

CITY COUNCIL PROCEEDINGS

AGENDA ITEM:

MAY 24, 2010

1. Following the Pledge of Allegiance, a regular meeting of the City Council of the City of St. Cloud, Minnesota, was held on May 24, 2010, at 6 p.m. in the City Council Chambers.
2. A Moment of Silence was held for our men and women serving in the Armed Forces.
3. Councilmembers Berg, Garven, Hontos, Libert, Johnson, Masters and Pederson were present.

CONSENT AGENDA:

4. **APPROVAL OF AGENDA.** ACTION TAKEN: Approved with the inclusion of two additional items: (1) Mayor Kleis's request for a presentation and update on current plans for the Civic Center expansion; and, (2) Councilmember Pederson's request to revisit the City Council health benefit package issue under Old Business.

5. **APPLICATION FOR AN EXEMPTION FROM THE CITY'S NOISE ORDINANCE FOR LIBERTY SAVINGS BANK TO BE USED IN CONJUNCTION WITH THE LIBERTY SAVINGS BLOCK PARTY, JUNE 25, 2010 FROM 5:00 TO 9:30 PM AT WHITNEY PARK.** ACTION TAKEN: Approved.

6. **APPLICATION FOR A PAWN SHOP LICENSE FOR PAWN AMERICA FOR A STORE TO BE LOCATED AT 2550 DIVISION STREET.** ACTION TAKEN: Approved.

7. **APPROVE AMENDMENT 3 EXTENDING THE JOINT POWERS AGREEMENT WITH THE STATE OF MINNESOTA, DEPARTMENT OF PUBLIC SAFETY, EMERGENCY COMMUNICATION NETWORKS AND THE CITY OF ST. CLOUD AUTHORIZING LIEUTENANT THOMAS JUSTIN OF THE ST. CLOUD POLICE DEPARTMENT TO PROVIDE PROFESSIONAL AND TECHNICAL SERVICES AS A REGIONAL INTEROPERABILITY COORDINATOR.** ACTION TAKEN: Approved.

8. **RESOLUTION TO APPROVE THE ST. CLOUD POLICE DEPARTMENT APPLYING FOR A \$262,267.50 MULTI-AGENCY GRANT FROM THE US/DOT NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION THROUGH THE DEPARTMENT OF PUBLIC SAFETY'S OFFICE OF TRAFFIC SAFETY.** ACTION TAKEN: Resolution adopted and assigned number 2010-5-87.

9. **JOINT POWERS AGREEMENT FOR LAW ENFORCEMENT MUTUAL ASSISTANCE BETWEEN BENTON COUNTY AND THE CITY OF ST. CLOUD.** ACTION TAKEN: Approved.

10. **ACCEPTANCE OF QUOTE FROM WALKER AND SONS CONSTRUCTION AND RAMSTAD TECHNOLOGIES TO RELOCATE GRANET FIBER.** ACTION TAKEN: Approved

11. **COMMUNITY PROJECT AT LAKE GEORGE - 2010 PHASE #2 GRANITE FOUNTAIN PLAZA PROJECT.** ACTION TAKEN: Approved.

12. **ACCEPT DONATION FROM THE ST. CLOUD ROTARY FOR THE COMMUNITY PROJECT AT LAKE GEORGE - 2010 PHASE #2 GRANITE FOUNTAIN PLAZA PROJECT.** ACTION TAKEN: Approved.

13. **RESOLUTION RECEIVING CITY ENGINEER'S REPORT AND CALLING FOR A PUBLIC HEARING FOR JUNE 7, 2010, TO CONSIDER 2010 SEAL COAT IMPROVEMENTS.** ACTION TAKEN: Resolution adopted and assigned number 2010-5-88.

