



**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
SEPTEMBER 12, 2017, 7:00p.m.
STACY CITY HALL**

Call to Order

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

Roll Call

Present: Jim Ness, Chuck Lucia, Mark Ness, Tony Olivolo, and Mark Utecht

Absent: None

Others Present: Amy Schutt, Mark Statz, Kitty Schultz, Leo Byrne, Chuck White, and Eric Braun

Additions to the Agenda

Additions to the agenda:

- Email Regarding Liquor Store
- Signers on Liquor Accounts
- Sports Grill Roof
- Anoka County Incident with Liquor Operations

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

Public Comment

Kitty Schultz:

Clarify a couple things from when she was here last month: regarding the \$5,000 behind that was comparing May 2016 to May 2017; and the store was down the week of Memorial Day for nine hours and the week of the Fourth of July for an hour.

She understands that salaried employees cannot be given a set number of hours to work, she is wondering if any expectation was given as to how many hours the manager would work. Mayor Utecht said he did not know, the council would discuss later in the meeting if they want to investigate.

Ms. Schultz stated she was glad to hear MMBA came in to help the store, is that true? The council did not know and stated this is day to day management of the store. She then asked if the MMBA prepared a report would it be made public? The council will determine if and when a report is provided.

Eric Braun:

Mr. Braun is going to install a little free library outside city hall as his Eagle Scout project; does the council want it installed within



the sign planter or outside of it? The council would like it installed within the planter; and provide easy access to mobility challenged persons, if possible.

Consent Agenda

Motion J. Ness to approve the consent agenda as amended. Second by C. Lucia. M. Ness, J. Ness, C. Lucia, M. Utecht, and T. Olivolo voted yes. Mayor M. Utecht declared the motion carried.

Staff Reports

City Attorney

Amy Schutt

Tax Forfeited Parcel

Motion by J. Ness to approve Resolution Number 2017-9-1, "Resolution Dispensing with Statutory Requirements for Review of Planning Commission of Acquisition of Property, Approving the Acquisition of Real Property, approving a Lot Line Adjustment, and Opening New a Portion of Sherman Oaks Road." Second by M. Ness. J. Ness, M. Ness, T. Olivolo, C. Lucia, and M. Utecht voted yes. Mayor Utecht declared the motion carried.

Ordinance – Rezoning Property to Open Space/Park District

Motion by M. Ness to approve Ordinance Number 2017-9-2, "An Ordinance Amending Chapter 153 of the City Code Rezoning Property to OS, Open Space, and Rezoning Property to P, Park District;" with summary publication. Second by M. Utecht. J. Ness, M. Ness, T. Olivolo, C. Lucia, and M. Utecht voted yes. Mayor Utecht declared the motion carried.

City Engineer

Mark Statz

Water Treatment Plant Pay Request Number 12

Motion by T. Olivolo to approve Pay Request Number 12 in the amount of \$143,064.84 to Magney Construction for the Water Treatment Plant. Second by J. Ness. J. Ness, M. Ness, T. Olivolo, and C. Lucia, voted yes. Mayor M. Utecht declared the motion carried.

Relocation Midcontinent Cable

The clerk stated that Midcontinent's cable was broken by the well driller, the cable runs across the city hall parking lot. The concern is that it could be hit again.

Midcontinent will be requested to relocate their cable at their expense, unless they have an easement for its current placement.

Change Order – Seal Test Well

Motion by J. Ness to approve the change order to approve the sealing of the test well in the amount of \$4,373.23. Second by C. Lucia. J. Ness, M. Ness, T. Olivolo, C. Lucia, and M. Utecht voted yes. Mayor Utecht declared the motion carried.

Pavement Management Plan

Member M. Ness said he liked the document that Mr. Statz presented; and stated we need to have a more formal doctrine in place. Which lays out what roads are being done when, that way we can address questions from the public. Doesn't want to see another Gable and Genesis situation. Mayor M. Utecht agreed that a plan is necessary, public was not a concern if the roads are appropriate.

The council concurred with Mr. Statz 2018 project as proposed which would include the old portions of Gable and Genesis, 312th East of CSAH 30, 311th East of CSAH 30, and 307th Street.

Motion by M. Ness to approve a feasibility study for "old downtown" and 307th Street as laid out in the city engineer memo for a cost not to exceed \$5,000. Second by J. Ness. J. Ness, M. Ness, T. Olivolo, C. Lucia, and M. Utecht voted yes. Mayor Utecht declared the motion carried.

The council directed the Maintenance Committee to communicate with Mr. Jones to have the Pavement Management Plan as presented by Mr. Statz entered into the Cleerio program (Infraseek).

