



**City of Newport  
City Council Minutes  
June 2, 2016**

**1. CALL TO ORDER**

Mayor Geraghty called the meeting to order at 5:30 P.M.

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

**Council Present** – Tim Geraghty; Tom Ingemann; Bill Sumner; Tracy Rahm; Dan Lund

**Council Absent** –

**Staff Present** – Deb Hill, City Administrator; Fritz Knaak, City Attorney; Larry Osterman, Sergeant; Jon Herdegen, City Engineer

**4. ADOPT AGENDA**

**Admin. Hill** – I will be adding a message about an HPC request.

**Motion by Geraghty, seconded by Sumner, to adopt the Agenda as amended. With 5 Ayes, 0 Nays, the motion carried.**

**5. ADOPT CONSENT AGENDA**

**Motion by Ingemann, seconded by Geraghty, to approve the Consent Agenda as amended, which includes the following items:**

- A. Minutes of the May 19, 2016 Regular City Council Meeting
- B. Minutes of the April 21, 2016 City Council Workshop Meeting
- C. Liquor License for Booya
- D. List of Bills in the Amount of \$94,622.28

**With 5 Ayes, 0 Nays, the motion carried.**

**6. VISITORS PRESENTATIONS/PETITIONS/CORRESPONDENCE**

**7. MAYOR'S REPORT**

**Mayor Geraghty** – On May 19 the City Council met in closed session to discuss potential pending litigation and at that closed the meeting there was a proposal presented to the Council that came from a mediation service that was conducted. In the end, the Council decided to make a lump sum payout of \$115,000 to former officer Sean McCardell for a claim regarding health insurance coverage. The original demand was \$298,000 and the Council in the end decided to settle the case for the \$115,000. Does anybody else want to add anything further?

**Councilman Ingemann** – It was not a unanimous vote.

**Councilman Sumner** – There was a lot of discussion about this and it was of great concern to most members of the Council and upon advice from multiple attorneys, it was decided to take this course of action. It was not an easy choice and it certainly wasn't unanimous and it wasn't a decision that was made with happy hearts.

**Mayor Geraghty** – Right and I just want to make it clear that there was no fault on the part of the City at all it was related to a statute regarding health insurance coverage that police officers are entitled to if they're injured on-duty. We just felt it was in the best interest of the City to settle this claim.

## 8. COUNCIL REPORTS

**Councilman Sumner** – I did attend the meat raffle and gave a donation directly to the Chief. It's going to providing much needed supplies for our firefighters who we greatly support and I will continue to go there.

**Councilman Lund** – I attended the Park Board Meeting and the Park Board made a couple of interesting suggestions. I was asking for their input on a list of many capital improvements we could make to the parks and what they considered to be at the top of the list given the relative expense and value to the City. They came back with the fence up at Loveland ball fields as being their suggested priority and they voted unanimously for the lowering of the fence at the 10<sup>th</sup> Street Overlook to make it more fishing friendly.

**Mayor Geraghty** – Do you at some point want to bring that forward to the Council?

**Councilman Sumner** – Bruce is that something that the Council should vote on?

**Mayor Geraghty** – I do have some concerns about that. We are being forced not to put in a pier because it's not handicapped accessible and we had complaints about the cost of that fence going in and now you want to make modifications and that site down there is not handicapped accessible. I'm in kind of in a quandary why we would promote that when it's not handicapped accessible.

**Councilman Lund** – Well I have heard no indication that we have a responsibility to make every trail handicapped accessible.

**Mayor Geraghty** – Well no but we're being asked to make another one handicapped accessible, another fishing point in the City of Newport. We can bring it up for separate discussion but I think there are some issues that we want to talk about on that. I thought someone complained about the cost of that fence.

**Councilman Lund** – My understanding is that it is something that Public Works could handle. You have an expert welder in-house that could handle fencing modifications correct?

