION DECLARING THE OFFICIAL INTENT OF THE CITY OF ST. CLOUD, MINNESOTA, TO REIMBURSE CERTAIN EXPENDITURES FROM THE PROCEEDS OF BONDS TO BE ISSUED BY THE CITY, CONTRACT 2015-01, S.A.P. 162-153-002.**

ACTION TAKEN: Approved. Resolution (A) was adopted and assigned number 2015-5-53.

Resolution (B) was adopted and assigned number 2015-5-54.

Open Forum:

No one testified.

Public Hearings:

20. **AN ORDINANCE AMENDING SECTION 576 OF THE 2007 CODE OF ORDINANCES INCREASING STREET LIGHT UTILITY RATES.** Steve Foss, City Engineer, presented the items and noted that the increase is needed to cover costs of the utility. Council President Goerger opened the public hearing. No one testified. Council President Goerger closed the public hearing. Gohman/Masters moved approval. Motion carried unanimously. Ordinance was assigned number 2617.

21. **RESOLUTION AMENDING THE GENERAL DEVELOPMENT PLAN OF THE BLUE MOON PLANNED UNIT DEVELOPMENT (PUD) TO ALLOW A 4,000 SQ. FT. BUILDING ADDITION AND A POTENTIAL FUTURE BUILDING ADDITION OF 7,300 SQ. FT (LOCATION: 3995 COUNTY ROAD 74).** Matt Glaesman, Community Development Director, gave a brief overview.

Council President Goerger opened the public hearing. No one testified. Council President Goerger closed the public hearing. Johnson/Libert moved approval. Motion carried unanimously. Resolution was adopted and assigned number 2015-5-55.

22. **A) ORDINANCE REZONING PROPERTY LOCATED AT 601 11TH AVENUE SE FROM C5, HIGHWAY COMMERCIAL DISTRICT TO PLANNED UNIT DEVELOPMENT (PUD). (LOCATION: 601 11TH AVENUE SE) (REZ-2015-02); AND**
B) RESOLUTION AMENDING THE EAST SIDE OIL PUD GENERAL DEVELOPMENT PLAN TO ALLOW CONSTRUCTION OF TWO TANKS FOR STORAGE OF USED MOTOR OIL AT 626 LINCOLN AVENUE SE.

Matt Glaesman, Community Development Director, presented the Ordinance. Mr. Glaesman noted that there are two actions: change in zoning; and amending the East Side Oil General Development Plan. The Planning Commission recommended approval. Council President Goerger opened the public hearing. The following individuals testified:

David Keller PO Box 2974, Minneapolis, MN; Mr. Keller is on the Board of Directors of the Arlington Place Business Center which is adjacent to the property. Mr. Keller sees the value of the expansion but is concerned about the size of the storage tanks. He would like to see more buffer than a chain link fence.

Jim Feneis 920 10th St. NE, Sauk Rapids; Mr. Feneis responded to a question of what he could propose as a buffer. Mr. Feneis stated that from the south edge to the property line (18 ft. of green space) he would put two rows evergreen trees. He mentioned that one tank would go up this year (north tank) and the next wouldn't go up for at least an additional year.

Council President Goerger closed the public hearing. The City Council had questions in regard to the site plan and the buffer. Specifically there were questions about fencing the property. Mr. Feneis noted that they are thinking of a 6 foot fence. The City Council would like to see the parties meet and agree on a buffer. Lewis/Gohman moved to table until there is a site plan drawing. Motion to table carried unanimously.

23. **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; AND

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

C) RESOLUTION GRANTING CHARTER COMMUNICATIONS A WAIVER FROM ITS FRANCHISE REQUIREMENT AND ALLOWING CHARTER TO RELOCATE LOCAL COMMUNITY PROGRAMMING TO NEW CHANNEL NUMBER LOCATIONS; AN

D) AN AGREEMENT GOVERNING CHARTER BUSINESS SERVICES.

