



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
JULY 10, 2012, 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, Michael Carlson, Mark Utecht, Cindy Bruss, and Charles Lucia

Absent: None

Others Present: Peter Grundhoefer, Anne Thom, Charles Schwartz, Marty Melby, Ken Cummings, Mark Ness, Patty Kettles, Tony Olivolo, Jon Ehlert, Marty Melby, Ken Cummings, Tim Cashill, Craig Moline, James Kultala, Mark Bigelbach, and Bernard Schauer

Additions to the Agenda

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Melby Custom Homes

On-Sale Vacation Request

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

Public Comment

None

Consent Agenda

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

Staff Reports

Maintenance

Jon Ehlert

South Water Tower

Mr. Ehlert reported that the south water tower was struck by lightning which fried the control board on the computer; the board being broken caused the tower to misread the water level in the tower; which in turn caused the tower to overflow significantly. Mr. Ehlert wants the council to keep this in mind regarding the close proximity of the water tower to the Hockey Arena; this is not the first time the tower has overflowed and will probably not be the last.

City Attorney

Peter Grundhoefer

Sunrise Ball Field

Mr. Brakemeier would like to know the exact location of the proposed Sunrise Ball Field improvements; he is concerned that they do not



interfere with drainage ditch to the south. The council directed that Mr. Ehlert meet with Mr. Brakemeier to walk the site.

Foxtail Woods Plat 3 Water Bill

The bank responded to the request for payment; they will not pay for any lot that is not owned by them. The conditional offer made to them for payment needs to be reviewed.

Motion by Ness for Foxtail Woods 3 property owners irrigation water bill that the city will waive the late charges and fees due to the uniqueness of this situation if the property owners pay off or enter into a payment arrangement by August 31, 2012; if a property owner has already paid late fees then they should be credited to their account. Second by Carlson. Ness, Carlson, Lucia, Bruss, and Utecht voted yes. Mayor Utecht declared the motion carried.

The payment arrangements will follow the current payment plan structure the city has in place.

Joint Powers Agreement – Auditor Changes

Mr. Grundhoefer reported that the auditor for the Joint Powers entity expressed concern that there wasn't anything in the Joint Powers Agreement concerning the distribution of cash should the entity be dissolved.

The clerk will forward to the Joint Powers Secretary to place on the next Joint Powers agenda.

Tree Maintenance Policy

Motion by Utecht to adopt the "Boulevard Tree Maintenance Policy" as presented. Second Ness. Utecht, Ness, Lucia, Bruss, and Carlson voted yes. Mayor Utecht declared the motion carried.

Stacy Retail Center, Unit 500

First State Bank of Wyoming has foreclosed upon the mortgage of Unit 500 in the Stacy Retail Center (previously Sacred Grounds). The bank is asking if the city would be interested in taking the property in lieu of back taxes.

If we accept deed from the bank then the city would own the unit, we would have to pay county tax and association fees.

Member Utecht would like to know what the out of pocket expense would be if the property was deeded to the city.

Member Ness said that the city has enough unsold property now, he doesn't want to spend any money on this; however, we do have to address the TIF (Tax Increment Financing).

The council consensus was to not proceed with acquiring the property; and directed bond council to review the TIF.

Planning Commission Purpose Defined

The Planning Commission can by Minnesota Statute:

1. Comprehensive Plan Review
2. Review of Purchase and Sale of Land related to Comprehensive Plan.
3. Capital Improvement Plan Review related to Comprehensive Plan.
4. Zoning Ordinance Adoption and Amendment.
5. Conditional Use Permit Review.

6. Official City Map Adoption
7. Board of Adjustment and Appeals, unless reserved by City Council.
8. Subdivision Application Review.

Clarification: the Planning Commission can review non-zoning issues but the public hearing should be held by the City Council; unless related to the Comprehensive Plan.

City Engineer
Charles Schwartz

Radium Removal Project

Mr. Schwartz reported that the topographic survey and wetland delineation have been completed of the site. Wetland delineation has been forwarded to the County.

Next step is to solicit quotes for soil borings, and test well.

Foster Avenue Project Update

The county wants to do some of their improvements jointly; Mr. Schwartz will have quotes at the next meeting.

2012 Sanitary Sewer Cleaning and Televising

Motion by Ness to ratify the contract for cleaning and televising city sanitary sewer with Pipe Services Corporation. Second by Carlson. Ness, Carlson, Bruss, Lucia, and Utecht voted yes. Mayor Utecht declared the motion carried.

Twins Grant

The council directed the clerk to return the agreement to the Twins for the \$8,300 grant for the Sunrise Ball field.

The dedication of the ball field is scheduled for Stacy Daze 2013.