**Supt. Hansen** – Depending on what we're going to do with it, yes.

**Councilman Lund** – Okay well let's put it on the agenda for another meeting then.

## 9. ADMINISTRATOR'S REPORT

A. Newport Business Center - Conditional Use Permit

1. Memo from Deb Hill

2. **Resolution No. 2016-19** – Approving a Two-Year extension to the Existing Conditional Use Permit

**Councilman Lund** – Is the normal period for a conditional use period 1 year?

**Admin. Hill** – You're supposed to start some sort of construction within a 1 year time frame.

**Mayor Geraghty** – Right but is a normal extension a 2 year extension or can we do a 1 year extension?

**Ms. Buss** – It's really up to you. It's not unusual when people are trying to market a property like this to need a little more time. Your ordinance gives people a year from the date of the Conditional Use Permit is approved to get something in the ground.

**Councilman Sumner** – Can we do 1 and have him apply again if necessary? Is there any advantage to that?

**Ms. Buss** – As long as he doesn't let the time pass so that's why this is in front of you now because if it's not approved fairly soon the time period passes and then he would have to come back and apply for a whole new Conditional Use Permit.

**Councilman Lund** – My preference would be a year just in case there are changing circumstances we may want to change it if there's other development in the area or something else that comes up.

**Mayor Geraghty** – If it does lapse he has to go through the whole process again?

**Ms. Buss** – Yes.

**Councilman Sumner** – This will force him to keep it on his radar and keep working on it and it's not to say we couldn't grant a 2<sup>nd</sup> extension.

**Admin. Hill** – You can only have up to 2 years and then you have to reapply after that.

**Councilman Sumner** – So we could do the 2 year in yearly increments?

**Admin. Hill** – Yes.

**Councilman Sumner** – I'll make that suggestion. I request that we modify the request from a 2 year to a 1 year time period.

**Motion by Sumner, seconded by Lund to adopt Resolution 2016-19 with a Modification that it be a 1-year Extension of the Existing Conditional Use Permit Resolution No. 2015-20. With 5 Ayes, 0 Nays, the motion carried.**

- B. Fleet One LLC – Recurring Bill Pay
  - 1. Memo from Deb Schulz

**Motion by Sumner, seconded by Rahm, to authorize using Recurring Bill Pay through Fleet One LLC. With 5 Ayes, 0 Nays, the motion carried.**

- B. MRCCA Review Update

Sherri Buss, TKDA Planner, presented on this item as outlined in the June 2, 2016 City Council Meeting packet.

**Councilman Ingemann** – I didn't see anything in the letter where the DNR was going to make sure that the funds were available to enforce all of these brand new ordinances.

**Ms. Buss** – There was one point in time a couple of years ago when the DNR commissioners said that they were going to go to the legislature and ask for funds to help local governments to implement these new rules and that has never happened.

**Councilman Ingemann** – I guess they can put all the rules in effect but I don't see them being enforced either because there's no money.

**Ms. Buss** – Yes and there are new rules in here, I haven't mentioned them but for every time someone asks for a variance or a conditional use permit in this district, we will need to let the DNR know what you've done in terms of requiring people to address the primary conservation areas and do mitigation for anything that's caused by the variance. A whole new set of things that will apply to property owners and we're supposed to "report" to the DNR which will be yet another burden for you.

**Councilman Ingemann** – Another unfunded mandate I guess.

**Ms. Buss** – If I saw that there was a huge benefit to the resource I think a lot of local governments would see this differently but many people are complaining about the same sorts of things. St. Paul is planning to take this on pretty big time because people just don't see the benefit for all of the new regulation.

**Councilman Sumner** – So all of the comments will be aggregated and sent to a single judge down at the office of administrative hearing and he will make a determination?

**Ms. Buss** – Yes.

**Councilman Sumner** – Does he have a background in this area or does it make any difference?

**Attorney Knaak** – This one does and he has been around a long time.

**Councilman Lund** – I have concerns about asking the DNR to take over the enforcement action. We have a lot of properties that may potentially be developed on the river and I understand that from the staff's perspective, it's very burdensome to have to deal with this enforcement requirement but if we hand that over to the DNR, we might regret it. My preference would be to take anything that suggests that the DNR step in the City's shoes and do enforcement out of there.

**Mayor Geraghty** – Are there areas where we may want them to do enforcement? If we have to do it I'm not sure it'll get done.

**Councilman Sumner** – Will we be held in contempt if we don't comply?

**Councilman Lund** – Yeah if someone complains and we're not doing it, certainly we can be forced to do more but if we turn it over to the DNR we're subject to however they interpret the law.