14. **EAST LAKE BOULEVARD IMPROVEMENTS, CONTRACT 2010-09: A) RESOLUTION ACCEPTING LOW BID FOR EAST LAKE BOULEVARD IMPROVEMENTS, CONTRACT 2010-09; AND 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 2010-09.** ACTION TAKEN: Resolutions adopted and assigned numbers 2010-5-89 and 2010-5-90 respectively.

15. **RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN AGREEMENT FOR STATE FINANCIAL ASSISTANCE FOR THE SLURRY SEAL PROJECT, ALTERNATE 1, FOR THE ST. CLOUD REGIONAL AIRPORT – MN DOT AGREEMENT NO. 96960.** ACTION TAKEN: Resolution adopted and assigned number 2010-5-91.

OPEN FORUM: No one spoke.

ADD-ON ITEM:

15.5. **CIVIC CENTER PRESENTATION.** Mayor Dave Kleis gave a brief overview of the past 12 years' process of identifying needs and proposing plans and designs for the Civic Center expansion project. The legislative session ended last week and the Civic Center project was passed, but vetoed. The mayor announced that the City will move forward with a scaled back project and take advantage of the low interest rates. Utility work is currently being done on 4th Avenue, funded by the \$2 million received in bonding monies. Murray Mack, Project Lead Architect and owner of Hagemeister, Mack Architects, provided a virtual tour of the proposed design of the Civic Center and highlighted aspects of the project, including those areas that will not be a part of this project, but could be added in the future. Bob Strack, Project Construction Manager and owner of Strack Companies, spoke to the cost of the project with the elimination of various features such as the parking ramp, some landscaping, the Mississippi River Front features, the ceiling and lighting projects, etc. The project cost has been scaled back to \$22 million. City Administrator Mike Williams spoke to the financial end of the project. The Civic Center debt service is paid with Food & Beverage Tax monies, as is the Paramount Theatre and the Municipal Athletic Complex. By securing low interest rates and a 25-year payback plan, the City could go forward with this plan. Public comment can be directed to the Civic Center hotline by calling (320) 650-3152 or by email at budget@ci.stcloud.mn.us. Mayor Kleis said that the request to move forward with the Civic Center project will be brought to the City Council for consideration at the June 7, 2010, City Council meeting.

PUBLIC HEARINGS:

16. AN ORDINANCE AMENDING ARTICLE IV OF THE HOME RULE CHARTER ENTITLED "NOMINATIONS AND ELECTIONS" TO PROVIDE FOR CHANGES IN THE CITY'S ELECTION CALENDAR IN RESPONSE TO CHANGES IN STATE ELECTION LAWS. City Clerk Gregg Engdahl explained that on April 1, Governor Pawlenty approved law that would change the date of the primary election from September 14 to August 10, 2010. Due to this change there was potential conflict between the guidelines set by the State of Minnesota and those included in our Home Rule Charter. The purpose of this ordinance amendment is to coordinate the City of St. Cloud's election calendar with that of the State of Minnesota. Council President Johnson opened the public hearing. No one spoke. The public hearing was closed. Garven/Berg moved approval of the ordinance as presented. The motion unanimously carried. The adopted ordinance was assigned number 2463.

17. RENEWAL OF ON-SALE INTOXICATING, OFF-SALE INTOXICATING, SPECIAL SUNDAY, COMBINATION WINE/3.2 AND CLUB LIQUOR LICENSES FOR THE PERIOD 7-1-10 TO 6-30-11. City Clerk Gregg Engdahl stated that each of the applications brought forward were reviewed by the Police, Health, Planning, Fire and Legal offices and were recommended for approval subject to the conditions listed. He noted that Sawatdee and the Veranda Lounge have undergone changes in ownership, and if approved, the transfers would be effective immediately and the renewals will occur with all other liquor licenses on July 1, 2010. He noted that City Code prohibits issuing a license to any establishment with financial claims due to the City or State (delinquent or unpaid). All accounts must be brought current. He also explained that any business that had "(AGE)" listed next to its establishment name is on the Alcohol and Gambling Enforcements listing of the "no ship list" as they are delinquent in taxes. City Clerk Engdahl stated that should any of these accounts remain unpaid as of July 1, 2010, sales must cease at the establishment. City Council President Johnson opened the public hearing. No one spoke. The public hearing was closed. Masters/Libert moved that the renewal of the On-Sale Intoxicating, Off-Sale Intoxicating, Special Sunday, Wine and Club Liquor Licenses for the licensing period of July 1, 2010 to June 30, 2011, be approved subject to the conditions listed. The motion unanimously carried.