City Hall Parking

The council concurred with the Mr. Statz "Site Plan Concept 2, Engineer's Recommendation," with one exception remove parking in front of city hall (lots 1-4) and landscape the area.



The parking lot construction will occur this fall or next spring.

City Clerk

Sharon Payne

Payoff \$220,000 GO Tax Abatement Bond

Motion by J. Ness to pay off the \$220,000 GO Tax Abatement Bond of 2008. Second by M. Utecht. J. Ness, M. Ness, T. Olivolo, C. Lucia, and M. Utecht voted yes. Mayor Utecht declared the motion carried.

Approve 2018 Budget and Levy

Motion by J. Ness to approve Resolution Number 2017-9-3, "Resolution Approving Preliminary City Levy for 2018;" for a total levy of \$423,969. Second by M. Ness. J. Ness, M. Ness, T. Olivolo, C. Lucia, and M. Utecht voted yes. Mayor Utecht declared the motion carried.

Set Truth-in-Taxation Date

December 12, 2017, at 6:30pm.

Non-Compliant Septic System – Chuck White

This item handled out of order by Mayor M. Utecht. Second by J. Ness and carried.

Chuck White, 31320 Ferris Trail, was present to discuss his options to address his septic system that failed the point of sale inspection. The inspection indicated that the system lacked the two-foot separation between the bottom of the drain field and seasonally saturated soils.

The city clerk issued Mr. White a notice stating he is required to connect to the city water and sewer system because it is within 150 feet of his property line. Mr. White is concerned about the estimated \$23,000 expense.

City Attorney, Amy Schutt, said that the provision in the code that allowed for an escrow did not apply in this situation, only when a private sewer is repaired not connected to city services. The city code does provide that the city can connect the system and assess to the property, however, there are risks associated with this. Alternatively, the City could consider an escrow agreement allowing the property owner to pay for the improvements using the proceeds from the house sale, or an assessment agreement where the property owner waives the procedural requirements of the assessment statute.

Mr. Statz cautioned that investment in a private sewer may be a waste of money if in the future connection to city services occurs. Mr. White says the cost to repair the current system is \$13,000-\$15,000. Mr. Statz then posed should the city be investing in infrastructure in the areas that have septic systems that are beginning to fail.

Mayor Utecht and the council concurred, they feel for Mr. White. However, there are no provisions in state statute or city code that allow them to vary from the connection requirements.

Day Off

Motion by M. Ness to approve the time off request from the clerk. Second by J. Ness. J. Ness, M. Ness, T. Olivolo, C. Lucia, and M. Utecht voted yes. Mayor Utecht declared the motion carried.

Liquor Operations

Transfer of Inventory from Off-Sale to On-Sale

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

Ms. Schutt gathered input from three sources regarding the transfer of liquor from the off-sale to the on-sale. Two out of the three said it was common practice. The third said if they have two buyer's cards this wouldn't be acceptable. Ms. Schutt said that this may not be best practice but is defensible.

Member J. Ness said that when the Lions Club used to get their liquor from the off-sale, the city was told they cannot do this and at the same time the same was true from the off-sale to the on-sale.

Liquor Operations will review if two buyer's cards are necessary, if they are not and have one then there is no issue with the transfer. However, the council would like this transfer to be clearly documented. At this point transferring from the off-sale to the on-sale needs to stop immediately; until the research can be complete.

Signers on Liquor Accounts

Motion by M. Ness to establish the users on the liquor accounts to Rod Olson, Melissa Archer, Jeffrey Mussetter, and Hunter Graham. Second by J. Ness. J. Ness, M. Ness, T. Olivolo, C. Lucia, and M. Utecht voted yes. Mayor Utecht declared the motion carried.

Bar Roof

Member J. Ness thought that the Maintenance Department was taking care of the roof or was subcontracting. Mayor M. Utecht did not recall this, but will bring to the Maintenance Committee.

Member M. Ness would like the roof inspected at least monthly; Mayor M. Utecht said he wasn't sure about the right time period. However, a schedule for inspection will be developed.

Anoka County

Member J. Ness said that he did not have a problem with how the recent problem was handled at the Sports Grill; he would like the insurance company's standpoint on how it was handled researched.

**Committees
Commissions**

**Public Information
Committee**

**Approve Newsletter for
Mailing**

Motion by M. Ness to approve the newsletter for mailing. Second by T. Olivolo. J. Ness, M. Ness, T. Olivolo, C. Lucia, and M. Utecht voted yes. Mayor Utecht declared the motion carried.

Planning Commission

Small Wireless Facilities

The council would like for the city attorney to review our right-of-way ordinance and small wireless facilities for the Planning Commission.

Old Business

**Chisago County Sheriff
Contract**

Member M. Ness would like to contact the City of Wyoming to see if they would be willing to contract with us, not to say that the sheriff's office is doing anything wrong.

