

**MINUTES OF THE
WATERTOWN CITY COUNCIL
Regular Meeting Tuesday, September 14, 2010**

1. CALL TO ORDER AND ROLL CALL

Pursuant to due call and notice thereof, the regular meeting of the Watertown City Council was called to order, on **Tuesday, September 14, 2010** by Mayor K. J. McDonald at 6:30 PM in the Watertown City Hall Council Chambers.

Upon roll call the following Council Members were present: McDonald, Steve Duske, Rick Mann and Earline King. Council Member Dan Geiger was absent.

The following staff members were present: City Administrator Luke Fischer, City Engineer Dave Martini, Senior City Planner Crystal Foust, and Finance Director/City Clerk Steven Wallner.

2. ADOPT AGENDA

Fischer asked to have Item 6B (Executive closed session for attorney-client privilege discussion of possible purchase of 12390 Co. Rd. 20), Item 11A-1 (Special Council meeting for open house on Lewis Avenue street/utility extension) and Item 11A-2 (Request for block party on Jackson Ave NW) added to the agenda.

DUSKE MOVED, KING SECONDED A MOTION TO ADOPT THE AGENDA AS AMENDED. MOTION CARRIED 4-0.

3. REVIEW OF CONSENT AGENDA

- A. Approve Rain Garden agreement
- B. Authorize extension of vacation eligibility
- C. Approve Joint Powers Agreement with Carver County for pedestrian crossing
- D. Approve Metropolitan Livable Communities Action Local Housing Incentives Account
- E. Approve resolution rescheduling Downtown Redevelopment Project Tax Increment Financing Dist. 5 Public Hearing for October 4, 2010
- F. Approve pay request from Hoff, Barry & Kozar PA
- G. Approve pay request from City Attorney – Melchert, Hubert, Sjodin, PLLP
- H. Approve pay request from City Community Development Consultant – MK Land Corp
- I. Approve pay request from City Building Inspector – MNSPECT
- J. Council meeting minutes for August 24, 2010 meeting
- K. Planning Commission minutes for June 10, 2010 meeting
- L. Park and Recreation Commission minutes for May 13, 2010 meeting
- M. Park and Recreation Commission minutes for June 10, 2010 meeting
- N. Park and Recreation Commission minutes for July 8, 2010 meeting

DUSKE MOVED, KING SECONDED A MOTION TO ADOPT THE CONSENT AGENDA. MOTION CARRIED 4-0.

4. OPEN FORUM

5. CELEBRATE WATERTOWN

6. **NEW/OLD BUSINESS**

- A. Executive closed session pursuant to Minn. Stat. Section 13D.05 Subd. 3(B) for attorney-client privilege discussion of the city's legal options regarding illegal occupation of city's land and claim of adverse possession.

Kim Kozar of Hoff, Barry & Kozar stated that this closed session was necessary for confidentiality to allow the Council to have candid discussion about legal options to protect the interests of the public including potential litigation to remove the individual from the property.

DUSKE MOVED, MANN SECONDED A MOTION TO CLOSE THE REGULAR COUNCIL MEETING AND GO INTO EXECUTIVE CLOSED SESSION. MOTION CARRIED 4-0.

DUSKE MOVED, MANN SECONDED A MOTION TO CLOSE THE EXECUTIVE CLOSED SESSION AND REOPEN THE REGULAR MEETING. MOTION CARRIED 4-0.

- B. Executive closed session pursuant to Minn. Stat. Section 13D.05 Subd. 3(e)(3) to develop or consider offers or counter offers for the purchase or sale of real or personal property pertaining to the city's purchase of 12390 County Road 20.

MCDONALD MOVED, MANN SECONDED A MOTION TO CLOSE THE REGULAR COUNCIL MEETING AND GO INTO EXECUTIVE CLOSED SESSION. MOTION CARRIED 4-0.

MCDONALD MOVED, MANN SECONDED A MOTION TO CLOSE THE EXECUTIVE CLOSED SESSION AND REOPEN THE REGULAR MEETING. MOTION CARRIED 4-0.

- C. Consider Body Art Ordinance 352.