18. AN ORDINANCE AMENDING THE 2007 CODE OF ORDINANCES BY ADDING A NEW SECTION 820:00 ENTITLED, SOCIAL HOST ORDINANCE, WHICH

ESTABLISHES PENALTIES FOR PERSONS HOSTING AN EVENT OR GATHERING WHERE ALCOHOL IS PRESENT AND BEING POSSESSED OR CONSUMED BY PERSONS UNDER TWENTY-ONE YEARS OF AGE.

City Attorney Matt Staehling gave a brief overview of the Social Host Ordinance, which is being proposed to address the ongoing problem of underage alcohol consumption in our community. It would hold persons criminally responsible for hosting events or gatherings where persons under the age of 21 are in possession of alcohol or consuming alcohol. Council President Johnson opened the public hearing. The following individuals spoke:

Stephanie Peterson, 14 Highbanks Place; spoke in favor of the proposed ordinance noting that SCSU students need to be responsible members of the community.

Michael Jamnick, 1445 2nd Street SE, #307A; past SCSU Student Association President; stated his own opposition and referenced the Student Government Association's resolution in opposition entitled "*A Resolution in Opposition to a Social House Ordinance in the City of St. Cloud*" dated April 22, 2010.

Justin Lewandowski, 26 ½ 5th Avenue S.; spoke in opposition to the ordinance noting that as a co-tenant it's probable that unfairly and unknowingly he could be implicated for another tenant's poor choices and end result could damage his career future.

John Parro, 105 4th Street S., lives in an 11-bedroom rental home (fraternal organization) which houses 11 different people, each holding a separate lease. He felt that each person should not be implicated for any other tenants' actions. Spoke in opposition.

Donald S. Justin, 805 17th Avenue S., offered general comments.

Joel Belan, 2704 18th Avenue SE, spoke in opposition stating the proposed ordinance is an infringement of the Fourth Amendment (U.S. Constitution). Suggested this would force party-goers outside the City limits.

Dan Hollenhorst, 513 7th Avenue S. a 25-year resident of the south side neighborhood; offered his full support for the proposed ordinance, noting that law enforcement is an essential tool.

Rob Reff, 360 Killenger Circle, Sauk Rapids, spoke in support of the proposed ordinance noting that it's aimed at targeting underage drinking and not events held that are legal, safe adult gatherings. He discussed how house parties where drinking is involved with 80/90 people attending is an unsafe atmosphere that can lead to deadly consequences.

Rich Kelly, 524 4th Avenue S., a representative of the Historic Preservation Commission and past SCSU student who personally experienced the 1985 riots on campus. He noted

that students will party, but they must be respectful and accept responsibility for their drinking. He suggested that self-policing hasn't worked.

Mary Mathews, 315 3rd Avenue S. spoke in full support of adopting the collection of four proposed ordinances being presented. St. Cloud would become the 49th city in Minnesota to support such regulations. She encouraged and urged the Council to adopt the ordinances.

Beth Cragle, 201 Ramsey Place S., as a resident who lives in St. Cloud's south side historic neighborhood, she expects students to be responsible when they drink and spoke in full support of the ordinance.

Dale Rystad, 6608 Yosemite Street, was concerned that as a co-tenant he might have to share the responsibility of another tenant's bad choices. He feared that even one mark against him could prevent him from securing a job as a teacher. He spoke against the ordinance as presented and suggested that the text be reworded.