City Clerk
Sharon Payne

Springsted Update on Rates

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

Ms. Kettles reviewed the proposed increases to the water and sewer funds; and addressed the council's questions.

The recommended cash balance should include three months of operating costs and one year of debt service reserves.

Does the city want to phase out the levy contribution to the funds? The proposed numbers utilized in the spreadsheet include phasing out the levy.

What percentage would be appropriate for citizen's to contribute that are not serviced by city utilities.

Resolution Replacing Resolution 2012-3-1

Motion by Ness to approve Resolution Number 2012-7-1, "Resolution Replacing Resolution Number 2012-3-1 Establishing Precincts and Polling Places in the City of Stacy." Second by Utecht. Ness, Utecht, Bruss, Lucia, and Carlson voted yes. Mayor Utecht declared the motion carried.

**Resolution Appointing
Primary Election Judges**

Motion by Utecht to approve Resolution 2012-7-2, "Resolution Appointing Election Judges for the August 14, 2012, Primary Election;" with noted corrections. Second by Ness. Utecht, Ness, Bruss, Lucia, and Carlson voted yes. Mayor Utecht declared the motion carried.

Budget Announcement

The budget will be adopted September 11, 2012, at 7:00p.m.

Committees Commissions

Personnel Committee

The committee talked about the recommend increase for budget year 2013. Also, a decision was made on the health insurance plan to be offered to employees.

EDA

The meeting was cancelled due to lack of agenda items.

Planning Commission

Moratorium on Private Wells

The council placed a moratorium on the construction of private wells within the city. What is the council looking for? Do they want these wells regulated? Not allowed?

The council does not want to allow any new wells in areas served by city utilities; a current well can be repaired but not replaced.

Stacy Self-Storage

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

Motion by Utecht to adopt the Findings of Fact and Decision for Stacy Self Storage. Second by Ness. Utecht, Ness, Bruss, Lucia, and Carlson voted yes. Mayor Utecht declared the motion carried.

Old Business

Vickie and Bernard Schauer

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

Mr. Schauer asked the council to reconsider the action made at the previous special meeting.

Mayor Utecht reminded everyone on his view point that he does not want to see this property vacant; by assessing the SAC and WAC and developer amount helps to assure the property is not vacant. We will eventually be collecting fees over time.

Member Lucia said that if this is not settled the city could be responsible for a lot of money; the city is required to do the work and then assess to property owner. This amount would be larger than the proposed amount.

Member Bruss said that she would like to revisit the vote on the assessment.

Motion by Bruss to adopt the “Agreement of Assessment and Waiver of Irregularity and Appeal: Improvement to Abate Nuisance;” with the Schauer’s contingent upon the requirement that an escrow be set up for the payment of taxes. Second by Lucia. Bruss, Lucia, Ness, Carlson, and Utecht voted yes. Mayor Utecht declared the motion carried.

The amounts to be assessed are Water Availability Charge (WAC) \$4,120; Sewer Availability Charge (SAC) \$2,060; and Forest Boulevard Sewer and Water Construction Reimbursement \$5,000. All at a six percent interest rate.

Member Carlson would like to have a study done on how the city can address failing septic systems. The clerk was asked to contact Springsted to see if they have any solutions to address future connections.

A member from the audience, Tony Olivolo asked about setting up accounts for those properties not connected to the system to contribute X amount per month; that way when they have to hook up they have some funds held at the city for the project.

Mayor Utecht said that the issue with this is that the people living there now may be paying for a system they don’t use.

James Kultala Property Cleanup Status

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

Mr. Kultala reported that he would like to have the building inspector come out for visit and see if there are any further needs in cleaning up his property.

Liquor Operations – Bookkeeper Contract

Member Ness asked the status of the review of the Liquor Store Bookkeeper contact? The clerk did not have an update. Member Ness stated that he is not comfortable for an independent contractor to continue to work without a contract.

Motion by Ness to extend the bookkeeper contract until June 30, 2013, as currently written. Second by Carlson. Ness, Carlson, Bruss, Lucia, and Utecht voted yes. Mayor Utecht declared the motion carried.

Relay for Life, American Cancer Society – Paint the Town Purple

The contact person failed to provide information to the Mayor. Item to be removed from the agenda.

New Business

Ken Cummings – Letter from Building Inspector

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

Member Ness also wanted to add that the roof has not been completed as well as the siding.

Mr. Cummings indicated that the roof will require more work than what was anticipated; it involves reconstruction of the existing roof; the siding

is about 2/3 complete. He stated at the time the permit was originally pulled there was no expiration clause in the city code; the city attorney indicated that does not remove the requirement.

Member Ness reminded the council that the code update putting expiration on building permits was to address those properties where work never gets completed. Being a neighbor to the Cummings he feels that the property definitely falls into that category. He would like to see something finished.

