



**MINUTES OF THE PROCEEDINGS OF THE CITY
COUNCIL OF THE CITY OF STACY IN THE COUNTY OF
CHISAGO AND THE STATE OF MINNESOTA PURSUANT
TO DUE CALL AND NOTICE THEREOF**

**REGULAR MEETING
NOVEMBER 12, 2013, 7:00p.m.
STACY CITY HALL**

Call to Order

Roll Call

Additions to the Agenda

The Stacy City Council met in regular session and was called to order by Mayor Utecht at 7:00p.m.

Present: Jim Ness, Mark Utecht, Charles Lucia, Tony Olivolo, and Michael Carlson

Absent: None

Others Present: Anne Thom, Lynda Schmidt, Peter Grundhoefer, Mark Statz, Paul Vogel, Cindi Vogel, Diane Ness, Mark Ness, Scott Teigen, John Ulvin, Ben Montzka, Perry Schneller, and Luella Schneller

Additions to the Agenda:

- Rushline Meeting
- Fire Truck

Motion by Ness to approve the agenda as amended. Second by Olivolo. Ness, Carlson, Lucia, Olivolo, and Utecht voted yes. Mayor Utecht declared the motion carried.

Public Comment

Scott Teigen: Mr. Teigen would like the opportunity to speak when Kwik Trip is discussed on the agenda.

Ben Montzka: Mr. Montzka was present to give a report as County Commissioner, he did not have a lot to report other than that County Road 30 project is still scheduled for next year.

Consent Agenda

Motion by Ness to approve the consent agenda. Second by Carlson. Carlson, Lucia, Olivolo, Ness and Utecht voted yes. Mayor Utecht declared the motion carried.

Staff Reports

**City Attorney – Peter
Grundhoefer**

**Royal Concrete Noise
Complaint**

Mr. Grundhoefer reviewed law regarding nuisance standards with respect to noise throughout the city. Rule MPCA 7030 sets some decibel standards for daytime and nighttime. The rule itself is not the only means of maintaining public health and safety.

Other law details nuisance as a tort; someone can bring action against a property owner if they infringe upon the enjoyment or use of their property. This would be a private nuisance. A Public nuisance is broader than a private nuisance. The public nuisance generally impacts the whole community.



Mr. Grundhoefer's recommendation to the city regarding the noise from Royal Concrete is to not pursue any action due to the fact that they are not exceeding the limits established in Rule 7030 and are operating a business as a permitted use in the zoning district.

Mayor Utecht said that based on the complaints received regarding Royal Concrete he authorized the purchase of a sound meter, calibrator, and going out and taking sound readings. He, Jack Kramer, Tanner Jones, and Sharon Payne met with Al Perez; Mr. Perez is an expert in sound measurement, he worked with the MPCA and helped write Rule 7030. He instructed Mr. Kramer, Mayor Utecht, and Tanner Jones on the operation of the meter and how to take readings. Readings were taken during the night and day. All the readings were below the L50 and L10 limits.

He also spoke with a resident by Royal Concrete who had been directed to call when noise was an issue, when he did call he reported that there hadn't been any noise from Royal Concrete.

Mayor Utecht reported that he was out from about 4:30-5:30 a.m.; during that time the noise gradually increased from the freeway, all the sound present was from the freeway; none from Royal Concrete.

Member Lucia asked if it's the city's responsibility to take the sound readings? Mayor Utecht said that he thinks it was an appropriate response to the complaints received.

Member Ness said that the long and short of it is that the tests have been done to determine if a public nuisance exists, and it does not appear that it does. The attorney recommended us not to pursue as a public nuisance.

The clerk will send a notice to those residents who have filed a complaint with the city regarding Royal Concrete which will include the city's findings, and that the city will not be pursuing public nuisance regarding Royal Concrete.

The council also wanted in the record that at no point in time did they say that Royal Concrete was in violation.

Vogel Land Sale

This item handled out of order by motion of Utecht, Second by Olivolo and carried.

Motion by Ness to approve the land split "Exhibit A". Second by Carlson. Ness, Carlson, Olivolo, Lucia, and Utecht voted yes. Mayor Utecht declared the motion carried.

Mr. Grundhoefer said that a condition of the sale is that Vogel's combine the lot with their existing lot, with the city maintaining a utility easement; until the Frontage Avenue access can be satisfied.