Patrick Mastey, 2759 Clearwater Road, serves as a landlord in the south side campus neighborhood and spoke in support of the ordinance. He suggested that a co-tenant not attending a party wouldn't be held responsible for another tenant's bad actions.

Amanda Bardonner, SCSU Student Services Chairperson, read a quote from the Winona newspaper speaking to a similar ordinance in that community. She spoke against the proposed ordinance and reminded the Council that University students have a positive financial impact on our community. She suggested that the focus should be on educating students to make good choices and being responsible members of society. She also supported SCSU SGA's opposition as indicated in the resolution, entitled "*A Resolution in Opposition to a Social House Ordinance in the City of St. Cloud*" dated April 22, 2010.

Dr. Earl Potter, President of St. Cloud State University, spoke favorably of Dr. Reff's leadership on campus, noting that educating students on effects of alcohol consumption is an essential tool. He shared his experiences of walking through the SCSU neighborhood with Mayor Kleis during the campus move-in days. He reminded the students and community to "Be Safe, Be Legal, Be responsible." He spoke to the importance of the on-going partnership between the city and the college. He suggested that the resolution brought forward by SCSU Student Government Association was not a true sentiment of the full student body.

Nimesh Wickramasinghe, 627 6th Avenue S., spoke in opposition to the proposed ordinance. He works as a night security guard and suggested that he has no control over his roommates' actions while he's at work. He is currently an aviation major at the university.

There being no one else wishing to speak, the public hearing was closed. It was moved by Councilmember Masters, seconded by Councilmember Berg, to approve the Social Host

ordinance as presented. Council discussion ensued with Masters asking for a response about the concern brought forward by several people regarding co-tenants being held responsible for other co-tenants' bad choices. City Attorney Staehling suggested that citations shouldn't be issued to any co-tenant not present at a gathering where a violation occurs unless evidence links that co-tenant to the event. St. Cloud Police Chief Dennis Ballantine spoke in support of the proposed ordinance as an essential tool to help law enforcement get to the core of the problem to prevent recurring private, underage drinking gatherings. Following discussion, the motion unanimously carried. The adopted Ordinance was assigned number 2464.

19. AN ORDINANCE AMENDING SECTION 810:30, SUBDIVISION 14, OF THE 2007 CODE OF ORDINANCES, ENTITLED PROMOTING RESPONSIBLE CONSUMPTION.

City Attorney Matt Staehling presented the proposed ordinance amendment that would expand the limitations on "all you can drink" specials to all operations and establish a prohibition on the promotion of "drinking games," those promotions that are generally inconsistent with the goal of promoting responsible alcohol consumption. City Attorney Staehling noted that the Hospitality Association does not support the proposed ordinance. City Council President Johnson opened the public hearing. The following individuals spoke:

Harry Burns, 111 9th Avenue N., attorney representing the Hospitality Association, confirmed that the Hospitality Association unanimously approved a resolution entitled, "St. Cloud Hospitality Association Resolution Re-Affirming Adoption of Best Practices." He said that the owners of the establishments recognize that "all you can drink" specials do not promote responsible consumption and intend to continue in dialogue with public officials and citizens to promote the responsible consumption of alcohol. The Hospitality Association intends to abide by the best practices in the hospitality industry to curb underage consumption and over-consumption of alcohol. He requested that the City Council not adopt the proposed ordinance.

Justin Lewandowski, 26 ½ 5th Avenue S., general comments; spoke in opposition.

Michael Jammick, 1445 2nd Street SE, Apt. 307A; re-affirmed the Student Government Organization's resolution noting that the SGA is the official voice of the SCSU students. Spoke in opposition to the ordinance.

Dan Hollenhorst, 513 7th Avenue S., spoke in support of the ordinance and briefly reviewed the past history of the south side neighborhood and Cloud State University, and how the two entities came together to develop a positive working relationship. He referred to the code of conduct and efforts made to promote safety; however, he suggested that the downtown bar owners were still not on board in their efforts.