Matt Staehling, City Attorney presented the item. Councilmember Hontos had questions regarding the process. Matt Staehling noted that a public hearing will be held on all documents at a single time. If items A-D are approved then the City Council would be asked to remove Item 24 from the agenda. Mr. Staehling introduced Brian Grogan, Attorney with Minneapolis Law Firm Moss and Barnett. Mr. Grogan represents the City and gave a brief presentation/summary of the settlement that is being brought forward for consideration. For the agreement to be approved all of the items need to move forward. Council President Goerger opened the public hearing. The following individuals testified:

Gary Zimmermann 224 3rd ST. S., Waite Park; Mr. Zimmermann questioned whether Charter will ever have a local telephone number. He also wondered if there will ever be a Public Access Studio that people can use.

Murray Muff 575 Prospect Court NW; Mr. Muff commented that there has been discussion for three years and he sees no progress. He commented that he thinks a 10 year agreement is too long, specifically because technology is always changing. He noted that 90% of the City does not approve of Charter according to a survey that was completed.

LeAnn Herrera Director of Government Affairs – Charter; Ms. Herrera spoke of the work that was completed in order to come to this agreement.

Council President Goerger closed the public hearing. Libert/Lewis moved approval. Councilmember Hontos had concerns in regard to customer service, abandoned plant, and PEG relocation. In regard to Customer Service standards, he questioned how this will be enforced when it hasn't been enforced in the past. Ms. Herrera noted that Charter is

required to give a report of complaints upon request. In regard to abandoned plant, Councilmember Hontos commented that the City may be getting a good deal, however, he feels that no one is looking out for private property owners who have these items on their property. Both Councilmember Hontos and Johnson feel that Agenda Item 24 should be taken care of before action is taken on this item 23 A-D. Councilmember Masters expressed some concern about the moving of PEG channels and effect it has on schools. There was a consensus among the City Council that attention should be paid to customer service. The original motion for approval carried 5-2; Councilmembers Hontos and Johnson voted against. Item A – *Ordinance granting a Franchise to CC VIII Operating, LLD L/K/A Charter Communications to Construct, Operate, and Maintain a Cable System in the City of St. Cloud, Minnesota; 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* - was approved and assigned number 2618. Item B – *Resolution approving and Agreement with Charter Communications regarding the removal of Abandoned Plant and Cable Facilities* – was approved and assigned number 2015-5-56. Item C – *Resolution granting Charter Communications a waiver from its cable franchise requirement and allowing Charter to relocate local Community Programming to new channel number locations* – was approved and assigned number 2015-5-57. Item D – *Agreement governing Charter Business Services* – was approved.

24. **CONSIDERATION OF AN ALLEGED CABLE TELEVISION FRANCHISE VIOLATION REGARDING CHARTER COMMUNICATIONS RELOCATION OF PUBLIC, EDUCATIONAL AND GOVERNMENTAL (PEG) CHANNELS.**

Matt Staehling, City Attorney, presented the item. Lewis/Gohman moved to remove the item from the agenda. Motion carried 5-2; Councilmembers Hontos and Johnson voted against.

Old Business

25. **RESOLUTION ORDERING SAFETY IMPROVEMENTS BY NORTH JUNIOR HIGH SCHOOL.**

Steve Foss, City Engineer, brought the item forward. Libert/Lewis moved approval. Motion carried unanimously. Resolution was adopted and assigned number 2015-5-58.

Open Discussion:

- Mayor Kleis noted that there will be a tour of Friedrich Park on Thursday, May 7 at 5:30 p.m. followed by an information meeting at City Hall at 7 p.m.
- Councilmember Johnson requested that the City Council be given “Active Shooter Training”. Johnson/Hontos moved to put this on a Study Session. Motion failed 2-5; Councilmembers Goerger, Gohman, Lewis, Libert, and Masters voted against.
- Mayor Kleis noted that Monday, May 11, there will be a 5 p.m. meeting to present the St. Cloud Crime Statistics followed by Study Session at 6 p.m. At the 5 p.m. meeting he will announce who was selected to be the two new St. Cloud Police Commanders.
- Councilmember Hontos questioned when the next discussion on the Aquatics Center would take place. Michael Williams, City Administrator, responded it would either be at the May 18 meeting or the following meeting.

Adjournment: There being no further business to discuss the meeting was adjourned at 8:39 p.m.

Respectfully Submitted,
Jennifer Burrows
Recording Council Secretary

City Council President
Jeff Goerger