At the last council meeting, the Council directed staff to prepare an ordinance regulating the hours of operation and establish a \$250 fee to grant a body art establishment license in Watertown. The State Statute for body art establishments goes into effect Jan. 1, 2011. One of the requirements to issue a city license is to receive a copy of the state license. Foust stated that staff recommends the city's ordinance be effective concurrently with the state. Hours of operation established by the city ordinance are 8 a.m. to 9 p.m. Monday through Saturday. Duske recommended that this be a first reading of the ordinance. The proposed ordinance will be reviewed again at the next council meeting.

- D. Consider Dangerous Dog Ordinance 353.

The Carver County Board recently approved a county ordinance regulating dangerous dogs. This ordinance closely resembles the current city ordinance. Wallner stated that it is in the best interest of the city to repeal its ordinance and allow the county to enforce their ordinance within the city limits. Repealing the city's ordinance would allow all county deputies to enforce the county ordinance as opposed to only city deputies enforcing the city ordinance. The county ordinance will standardize how dangerous dogs are handled within the county and it will save the city from possible expenses related to the state mandated appeal process.

DUSKE MOVED, KING SECONDED A MOTION TO ADOPT ORDINANCE 353 REPEALING CITY DANGEROUS DOG ORDINANCE 311. MOTION CARRIED 4-0.

E. Code Enforcement for 216 Westminster Avenue SW

This is a code enforcement issue dating back to 2007. Foust stated that the violation includes housing a potbellied pig on the property on a regular basis. The property owners have other animals including a small goat and chickens, but have since removed all animals but the potbellied pigs. According to city code no person is allowed to keep any pig in any zoning district except for agricultural. The property owners have been notified to have any pig(s) removed by Sept. 17, 2010 or the Carver County Sheriff's Department may issue citations.

DUSKE MOVED, MANN SECONDED A MOTION TO REQUIRE THE PROPERTY OWNERS AT 216 WESTMINSTER AVE. SW TO REMOVE ANY PIG(S) FROM THEIR PROPERTY BY SEPTEMBER 19, 2010 AS PER CITY CODE SECTION 10-102. MOTION CARRIED 4-0.

7. **COMMITTEE REPORT**

A. Duske stated that the restorative justice program is going to be discontinued by the end of the year unless funds become available. He asked that the city administrator work with city staff and school officials to find a way to continue the restorative justice program.

8. **CONSULTANTS' REPORT**

A. City Engineer

1. Consider County Road 20 Project Pay Request No. 3 from Chard Tiling & Excavating and Paul Avenue Cost Sharing Arrangement

Martini stated that the amount owed for the pay request was \$567,423.34 for work completed on the County Road 20 project through August 31, 2010. He stated that the Paul Avenue cost sharing arrangement was a separate issue. Duske stated that there was no authorization from the Council for doing the final paving on Paul Avenue. He recommended not paying \$57,732.54 which was the costs for the trail between County Road 20 and the bus parking lot at the elementary school, paving of Street A at the elementary and completion of paving on Paul Avenue.

Martini presented his understanding of what lead up to this point. He stated there was discussion about whether or not to include the sanitary sewer crossing at Newton Avenue, a pedestrian underpass and final paving for Paul Avenue. He stated that it was decided to take out the sewer work and underpass and leave in the paving for Paul Avenue although there was some confusion as to the cost sharing. He stated that originally Hartman Communities had an agreement with the school district to pave Paul Avenue. Martini stated that Council Members Geiger and Mann were assigned to discuss cost sharing with the school district. His understanding was that Paul Avenue was to be paved before school opened Sept. 7. He stated that he talked to Geiger and Mann and it was his understanding that through negotiations that the school agreed to their share of the cost for Paul Avenue and it was good to go with the paving. He and Wallner corresponded with School Supt. Karsten Anderson to confirm that the school agreed to the cost sharing methodology. The costs were

\$4,632.50 for trail (100% city), \$6,050.86 for Street A paving (100% school) and \$47,049.18 for Paul Avenue paving (50% city and 50% school) for a total of \$57,732.54. Martini said the school district was comfortable with their share and the work was completed. He stated that it was then brought to his attention that the Council had not discussed the costs following the negotiations.