**Councilman Ingemann** – Sherri how far does this proposed thing go? Does it go to the east side of highway 61?

**Ms. Buss** – No not that far. It includes all of the river parcels and about half way over to 61. So is the consensus to take out any reference to the DNR doing enforcement and just leaving that out?

**Councilman Lund** – This is a huge chunk of our City so I don't think we want to send people to the DNR.

**Councilman Sumner** – Again the rip-rap it talks about the DNR and the watershed district. We have a fairly comfortable working relationship with the watershed district so if we could have them....

**Ms. Buss** – If you want to take DNR and leave it with the watershed district we can do that.

**Councilman Sumner** – Are people in agreement with that?

**Councilman Ingemann** – I wouldn't have any problems with it.

**Councilman Sumner** – Can other things be looked at by the watershed district as opposed to the DNR?

**Ms. Buss** – I'm not sure if they would want to look at the very small, you might have a better sense of that than me. If it's 10,000 square feet of new impervious surface it's probably easier for you to look at it.

**Engineer Herdegen** – We always send it to the watershed as a courtesy and typically we haven't gotten extensive comments back from them. We'll dig a little bit deeper than they do but I think as a standard practice we'll continue to share any permits or permit reviews with them.

**Councilman Lund** – So if we asked to DNR to do mapping that's giving up probably the majority of the control because once that mapping happens then it'll be required to enforce it according to the DNR's mapping?

**Ms. Buss** – It could be, if you really want to take on the responsibility of all that mapping that's up to you guys.

**Councilman Ingemann** – That's a lot of money.

**Councilman Lund** – Well we're asking them to give us money to handle that responsibility and I think that's a much better solution than asking them to do it.

**Councilman Sumner** – Having them provide the plan is one thing but....

**Councilman Lund** – Well if they do it and you want to cut down a tree on 4<sup>th</sup> avenue they say "no"...

**Councilman Sumner** – Just having them map it doesn't prevent that.

**Councilman Lund** – Well they decide where the canopy was and if your box elder tree was a part of their canopy then you have to leave it up. I think leaving it in the City's control to make those reasonable interpretations might be better.

**Councilman Sumner** – Wouldn't another agency have to include box elders and other junky trees as well?

**Councilman Lund** – To the extent that there's room for interpretation I'd rather have it be our interpretation.

**Ms. Buss** – You can do the interpretation yourself. They're not saying that if they give you maps of where the bluff lands are that you're going to have to use those maps. You can make some changes yourself if you want to. You can decide what is "priority vegetation".

**Councilman Lund** – We're talking about a worst case scenario though right? Where we get sued and someone is asking us to enforce the state statute and if our policy has been to use the DNR maps and we say that we want to change it, we'll need a lot of gun behind that decision.

**Ms. Buss** – The way they've envisioned this process is that you as a City will adopt a set of things called "primary conservation areas".

**Councilman Lund** – But if the DNR is deciding what those are for the whole area, how are we going to be able to say "no" and disagree with the DNR?

**Ms. Buss** – It's a fine point but I don't think it's what we're asking them to do, we're asking them to map shore land areas, bluff lands, and plant species but if you're uncomfortable with the idea of taking maps from the DNR we can take it out of there. If you guys would rather pay to do all of that yourselves that's fine.

**Councilman Lund** – We wouldn't rather pay for it we'd rather ask them to pay for it which is an alternative in here. I don't think it's an equally helpful suggestion to have them do it than for them to pay for us to find our own expert to do it.

**Councilman Sumner** – Who provides those kinds of mapping services?

**Engineer Herdegen** – I don't have the full scope of what the mapping services are but we can do that mapping.

**Ms. Buss** – The tough part will be with some of the vegetative community things where there will need to be some actual fieldwork done for people to identify things in the field and map them. Some things like the shore line district or even bluffs might be tricky but maybe it's doable. If somebody were to identify the top of the bluff line through the City how much survey work is that?

**Engineer Herdegen** – Well for instance, those Johnson Mosley properties we identified the bluff line there and essentially you have to take enough survey shots to identify where the slope turns from 9% to 18%. For those two parcels that were 200 feet long, we had a good day and a half of survey work out there.

