



**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
DECEMBER 10, 2013, 7:00p.m.
STACY CITY HALL**

Call to Order

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

Roll Call

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

Absent: None

Others Present: Anne Thom, Lynda Schmidt, Peter Grundhoefer, Mark Statz, Tanner Jones, Ken Cummings, Joe Triplett, Anne Thom, Dustin Brakemeier, Bill Ulvin, John Ulvin, and Corrine Dunn

Additions to the Agenda

Additions to the Agenda:

- Move Lions Club Liquor License to New Business from Council
- Consideration of an Ordinance Regarding Obtaining Cell Phone Records without a Warrant

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

Public Comment

None

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

**Maintenance Supervisor –
Tanner Jones**

**Pay Increase for Probation
Completion**

Mr. Jones increase was included in the conditions of his probationary period, therefore no motion is necessary.

**MN Department of Health
Notice**

The City received a notice of violation from the Minnesota Department of Health (MDH) regarding failure to comply with lead and copper monitoring requirements.

The Department distributed the collection containers per the list supplied by the MDH; however, one of the residents did not collect the sample and return. The Department received a phone call from MDH indicting such and sent out another collection container, which has been sampled.



Member Ness wanted assurance that Mr. Jones has a process in place so that this does not happen again. Mr. Jones assured the council he does.

Toro EZ Vac

Motion by Olivolo to move forward with the purchase of the Toro EZ Vac as quoted. Second by Carlson. Olivolo, Carlson, Utecht, Lucia, and Ness voted yes. Mayor Utecht declared the motion carried.

Project List

Does the council have any questions on the newly formatted project list? None expressed at this time.

The Maintenance Committee is looking at what other cities are doing to track maintenance projects; also Mr. Statz will review what is available in the Infraseek Program.

City Attorney – Peter Grundhoefer

Kwik Trip

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

Conveyance of Water and Sewer to the City

The transfer of ownership of the private utilities to the city is accomplished through a Bill of Sale.

Mr. Grundhoefer said that the timing on the purchase of the site by Kwik Trip (Convenience Store Investments) and the conveyance of the water and sewer mains, what comes first? Ideally he would like to see the site development agreement approved and signed prior to the conveyance. He said that a contingency could be placed on the Bill of Sale stating that the conveyance is null and void if the sale does not occur; upon successful closing and purchase of the property that provision would terminate.

Member Ness said he would like to see the contingency included in the Developer's Agreement. The bill of sale will state contingent upon the signing of a developer's agreement.

The city attorney and the city engineer can approve the developer's agreement and then bring to the council for action. We do not want to hold up the closing on the property.

Permanent Utility and Maintenance Easement and Permanent Ingress and Egress Easement Agreement between the City of Stacy and Sunrise Estates Park, LLC

Motion by Carlson to approve the Permanent Utility and Maintenance Easement and Permanent Ingress and Egress Easement Agreement between the City of Stacy and Sunrise Estates Park, LLC as reviewed tonight. Second by Olivolo. Carlson, Olivolo, Lucia, Ness, and Utecht voted yes. Mayor Utecht declared the motion carried.

Permanent Utility and Maintenance Easement and Permanent Ingress and Egress Easement Agreement between the City of Stacy and Convenience Store Investments

Motion by Ness to approve the Permanent Utility and Maintenance Easement and Permanent Ingress and Egress Easement Agreement

between the City of Stacy and Convenience Store Investments to include description of the East West section. Second by Carlson. Ness, Carlson, Lucia, Olivolo, and Utecht voted yes. Mayor Utecht declared the motion carried.

Bill of Sale between the City of Stacy and Sunrise Estates Park, LLC

Motion by Ness to approve the Bill of Sale from Sunrise Estates, LLC to the City the sanitary sewer mains and storm sewer contingent upon successful closing of the property purchase and signing of the Development Agreement. Second by Olivolo. Ness, Olivolo, Lucia, Carlson, and Utecht voted yes. Mayor Utecht declared the motion carried.

Bill of Sale between the City of Stacy and Convenience Store Investments

Motion by Olivolo to approve the Bill of sale from Convenience Store Investments to the City to include the newly constructed off-site water and storm sewer, contingent upon successful closing of the property purchase and signing of the Development Agreement. Second by Lucia. Olivolo, Lucia, Carlson, Ness, and Utecht voted yes. Mayor Utecht declared the motion carried.

Vogel Land Sale

Motion by Carlson to approve Resolution Number 2013-12-3, "Resolution Approving the Sale of Land Owned by the City of Stacy to Paul E. Vogel and Cynthia S. Vogel." Second by Olivolo. Carlson, Olivolo, Lucia, Ness, and Utecht voted yes. Mayor Utecht declared the motion carried.

City Engineer

Mark Statz

CSAH 30 Improvement Project

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

The question was raised regarding upgrades to the storm sewer as part of the project; this would be the time to do them. Mr. Triplett and Mr. Statz will work together to determine if upgrades are necessary and report back to the council.

The intersection configuration was talked about at length, then the following motion was made:

Motion by Ness to approve Resolution Number 2013-12-2, "Resolution Approving Reconstruction of County State Aid Highway 30 within the City of Stacy as a State Aid Project;" with changes for configuration to Figure 1 for the curbs and Figure 2 for the line striping. Second by Olivolo. Ness and Olivolo voted yes. Lucia, Carlson, and Utecht voted no. Mayor Utecht declared the motion fails.