Mann stated that he and Geiger met with school representatives John McCain, Kyle McDonough and Karsten Anderson who agreed to split the cost of paving Paul Avenue. He stated that it was agreed that he and Geiger negotiate but the costs should have been approved by the entire council. He stated that he believed that the city's share would only be \$23,000.

Duske stated that Paul Avenue was first discussed in 2007 and should have been completed before this time. He believed there was an escrow account set up for this. Martini stated that originally Hartman and the school district had an agreement to have Paul Avenue completed, but Paul Avenue was always intended to be a city street. Martini stated that he understood the Council's frustration but the reality is that the project will not be done any cheaper than what was presented to the Council tonight. McDonald stated that it seemed appropriate to do the paving before school started and that negotiations could continue further. He stated that it is not proper to withhold payment on the project since it was not the fault of the contractor. Duske stated that if the entire cost is to be paid, then \$57,732.54 should be held from Bolton & Menk because those costs were not authorized by the Council.

MANN MOVED, KING SECONDED A MOTION TO PAY CHARD TILING AND EXCAVATING \$567,423.34 LESS \$57,732.54 FOR THE TRAIL, STREET A AND PAUL AVENUE PAVING. MOTION CARRIED 4-0.

9. MAYOR'S REPORT

- A. McDonald stated that flags in the city were flown at half-mast in remembrance of Sept. 11, 2001 and for Constitution Day (September 17).

10. COUNCIL MEMBERS' REPORTS

- A. King stated that she had attend the Commission on Aging meeting September 1 at which they discussed the downtown redevelopment project with City Planner Crystal Foust.

11. STAFF REPORTS

- A. City Administrator

- 1. Lewis Avenue South open house

Fischer stated that city staff recommended an open house for residents of Fremont and Angel Avenue Southwest to bring them up-to-date on the proposed street and utility extension for the downtown redevelopment project.

DUSKE MOVED, MANN SECONDED A MOTION TO HOLD A SPECIAL COUNCIL MEETING MONDAY, SEPTEMBER 20, 2010 FOR AN OPEN HOUSE FROM 4:30 TO 6:30 P.M. FOR RESIDENTS OF FREMONT AND ANGEL TO RECEIVE

INFORMATION ON THE LEWIS AVENUE SOUTH STREET AND UTILITY EXTENSIONS. MOTION CARRIED 4-0.

2. Jackson Avenue Block Party

Fischer informed the Council about a request from residents on Jackson Avenue NW to hold a block party Saturday, Sept. 18, 2010.

MANN MOVED, MCDONALD SECONDED A MOTION TO APPROVE THE REQUEST OF JACKSON AVENUE NW RESIDENTS TO BLOCK OFF THE STREET FOR A PARTY SATURDAY, SEPT. 18, 2010. MOTION CARRIED 4-0.

D. Finance Director

1. Consider 2011 Preliminary Levy

MCDONALD MOVED, DUSKE SECONDED A MOTION TO ADOPT RESOLUTION 2010-09-14-3 FOR A PRELIMINARY LEVY OF \$1,731,104 FOR COLLECTION IN 2011. MOTION CARRIED 4-0.

2. Consider 2011 Preliminary Economic Development Levy

DUSKE MOVED, KING SECONDED A MOTION TO ADOPT RESOLUTION 2010-09-14-4 CALLING FOR A PRELIMINARY ECONOMIC DEVELOPMENT LEVY OF \$50,998 FOR COLLECTION IN 2011. MOTION CARRIED 4-0.

3. Approve voucher list/claims roster

KING MOVED, MCDONALD SECONDED A MOTION TO APPROVE THE VOUCHER LIST/CLAIMS ROSTER. MOTION CARRIED 4-0.

12. **ADJOURNMENT**

THERE BEING NO FURTHER BUSINESS THE MEETING WAS ADJOURNED AT 8:16 PM.

ATTEST:

Steven Wallner
Clerk-Treasurer

K.J. McDonald
Mayor