Father Nathan Kroll, Holy Myrrh-bearers Orthodox Church, 601 Seventh Avenue S, spoke in favor of the ordinance as an essential tool to curb excessive drinking. He noted that in nine years, he has suffered innumerable acts of vandalism and extreme bad behavior by intoxicated people moving throughout his neighborhood.

Bernadette Perryman, 2383 120th Avenue, Clear Lake; asked the Council not to adopt the proposed ordinance. She was aware of three establishments/retailers that will be encouraged to collaborate with the Hospitality Association on its Best Practices, and suggested that those three establishments would certainly be contacted and encouraged to follow the Hospitality Association's resolution.

John Parro, 105 4th Street S., SCSU student with general comments in opposition to the proposed ordinance.

Steve Cragle, 201 Ramsey Place, general comments regarding being a good neighbor; spoke in support of the ordinance.

Dan Wedin, 2509 13th Street S., asked the Council to allow the Hospitality Association to proceed in good faith on its recently adopted resolution. He suggested that the majority of the liquor establishments should not be punished because of three establishments' poor actions.

Teresa Bohnen, President of the St. Cloud Area Chamber of Commerce, 3287 County Road 115; spoke in support of the Hospitality Association and suggested the Council table this discussion until such time a better resolution could be reached. Spoke in opposition to the proposed ordinance.

Dr. Earl Potter, President of St. Cloud State University, applauded the intent of the Ordinance and also the intent of Hospitality Association's resolution. He welcomed the Hospitality Association's efforts to self-police and reserve the right to revisit this issue as necessary.

Mary Mathews, NUCC Chairperson, requested that the Council adopt the Ordinance as presented. She also requested that the Hospitality Association's resolution text be included in the minutes.

There being no one else wishing to speak, Council President Johnson closed the public hearing. Garven/Libert moved approval of the ordinance as presented. Council discussion ensued. Councilmember Hontos, as well as other members, suggested that the Hospitality Association's resolution was agreed upon by both sides as a good faith effort, and it should be accepted in good faith. It should serve sufficiently at this time. Council President Johnson spoke in support of the ordinance. Following discussion, Berg/Masters moved to table the proposed ordinance to a future date. The motion failed by a vote of 3-4 with Garven, Hontos, Libert, and Pederson voting

against. The original motion to adopt the proposed ordinance (reference text of Proposed Ordinance 2010-13) failed by a vote of 3-4 with Garven, Hontos, Libert, and Pederson voting against. It was then moved by Hontos/Berg to accept the Hospitality Association's Resolution as Best Practices. The motion unanimously carried. (Full text of Resolution listed below).

**ST. CLOUD HOSPITALITY ASSOCIATION RESOLUTION
RE-AFFIRMING ADOPTION OF BEST PRACTICES**

Whereas, the St. Cloud Hospitality Association (Association) is comprised primarily of small, family and individually owned businesses; and
Whereas, Association members live and work in the St. Cloud area and contribute significantly to the economic health of our community; and
Whereas, the Association is concerned about the economic viability of its members and our community; and
Whereas, the Association is concerned about the overall health of the City and its neighborhoods; and
Whereas, the Association is committed to the health and safety of its patrons; and
Whereas, the Association recognizes the problems associated with the underage consumption and over-consumption of alcohol; and
Whereas, it is for these reasons that we have adopted a sense of responsibility in how we serve our guests; and
Whereas, it is recognized that "all you can drink" specials do not promote responsible consumption; and
Whereas, it is recognized that sponsoring or promoting "drinking games" where the consumption of alcohol is a rule or penalty of the game does not promote responsible consumption; and
Whereas, it is important that the Association continue to engage in dialogue with public officials and private citizens who are concerned about these same issues.
Now therefore, be it resolved:
That, the Association will continue to promote the responsible consumption of alcohol will and adopt and abide by the best practices in the hospitality industry; and
That, Association members will refrain from marketing or otherwise offer "all you can drink" specials; and
That, Association members will refrain from sponsoring or promoting "drinking games" where the consumption of alcohol is a rule or a penalty of the game; and
That, the Association will remain engaged in the public discussion and dialog surrounding issues related to underage consumption and over-consumption of alcohol. ■