Member J. Ness said I wouldn't hurt to get the information. Member T. Olivolo said we can ask.

Member C. Lucia, and Mayor M. Utecht want to renew the contract with Chisago County.

The clerk will contact the City Administrator in Wyoming; to see if they are interested and what the costs may be if they are.

New Business

Forterra Noise Complaint

The city received a complaint from Ms. Rainer regarding noise from Forterra.

Mayor Utecht said that it doesn't appear that there has been a change in how the plant operates, thinks the sound readings taken in the past are still valid and the noise level limits have not been exceeded.

**Stacy Lions Club – Fire
Bash, Liquor License**

Member M. Ness said he doesn't believe liquor should be served on the fire barn property regardless who is selling it.

Member T. Olivolo they have been doing this for many years without incident. There is a rope around the consumption area.

Member J. Ness asked if the conditions set in the recently adopted ordinance were followed; the clerk indicated they had not been provided to the Lions Club yet.

Motion by T. Olivolo to issue a one-day liquor license to the Stacy Lions Club for the Stacy Lent Fire Bash on October 7, 2017. Second by M. Utecht. T. Olivolo, M. Utecht, J. Ness, and C. Lucia voted yes. Member M. Ness voted no. Mayor M. Utecht declared the motion passes four to one.

2020 LUCA

The city will not participate in Local Update of Census Addresses Operation (LUCA).

Resolution – Approving Stacy Lent Volunteer Fire Department Off-Site Gambling

Motion by J. Ness to approve Resolution Number 2017-9-4, “Resolution Approving the Stacy Lent Volunteer Fire Department Relief Association to Conduct Off-Site Lawful Gambling in the City of Stacy.” Second by T. Olivolo. J. Ness, M. Ness, T. Olivolo, C. Lucia, and M. Utecht voted yes. Mayor Utecht declared the motion carried.

Mayor/Council

Complaint Letter

Member M. Ness received an email from a former employee at the Stacy Wine & Spirits. The email expressed concerns regarding current management. Member M. Ness would like the issues expressed in the email investigated as it feels there is a pattern to these allegations. Reaching out to former employees and if necessary current employees for input. At a very minimum requesting the Personnel Committee reach out to the person submitting the email.

Mayor M. Utecht said that the complaints received have been from former employees of the store; his impression is that there is group of employees who were disappointed with the council’s decision to hire the current manager.

Member J. Ness said the problem is the sheer quantity of turnover is somewhat alarming, the previous 10-13 years no issues, now all of sudden turmoil; concerned are we missing something?

Mayor M. Utecht said he thinks the turmoil started from one instance us not promoting the Assistant Manager to Manager; this created a toxic environment with new management.

M. Ness understands former employees left not on the best terms. However, he knows if he had issues in his current work environment he would be afraid to bring up to whomever the right person is. Concern is we can discredit former employees but we

don't know as a fact there isn't more going on there. Could ask the manager what is going on but that opinion may be biased.

Mayor M. Utecht said he doesn't think we will get a true story from the former employees.

Member T. Olivolo said that we have one manager that is relaxed and the employees did as they wanted. This manager wants it a certain way and the employees don't like his opinion. He's been in the liquor store and has seen the difference. The place looks great and employees are working.

Mayor M. Utecht asked if the council had any doubt in their minds what the concerns were from the people who lodged complaints; the council did not have any doubt. To interview the prior employees is opening up "old wounds;" it is clear what they communicated to the council.

Council poll on investigation:

- Member J. Ness would like further investigation.
- Member T. Olivolo said he doesn't think it will help, "opening up the same can of worms."
- Member C. Lucia said no investigation is needed, you can't please everyone.
- Member T. Olivolo said at this time no investigation; if it becomes a problem we can always go back.
- Member M. Ness said he disagrees and still wants it investigated.

A consensus of the council decided that the council members who serve on the Liquor Committee would sit in on a staff meeting at the store to listen to the employees.

**Expectation of Hours
Worked by Management**

Member M. Ness read the following from the minutes of September 13, 2016:

Mr. Alliegro clarified that an exempt employee cannot be required to work a set amount of hours each week, however, they can be given expectations.

Motion by M. Utecht to strike the reference "based on a 48 hour week;" from motion offering the position to Roderick Olson made at the September 6, 2016, Special Meeting. Second by J. Ness. J. Ness, C. Lucia, M. Ness, T. Olivolo, and M. Utecht voted yes. Mayor Utecht declared the motion carried.

Adjourned at 9:51p.m.

Mayor M. Utecht Ness declared the meeting adjourned at 9:51 p.m.

Sharon MT Payne