Nuisance Ordinance

Motion by Ness to approve Ordinance 2013-11-1, "An Ordinance Amending Chapter 95 of the Stacy City Code Nuisances;" with summary publication. Second by Utecht. Ness, Utecht, Carlson, Olivolo, and Lucia voted yes. Mayor Utecht declared the motion carried.

Revised Snowmobile Ordinance

Motion by Ness to approve Ordinance 2013-11-2, "An Ordinance Amending Subsection 73.07 (A)(5) of Chapter 73 of the Stacy City Code Prohibiting Certain Days and Times of Operation of Snowmobiles and ATVs in the City." Second by Carlson. Ness, Carlson, Lucia, Olivolo, and Utecht voted yes. Mayor Utecht declared the motion carried.

City Engineer

Mark Statz

Kwik Trip

This item handled out of order by motion of Ness. Second by Olivolo and carried.

Sewer Lines:

Mr. Statz reported that the televising of the sanitary sewer from the northernmost manhole on the Kwik Trip Site, near A-1 Tire, downstream, through to the lift station at the east edge of Sunrise Mobile Home Park was completed. The lines were generally in good condition.

One major issue was reported with the pipe; a bend in the main line just north of Sunrise Drive, about 9 feet south of the manhole where Kwik Trip has proposed to connect into the system. A vertical bend in the line makes it difficult or impossible to clean, televise, or line the pipe with standard equipment. Mr. Statz recommends replacing the 9 feet of pipe and installing a new manhole; at a cost about \$5,000. This would remedy the situation.

Storm Sewer:

Mr. Statz said that the storm sewer is in good condition, adequate in size and capacity.

Water System:

Mr. Statz indicated that a portion of the water main runs under at least 7-8 mobile homes. This creates an issue should a water main break occur. He suggests the city require the construction of an 8" water main from a point just prior to the main entering the mobile home park to a point where it can connect to the existing mains within the proposed Kwik Trip site. The anticipated cost would be about \$50,000 and would also serve A-1 Tire.

Member Lucia said that this looks like this is the right thing to do. Mayor Utecht asked who pays for it? Is the city going to contribute? He is hesitant to utilize city funds until he sees what the benefit to the city may be.

Scott Teigen from Kwik Trip said he appreciated Mayor Utecht's concern regarding the use of city funds for the project he indicated the benefitted parties to the improvement: The Ulvin's, Kwik Trip and the City for future growth. He asked the city to consider paying up to 1/3 or about \$18,000 towards the project; Kwik Trip would pay for the project up front and the city could repay through utility bill reduction.

Points noted:

- This would create a better system
- Make available a connection for future growth

- A valve shut-off could be installed to provide backup to Kwik Trip and the mobile home park.
- Typically these types of costs are paid by the developer
- There is no cash out of hand, reduction in utility revenue.
- Increased property tax revenue from Kwik Trip (Mr. Teigen reported they are putting about 5 million into the project)

Motion by Lucia to accept Kwik Trip's proposal to cost share 1/3 of the costs of water and sewer improvement project for a maximum city cost of \$18,000. Second by Olivolo. Lucia, Olivolo, Carlson, Nelson voted yes. Utecht voted no. Mayor Utecht declared the motion carried.

Motion by Utecht to reduce Kwik Trip's utility bill in an amount of \$3,600 per year or 50% whichever is greater until the \$18,000 is paid off, which will be 5 years or less; reducing only the water and sewer portion of the bill. Second by Carlson. Utecht, Carlson, Lucia, Ness, and Utecht voted yes. Mayor Utecht declared the motion carried.

No Parking Zones – CSAH 19 & CSAH 30

This item handled out of order by motion of Ness. Second by Carlson and carried.

Member Ness said that this an example of government gone amuck. The city requested a light in the center of the intersection. The county came up with a study saying the intersection gets 11,000 cars per day. There is no way this number is correct. The county then re-striped the intersection which messed up parking and turning. The \$50,000 light project is now a million dollar project. This is just out of control.

Mr. Montzka checked with Joe Triplet who indicated this is a state aid project, which means we have to follow certain criteria. Mr. Montzka doesn't want to force Stacy to do something but he is concerned regarding the safety of the intersection.

Member Ness said that Stacy should request the county to do what they requested, install the flashing lights and quit wasting tax payer dollars.