Motion by Carlson to approve Resolution Number 2013-12-2, "Resolution Approving Reconstruction of County State Aid Highway 30 within the City of Stacy as a State Aid Project" as it stands (supporting Figure 1). Second by Utecht. Carlson, Utecht, and Lucia voted yes. Ness and Olivolo voted no. Mayor Utecht declared the motion carried.

311th Street Cross Sections

The council asked if our Maintenance Department needs to do the cross sections on 311th street; we need to know the condition of the road to determine what type of project will occur.

Mr. Statz said that is something Stantec handles and referred to these "cross sections" as "soil borings." Stantec hires this work out. Typically Stantec would prepare a feasibility report; if the city is considering assessing for the work then a feasibility report is definitely necessary. Mr. Statz will bring back further information to the next council meeting.

City Clerk

Sharon Payne

Utility Billing Graph and Utility Report

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

Member Ness asked did we change the well we were pumping from in August. Mr. Jones said no. Member Ness then asked what happened in August, this is when we started pumping more than what was being billed – Ms. Schmidt said Stacy Daze, and the sewer lines were flushed in August. He then asked what about the other months showing pumped greater than billed; the answer was that is what we're trying to determine.

Ms. Schmidt did determine that some of the irrigation meters were not installed properly, they were installed in series; so the water going through the house also went through the outside meter. This caused the outside water use to be counted twice.

She will also be asking the fire department to report when they use a hydrant on a service call.

Mr. Statz said that because we are pumping more than we are billing there may be some illegal connections prior to the meter.

Ms. Schmidt was directed to add a third category to her report: gallons accounted for but not billed.

Ms. Schmidt spoke with Banyon regarding the outside meter, it can be combined with the inside meter and billed as one account. Ms. Schmidt was directed to have the accounts combined by May 1, 2014; and to send letters to the utility accounts regarding this change.

The Minnesota Water Connection fee is only for water used for consumption; therefore, not all meters will be charged the fee.

Final Certification of Delinquent Utility Accounts

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

Member Ness asked if we have the ability shut off Pizza Ma. Ms. Schmidt said they can't locate the shut off. If we can't shut off, can we pull the meter? Ms. Schmidt was directed to follow the shut off policy if she can in this instance

Motion by Ness to certify delinquent utility accounts as presented. Second by Olivolo. Ness, Olivolo, Lucia, Carlson, and Utecht voted yes. Mayor Utecht declared the motion carried.

Approve the 2014 Budget

Motion by Utecht to approve Resolution Number 2013-12-1, "Resolution Approving the Final Budget for 2014." Second by Ness. Utecht, Ness, Lucia, Olivolo, and Carlson voted yes. Mayor Utecht declared the motion carried.

Employee Pay Increase for 2014

Motion by Ness effective the first pay period in January 2014 for a two-step pay raise for all city employees except those in a bargaining unit, those in their probationary period, or those that came out of their probationary period in the last 60 days and received more than a two-step pay increase. Second by Carlson.

Motion by Utecht to table the motion until the City Attorney returns to the room. Second by Olivolo. Motion carries.

Motion by Ness to take off the table. Second by Carlson. Motion carries.

The council asked the city attorney if they could go into closed session to discuss the union; he said that it does meet the criteria for a closed meeting.

Motion by Ness to table to the end of the meeting for the closed session. Second by Olivolo. Motion carries.

Motion by Ness to take off the table. Second by Carlson. Motion carries.

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

Motion by Ness effective the first pay period in January 2014 for a two-step pay raise for all city employees except those in their probationary period, or those that came out of their probationary period in the last 60 days and received more than a two-step pay increase. Second by Olivolo. Ness, Olivolo, Carlson, Utecht, and Lucia voted yes. Mayor Utecht declared the motion carried.

Committees Commissions

Planning Commission

Member Ness reported there will be no meeting this month. In January there are three public hearings scheduled: the Vogel Rezoning, Chicken Ordinance, and the Variance for Kwik Trip signage. Member Ness asked that the chicken ordinance be placed on the reader board.

Park and Recreation

Member Olivolo reported that they have scheduled a winter event for children ages 12 and under at Stars and Strikes. The event will be held on December 28th from 2-4; for \$8 they get two hours of bowling and \$2 in tokens for games. The event is conditional upon getting enough kids.

Old Business

Fire Truck Sale

Is there anything the council needs to do regarding this? The sale is being handled by Mayor Utecht and Mr. Olson.

New Business

DFL Caucus – Use City Hall

Due to security concerns the request to use city hall was denied.

Lions Club Liquor License

Motion by Utecht to renew the Lions Club 3.2 Liquor License. Second by Olivolo. Utecht, Olivolo, Lucia, Ness, and Carlson voted yes. Mayor Utecht declared the motion carried.

Mayor/Council

**Law Enforcement Agencies
Access to Cell Phone
Records**

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

Mayor Utecht said that law enforcement agencies are getting cell phone data from cell phone companies, sometimes for a reason, other times they are just collecting it. Would the member's be willing to consider and ordinance not allowing access for the citizens of Stacy? He feels strongly that unless you have a warrant you shouldn't be listening to my phone call.

Member Ness questioned, do we have this authority? Is it enforceable? If not then we shouldn't spend the money on it. The council discussed a resolution of opposition.

The council would like the representatives at the state and federal level to attend the January 28th special meeting.

Closed Session 9:20-9:30pm

Motion of Utecht to go into closed session to discuss the union. Second by Olivolo. Utecht, Olivolo, Lucia, Ness, and Carlson voted yes. Mayor Utecht declared the motion carried

Adjourned at 9:32pm

Mayor Utecht declared the meeting adjourned at 9:32pm.

Sharon MT Payne