**Councilman Lund** – That's the kind of thing we should put in here that it's so impossible to figure out the bluff line that no one can expect to pay for it whether it's the DNR or us. It's just a completely unpractical regulation.

**Ms. Buss** – Well in fact the DNR has mapped what they're calling the "bluff line". That's the one feature that they have mapped here and it's the one I was thinking about in terms of the cost of the data here because they did actually do that mapping because so many communities said that they wanted consistency about what is the bluff line through this corridor. Out of all of these categories it's the only one that they've done.

**Councilman Lund** – How do they propose to do this mapping without going on private property?

**Ms. Buss** – They haven't been specific about that. They're leaving that up to you by saying that you will need to figure out how to map shorelines, major tributaries, major vegetation, native plant communities, and a whole list of things.

**Councilman Lund** – Let's get that in there that it's impossible to enforce because we don't have the property rights to be marching around the whole area.

**Mayor Geraghty** – So can you mail a letter out by Monday?

**Ms. Buss** – I can mail it out by the 16<sup>th</sup>. It's just going to take a lot of time for someone to do this and if it's not done consistently throughout the corridor, some communities may be identifying lots of native vegetation and other communities may not. There's a lot of judgments to be made here that's the hard part of all of this but if you'd rather that we say that the DNR should pay for the mapping we can change the language here and say that if you're going to give us this responsibility, the DNR needs to give the City the funds to do the mapping.

**Councilman Lund** – Could we add in there that we don't think the mapping is possible without infringing on the property rights of land owners along the bluff line?

**Councilman Rahm** – Whatever we say is fine here but this is going to go to an administrative law judge and they're going to approve it. You know what's going to happen.

**Ms. Buss** – If enough communities talk about some of the things like the requirement to go down to 10,000 square feet rather than what's in the PCA rules, it might matter. There are so many rules that people have to meet already related to storm water management, you city has very good storm water rules. Do you want me to revise it and have it come back to you at the next meeting?

**Mayor Geraghty** – Send it to Deb for Council comment and give a date.

**Ms. Buss** – The second issue is one that just came up yesterday and I would like to get your opinions on this. It has to do with the picture that is up on the screen. You have a resident by the name of Daniel Richardson who lives on Cedar Lane who has an opportunity to save an old caboos. He currently has as many accessory structures as he is allowed on his property, he has 2. This would require some sort of variance, it would be a little difficult to rationalize that unless we have something strong to work from that said you wanted to save historic

structures or you could change your ordinance like some communities have done to allow an exemption for accessory structures if they meet a historic purpose. I wasn't quite sure how to respond to him, if I respond as the ordinance says, I would have to say no you can't have this on your property because it is a third accessory structure. I don't know what your feelings are about historic structures whether you think it's a strong goal for the City to help preserve things like this so it would be worth amending the ordinance to allow another accessory structure or not. I also think there are some questions about neighbors and what happens if he moves away and this caboose is still there. I wanted to just run this by you for a couple minutes to see how you would react rather than suggest to him that he apply for a variance or an ordinance change if you really don't want to go there.

**Councilman Rahm** – No.

**Mayor Geraghty** – It would go nice next to out tower out here.

**Councilman Lund** – That was my thought exactly.

**Daniel Richardson, 1485 Cedar Lane** – It's something that I've looked into in the past. Just being in Newport, a rail town, I thought it would be good for the area. No it would not be a bed and breakfast; it would be what more commonly called a "man cave". During the summer it would have electricity to it, that's it. It's not like someone would live in there. 3 out of 4 of the immediate neighbors I was with this weekend and they talked about it and said that it was a cool idea but I understand City ordinances and things of that nature and thought why not ask. If the City says "no" that's the end of it not a problem. Before I spent any money I figured I'd pursue this avenue.

**Councilman Ingemann** – How would you get it in float it in on the river?

**Daniel Richardson, 1485 Cedar Lane** – No bring it in on an axle. I would have to build a foundation, it's sitting on rails, railroad ties, and concrete right now and I would have to do the exact same thing in my yard.