20. **AN ORDINANCE AMENDING THE 2007 CODE OF ORDINANCES BY ADDING A NEW SECTION 1002, A DISRUPTIVE INTOXICATION ORDINANCE, WHICH ESTABLISHES PENALTIES FOR INTOXICATED PERSONS WHO ARE ENGAGING IN PUBLIC BEHAVIOR THAT IS DISRUPTIVE TO OR OTHERWISE DISTURBS THE PEACE.**

City Attorney Matt Staehling explained that the proposed ordinance would target lower levels of public disruptive behavior due to public intoxication and allow police officers to issue administrative citations instead of tickets and summons to District Court. A violation/offense under this ordinance would be designated as a petty misdemeanor. Council President Johnson opened the public hearing. The following individuals spoke:

Michael Jamnick, 1445 2nd Street SE, Apt. 307A; stated that he and the SCSU Student Government Association support the ordinance as presented.

Justin Lewandowski, 26 ½ 5th Avenue S.; stated his support for the ordinance and felt that individuals should be held accountable for their behavior.

There being no one else wishing to speak, City Council President Johnson closed the public hearing. Masters/Garven moved approval of the proposed ordinance that added new Section 1002, a Disruptive Intoxication Ordinance. Councilmember Garven spoke in support of the ordinance noting that the ordinance is targeting the entire community. Councilmember Berg called upon Rich Wilson, Assistant St. Cloud Police Chief, to speak to the proposed ordinance. Asst. Chief Wilson spoke in support noting that the adoption of the ordinance would allow police officers to issue administrative citations for those in violation. The motion unanimously carried. The adopted ordinance was assigned number 2465.

21. ORDINANCES AMENDING SECTIONS 800 AND 810 OF THE 2007 CODE OF ORDINANCES RESPECTIVELY ENTITLED, 3.2 PERCENT MALT LIQUOR, AND INTOXICATING LIQUOR, BY ESTABLISHING NEW SECTIONS 800:85 AND 810:75 ENTITLED PROVISIONAL LIQUOR LICENSE.

City Attorney Matt Staehling explained the purpose of the ordinance amendments are to establish a provisional licensing mechanism for those liquor establishments that have accrued three liquor license violations within a 2-year period of time. The provisional license would require a mitigation plan for eliminating future violations and the provisional license holder would be subject to more frequent compliance checks. City Council President Johnson opened the public hearing. The following individuals spoke:

Harry Burns, 111 9th Avenue N., attorney representing the Hospitality Association, said the Hospitality Association has been participating in discussion on this topic since 2004. He was curious why the ordinance was coming forth at this time since there have been no major issues of concern since February 2008. If the proposed ordinance is passed, he asked that a few changes be made including (1) shortening the time for a provisional license to 90 days rather than 12 months; (2) keep with the 18 month time period, rather than 24 months; and (3) to strike text of Subd. 5 from the proposed ordinance.

Justin Lewandowski, 26½ 5th Avenue S.; spoke in opposition to the ordinance, specifically citing Subd. 5, Drink Specials Prohibited, as not being clearly defined.

Michael Jammick, 1445 2nd Street SE, Apt. 307A, supported the proposed ordinance with the deletion of Subd. 5.

Dr. Earl Potter, President of St. Cloud State University, stated support for the ordinance.

Jason Bernick, 404 94 County Road 1, Rice; offered general comments, stating that he was neither for nor against the ordinance, but urged individuals to get involved in their community.