Joe Triplet is working on a plan for the intersection. The council asked that he contact the city to set up a meeting once it's complete.

Diane Ness met with Mr. Triplet and said he told her and other property owners different information regarding the project. She also said that access in and out of her driveway is unsafe.

Member Lucia said he understood Ms. Ness' comments and asked for her to share a plan, if she has one; otherwise we need to rely on the county.

City Clerk
Sharon Payne

Utility Billing Irrigation – Lynda Schmidt

This item handled out of order by motion of Utecht. Second by Ness and carried.

Member Ness asked if the way the city is invoicing the outside water meter is meeting the water conservation requirement?

Currently the inside and outside water use is invoiced on two separate bills. Shouldn't these be combined and invoiced utilizing the tier?

Can Banyon accomplish the combination of the two meters, combining the water and invoicing for that? The entire amount would not be charged sewer, only the inside use, and the irrigation is charged sales tax. Ms. Schmidt will research.

Connection Fee to the State: what is considered a connection, Ms. Schmidt will review.

Utility Report

Ms. Schmidt was directed to prepare a graph showing the number of gallons pumped vs. billed over the past year.

Christmas Eve

Motion by Lucia to set Christmas Eve hours at 9am-2pm. Second by Carlson. Lucia, Carlson, and Olivolo voted yes. Ness and Utecht voted no. Mayor Utecht declared the motion carried.

Vacation Request

Motion by Ness to approve the vacation request for Ms. Payne. Second by Carlson. Ness, Carlson, Lucia, Olivolo and Utecht voted yes. Mayor Utecht declared the motion carried.

Committees Commissions

Planning Commission

This item handled out of order by motion of Utecht. Second by Olivolo and carried.

Accessory Buildings:

Member Ness said that the Planning Commission had a question regarding the 1,000 foot size limit on detached accessory buildings; there is no size limit on attached buildings.

The council would like the commission to remove the size limit as long as they adhere to the other section of the code regulating accessory buildings, such as setbacks, 60/40 requirement, and design. Also, review requirements for sheds not requiring building permits (smaller than 120 square feet).

Non-conforming Uses:

The Commission is reviewing non-conforming uses, particularly residential zoned as business. They would like them to be able to utilize and alter their properties, which is currently not allowed in the code.

Reader Board:

Member Ness would like to have the Public Hearings put on the reader board.

Fire Inspection Program:

Business owners have been invited to the Planning Commission meeting to discuss the proposed fire inspection program for Stacy. The commission is not looking at changing what they are doing; rather understanding what they do and provide correct information to the fire department.

Old Business

Fire Truck

Mayor Utecht said that the selling of the old fire truck was tasked to Stacy. He has contacted two companies that sell the equipment on consignment. Both companies charge 10% commission. If the truck is sold to a contact they gave us then we owe them 10%, the concern is what if they give us the same contact? We would then have to pay 20% commission. Mayor Utecht was directed to just list with one of the companies.

He asked if the \$15,000 was the bottom price or was that the amount we are shooting for? He will check with the Joint Powers Clerk.

None

New Business

Mayor/Council

Tanner Jones Probationary Review

Closed meeting scheduled for December 3, 2013, at 6:00pm.

Approve Employee Leave

This item handled out of order by motion of Utecht. Second by Olivolo and carried.

Motion by Ness to approve an 8-12 week medical leave for the Stacy Sports Grill Manager. Second by Carlson. Ness, Carlson, Lucia, Olivolo, and Utecht voted yes. Mayor Utecht declared the motion carried.

Rushline Meeting

Member Lucia will attend in the absence of Mayor Utecht.

Member Ness

Snow Removal:

Member Ness said that he will not be removing snow from the sidewalk on Forest Boulevard from the stop sign to the street. The new intersection set-up makes it unsafe to do so. He will remove snow from his driveway to the stop sign.

Maintenance Committee:

Member Ness asked if the cross section got done on 311th Street? He also said that Mr. Jones' response to when the no snowmobile signs would be installed was unacceptable, they need to go up before the ground freezes.

He then said that the Maintenance Committee has failed miserably in showing Mr. Jones how to properly create a project list; both of these items should have been on the list. He doesn't think the communication is any better than 18 months ago (other member's disagreed).

Adjourned at 9:47pm

Mayor Utecht declared the meeting adjourned at 9:47pm.

Sharon MT Payne