**Councilman Rahm** – Okay so we let you bring in a rail car and someone else finds this really nice boat somewhere and puts it in someone's front yard.... That's the thing that concerns me not that I don't want you to have a "man cave" it's just that is this the kind of stuff we want to park in Newport? One of the things we're trying to do here is clean up the town, clean up the image and improve things. Things like this in my opinion do not meet that objective. If we had a park that had a train and a caboose that would be fine but I'm afraid this opens the door to all kinds of junk people want to bring into town and that's not what I stand for.

**Mayor Geraghty** – I think you got the answer.

**Daniel Richardson, 1485 Cedar Lane** – That's fine.

**Admin. Hill** – To piggyback on the historic preservation, I got an email from Bob Vogel asking about the pavers for the Veterans' Memorial that we have and he said that he has quite a few names of civil war vets who were Newport residents but don't have pavers. I believe that the City at one point paid for a lot of pavers for civil war veterans. He would like to reach out to veterans organizations so if the Council were to direct the HPC to coordinate this they could have a plan soon.

**Mayor Geraghty** – I would say go for it.

## 10. ATTORNEY'S REPORT

**Attorney Knaak** – Mr. Mayor you've already touched on one item that I was concerned about, the other would be on the Prosecution Report. I regret that I did not get information from the county until Tuesday; we had some technical problems so you'll be getting that at the next meeting.

11. WASHINGTON COUNTY SHERIFF'S OFFICE REPORT – Nothing to report.

## 12. FIRE CHIEF'S REPORT

**Chief Wiley** – Thank you to Council member Sumner and Council member Ingemann for coming to the meat raffle, we had a good turnout again, it was real crowded at the Cloverleaf and really good support from the community. The only other thing I have is our gambling permit for the upcoming Booya, we just need to get it approved this evening to get it in 30 days ahead of the event.

**Councilman Ingemann** – It's in the Consent Agenda.

**Chief Wiley** – No this is the gambling one, the liquor permit made it into the agenda, the gambling one because we couldn't complete this one until the meat raffle one was closed by the state and with the holiday in there and there was a delay.

**Motion by Ingemann, seconded by Rahm, to approve the Gambling Permit for Booya. With 5 Ayes, 0 Nays, the motion carried.**

**Councilman Sumner** – Any fire activity or rescues?

**Chief Wiley** – May was a relatively busy month. We had a number of semis that were parked behind a heavy metal truck driving training center by the Quade property caught on fire last week.

**Councilman Sumner** – How was the access to that with the gates and so forth?

**Chief Wiley** – It was fine we went in on the west side of the building there's the iron gate there which right on the other side of that is where the vehicles were parked.

**Councilman Ingemann** – Can you still cross the railroad tracks or is there still a big gap?

**Chief Wiley** – You can cross the tracks, we have a code to the roller gates so access isn't an issue for the fire dept.

## 13. ENGINEER'S REPORT

**Engineer Herdegen** – I did speak with the contractor that we had for the 15<sup>th</sup> and Cedar improvements, he's still ready to go for that.

14. **SUPERINTENDENT OF PUBLIC WORKS REPORT** – Nothing to report.

## 15. NEW / OLD BUSINESS

**Admin. Hill** – Raceway to Fun closed today.

**Councilman Lund** – The Governor is at the River Oaks Golf Course tonight for a DFL fundraiser. I know not everyone is affiliated with the DFL but I think it would be good to get as many people there as possible.

## 16. ADJOURNMENT

**Motion by Geraghty, seconded by Sumner to adjourn the regular City Council meeting at 6:19 p.m. With 5 Ayes, 0 Nays, the motion carried.**

Upcoming Meetings and Events:

- |                                     |               |           |
|-------------------------------------|---------------|-----------|
| 1. Planning Commission Meeting      | June 9, 2016  | 6:00 p.m. |
| 2. City Council Meeting             | June 16, 2016 | 5:30 p.m. |
| 3. City Council Meeting             | July 7, 2016  | 5:30 p.m. |
| 4. Heritage Preservation Commission | July 13, 2016 | 5:00 p.m. |

Signed: \_\_\_\_\_

Tim Geraghty, Mayor

Respectfully Submitted,

Andrew Brunick  
Administrative Intern/Administrative Assistant