There being no one else wishing to speak, City Council President Johnson closed the public hearing. Berg/Hontos moved approval of the ordinances (Section 800 and 810). Mayor Kleis explained that he and City administration were bringing the ordinances forward. Councilmember Pederson spoke to allowing our liquor establishments the ability to self-police, which in his opinion was clearly working and sufficient. Hontos suggested that the ordinances wouldn't harm/affect those liquor establishments following the rules and regulations. Hontos/Garven moved an amendment to change the violation time period from the proposed 24 month period back to the current 18 month time period. Police Chief Dennis Ballantine confirmed that 18 months was workable to complete compliance checks. The motion to amend carried by a 4-3 vote with Berg, Johnson, and Pederson voting against. Hontos asked the City Attorney to speak to Subd. 5 (Drink Specials Prohibited). City Attorney Staehling suggested that language in Subd. 5 was an important mechanism meant to be an extraordinary measure, and maintained support for its inclusion. Councilmember Libert could foresee potential problems with Subd. 5 and moved to strike Subd. 5 from the ordinance. The motion died for a lack of second. Garven suggested including additional language to Subd, 5 that would require approval from the City Attorney and/or Mayor. The motion died for a lack of a second. Masters suggested Subd. 5 include a directive to follow the Hospitality Association's Best Practices Resolution. The motion died for a lack of a second. The original motion as amended to include the 18-month time period passed by a vote of 6-1 with Councilmember Pederson voting against. The adopted ordinances were assigned numbers 2466 and 2467 respectively.

RECESS CALLED:

At 8:55 p.m. City Council President Johnson called for a five-minute recess. The City Council meeting was called back to order at 9:00 p.m.

22. APPEAL OF THE ZONING BOARD OF APPEALS' DENIAL OF THE REQUEST OF COBORN'S INC. FOR A VARIANCE FROM ARTICLE 9.2 AND ARTICLE 14.3U.3 TO REDUCE THE REQUIRED RESIDENTIAL DISTRICT SETBACK. (LOCATION: 328 5TH AVENUE SOUTH) (VAR-2010-02)

(Since Councilmember Masters is an adjoining property owner to the land located at 328 5th Avenue S., he recused himself from discussion.) Community

Development/Planning Director Matt Glaesman gave a brief overview of the request for a variance to allow the owners of the former Campus Gas Station building to add another gas pump and expand the canopy over the pumps. In addition, the existing convenience store would be renovated. Planning Director Glaesman reviewed the City's land development code requirements and criteria. Council President Johnson noted that two letters were received on the dais on today's date from Teresa Bohnen, President of the St. Cloud Area Chamber; and the other letter was from Jim R. Davis, Chair of the First United Church's Building Committee. Council President Johnson opened the public hearing: The following individuals spoke:

Stephanie Sundry, 5655 Marsh Pt. Drive, Shorewood; serves as a member of the project team and represented the applicant Coborn's. Expressed thanks to the Council and asked for their support in granting the variance. (Note: Ms. Sundry confirmed that Coborn's does not own the land in question, but rather leases the land from Paul Hustigerbing.)

Steve Ludwig, SCSU Vice President of Administrative Affairs; said he served as a former ZBA member, and therefore understood the role of the Zoning Board of Appeals. He confirmed that the University supports the request for the variance.

Teresa Bohnen, President of St. Cloud Area Chamber of Commerce; spoke in support of the variance request.

Juliana Elchert, 513 7th Avenue S. spoke against the variance and cited the information provided by Fire Marshal Mike Post to support her comments. She voiced her opposition, noting that the request does not meet criteria. She requested the Council uphold the ZBA's decision to deny the request.

Michael Helgeson, 3054 Riveria Road, Sartell; referenced the letter from Jim Davis provided to the Council at the meeting. He confirmed the First United Church's support of the variance.

Pat Moran, 917 13th Avenue SE; felt the Zoning Board of Appeals made the right decision and the denial should be upheld.