Mayor Utecht asked the city attorney what legal action is available to the city in this circumstance. Mr. Grundhoefer said that this would fall under the nuisance section of the city code and the city could step in and complete the work and assess to property taxes.

Member Carlson said that if they didn't have the bushes in front of their home we would have received many more calls on the property

The talk of requesting the work be done in 90 days was discussed; Member Bruss said this has been going on for over six years.

Motion by Utecht to authorize an extension on the existing building permit until October 31, 2012, to complete the siding project; as a condition to the extension Mr. Cummings obtain a building permit for the roof repair to be completed with the same deadline. Second by Lucia. Utecht, Lucia, Carlson, and Bruss voted yes. Member Ness abstained as this property impacts his property value. Mayor Utecht declared the motion carried.

Hockey Association

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

The Hockey Association is having a difficult time in obtaining funding for the project; the banks are requiring that the association own the land as well as the building.

Is the city interested in selling the land outright or subrogating the land to the association?

Several items to address are:

- Water tower proximity to the property
- Permanent easement for water tower
- Water and sewer utility easement; access issues
- Ultimate ownership of the building
- Liability issues
- City's risk

It was decided to schedule a work session to discuss the many issues with this project; the meeting will be held on July 16, 2012, at 6:00pm. The association will pay for the cost of the meeting as well as the city attorney and city engineer fees.

Information needed for the meeting:

- Details on how the association can get what they need to secure financing for the project.

- Property valuation
- Feasible way to right into the contract that upon maturation of the loan that the property and building come back to the city. How that may impact the price for the property. Can bank be bound to contract or not.
- Price per square foot in business park will be the starting estimated price for the property.
- What is the city's responsibility if the water tower overflows onto the property?

**Resolution Approving Stacy
Lent Volunteer Fire
Department Relief
Association – Gambling**

Motion by Ness to approve Resolution Number 2012-7-3, "Resolution Approving the Stacy Lent Volunteer Fire Department Relief Association to Conduct Off-Site Lawful Gambling in the City of Stacy." Second by Carlson. Ness, Carlson, Lucia, Bruss, and Utecht voted yes. Mayor Utecht declared the motion carried.

Joint Powers Audit

The council concurred there was no need for presentation of the audit.

**Melby Custom Homes –
Marty Melby**

Mr. Melby would like the council to consider an exception to the rule of not having a curb stop located in a driveway. He has installed them in driveways previously and has not seen an issue. He is willing to put a gate valve in.

The city has experienced issues in the past with curb stops in driveways; if a repair is done who is responsible for restoration; the city – as they own the curb stop.

The request does not meet the requirements for a variance.

Mr. Ehler said that a gate valve would solve the issue of the curb stop being hit by a plow or being run over.

Mayor Utecht stated that if this is a reasonable solution to the problem, would it be reasonable to change the city code?

Even if a gate valve were used you would still need to dig up the driveway for repair.

The council consensus was to not allow the curb stop to be placed in the driveway. The city code does not allow this and the situation does not meet the criteria for a variance.

The vacation request was approved.

**Vacation Request – On Sale
Manager**

Mayor/Council

Wireless Antenna

Mayor Utecht spoke with Nextera today; they are going to put equipment at city hall to bounce a signal over to the bar. Nextera cautioned him that if the city is down the bar will be also. The bar will continue service with Frontier for awhile to see how Nextera works out.

Union Status - Utecht

Mayor Utecht reported that union negotiations broke down, he anticipates the union will request a petition for mediation.

Ongoing Investigation by Personnel Committee

Mayor Utecht asked if Member's Bruss and Lucia have met with the bar manager yet regarding the personnel matter? They have not.

Mayor Utecht said – no offense but this is dragging on too long.

We are going against our policy.

Member's Lucia and Bruss stated that they are processing multiple complaints and will prepare a report once they know the true facts. Once the report is prepared they will discuss with the on-sale manager. They have also been working with the city attorney.

The member's expressed concern that we are not following our policy in the handling of complaints. Member Ness said that the timeframe established in policy he felt was too long.

Mayor Utecht asked if it was appropriate to make changes to the Personnel Committee; specifically because complaints come to the mayor. Should the Mayor be one of the council member's on the committee; he has no burning desire to get involved in this. He asked Member's Bruss and Lucia what is the best way to get this resolved?

Member's Bruss and Lucia will meet to prepare a report, meet with the manager; and involve the council if necessary.

The council would like to know the outcome of the investigation prior to the employee reviews.

Adjourned at 9:55pm.

Mayor Utecht declared the meeting adjourned at 9:55 pm.

Sharon MT Payne