Steve Cragle, 201 Ramsey Place; questioned whether economic viability was discussed at the ZBA meeting. He suggested the property was already crowded, and voiced his opposition to the request. He asked whether the plans to renovate the gas station could still proceed if the variance wasn't granted.

Rod Lindquist, 4066 County Road 1, Rice; owns commercial property nearby the 5th Avenue Live project. Spoke in full support of the variance request stating this will be an upscale establishment enhancing the neighborhood.

Garner Moffat, 305 8th Avenue S. spoke in support of the ZBA's denial and requested the Council to uphold that decision.

Patrick Mastey; 2759 Clearwater Road; spoke in support of the variance; the upgrades will enhance the neighborhood and be consumer-friendly.

Paul Huntstiger, 150 25th Avenue S.; introduced himself as the owner of the gas station. Spoke in support of the variance request.

There being no one else wishing to speak, the public hearing was closed. It was moved by Councilmember Hontos, seconded by Councilmember Libert, to overturn the Zoning Board of Appeals' decision (grant the variance) by adopting resolution entitled "Resolution of Findings and Conclusions on a Request from Coborn's Inc. for a variance to reduce the required setbacks at 328 5th Avenue South (to allow the installation of a third gasoline pump stand, larger gas island canopy, and reconfigured off-street parking at 328 5th Avenue South contingent upon six conditions listed within the resolution). Following discussion, the motion carried by a 6-0 vote with Councilmember Masters abstaining. The adopted resolution was assigned #2010-5-92. (Planning Office Variance No. 2010-02).

22.5 OLD BUSINESS ADD-ON ITEM:

ORDINANCE AMENDING SECTION 125:10 OF THE 2007 CODE OF ORDINANCES OF THE CITY OF ST. CLOUD ENTITLED "COMPENSATION OF CITY COUNCIL MEMBERS." Councilmember Pederson asked to revisit the issue of eliminating health insurance benefits for City Council members. Councilmember Garven suggested that the benefits cease (for those members carrying the City health insurance) on the date the current terms expire. Hontos/Berg moved to table this issue to the next Study Session to discuss and compare options. The motion failed by a 2-5 vote with Garven, Johnson, Libert, Masters, and Pederson voting against. Councilmember Hontos read a personal statement highlighting the value of public service. Pederson/Garven moved an Ordinance that would incorporate language into Section 125:10 stating that those Council members that have been receiving the equivalent benefit of a full-time unclassified employee may elect to retain that benefit until the end of their current term of office; and all Council members re-elected or taking office after December 31, 2010, will not be eligible for health benefits. The motion carried by a 5-2 vote with Berg and Hontos voting against. The adopted ordinance was assigned number 2468.

OPEN DISCUSSION & ANNOUNCEMENTS:

23. **PROGRESS REPORT ON UNDERAGE CONSUMPTION EDUCATION PROGRAM.** City Attorney Matt Staehling spoke to the need for an Underage Consumption Education program in our community and discussed the goals of the program. Underage consumption has remained as a high, recurring offense in our community. Currently, a citation for underage consumption is a payable offense. The City has been collaborating with St. Cloud State University on a pilot project that will focus upon education and utilizing the University's U-CHOOSE alcohol education program for offenders. He recognized Rob Reff, the interim assistant dean of students for chemical health and outreach programming, and Amy Haggerty, St. Cloud State University coordinator of alcohol prevention and community planning, for their efforts. SCSU applied for and received grant monies to accomplish assistance with the program. City Attorney Staehling was hopeful that the program will be operational in the near future.

The Council members received a letter from Val Young of Independent Lifestyles, Inc. requesting that a public phone be made available at the library. Administration was directed to refer the letter to the St. Cloud Library Board.

Adjournment: There being no one else wishing to speak, the meeting was adjourned at 10 p.m.

City Council President Bob Johnson

Respectfully submitted by

Sandy Hilsgen, Recording Council Secretary