



**City of Newport
City Council Minutes
June 18, 2015**

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; Tracy Rahm; Dan Lund

Council Absent – Bill Sumner;

Staff Present – Deb Hill, City Administrator; Renee Eisenbeisz, Executive Analyst; Fritz Knaak, City Attorney; Jon Herdegen, City Engineer; Sherri Buss, TKDA Planner

Staff Absent – Bruce Hanson, Supt. of Public Works; Curt Montgomery, Police Chief; Steve Wiley, Fire Chief;

4. ADOPT AGENDA

Mayor Geraghty - I'd like to move the Engineer's Report to right after the Council reports. I'd also like to add Resolution No. 2015-15, which is a gambling permit for the Cottage Grove Athletic Association for 374 21st Street, to right after the Consent Agenda.

Motion by Geraghty, seconded by Ingemann, to adopt the Agenda as amended. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

5. ADOPT CONSENT AGENDA

Motion by Rahm, seconded by Ingemann, to approve the Consent Agenda as presented, which includes the following items:

- A. Minutes of the June 4, 2015 Regular City Council Meeting
- B. List of Bills in the Amount of \$209,890.82
- C. Liquor License for Pioneer Day
- D. **Resolution No. 2015-11** - Accepting Donations for the Period of May 5 - June 14, 2015
- E. **Resolution No. 2015-12** - Identifying the Need for Livable Communities Demonstration Account Funding and Authorizing Applications for Grant Funds
- F. Solicitor's Permit

With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

Resolution No. 2015-15 - Approving a Premise Permit for Cottage Grove Athletic Association to Operate at Opinion Brewing (Attached)

Councilman Ingemann - Didn't we just approve the Lions to operate there?

Executive Analyst Eisenbeisz - We approved the Lions last fall and they stopped operating there. We then approved Climb Theatre to operate there and now they're discontinuing to operate there.

Motion by Lund, seconded by Ingemann, to approve Resolution No. 2015-15 as presented. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

6. VISITORS PRESENTATIONS/PETITIONS/CORRESPONDENCE

Tami and Dennis Mitchell, 925 Ellen Court - As you know, we were up here two weeks ago and Councilman Ingemann came up afterwards around 10:30 to observe the lights. There was an adjustment, which wasn't adequate enough. Tom and I determined that the light is a hindrance to people going up Ford Road. We drove Ford Road and it was noticeable that it could blind someone coming up the road. They did make another adjustment since then and it doesn't seem to be an improvement. The lighting is still bad in our backyard. Tom made a mention last time that the light could be moved to his property. I sent all of you an email around the 15th and shortly after that they placed a shield around it. The light still infiltrates our yard and comes into our bedroom. When we want to have our window open, it's only open a little bit at night or it's closed entirely. We'd like to appreciate the breeze. If I remove the curtain from our bathroom, it can act as a nightlight. We appreciate the adjustments but it's not working and is still intrusive. The other thing is that most people don't have one street light, we have two, one in the front and one in the back. Additionally, we deal with car lights because of the way the road was reconfigured. We would really appreciate you moving the light. Tom was very generous in offering the pole by his place. There are also some people that keep their lights on all night long. We know of some communities that only have street lights on the corners, not in-between. Please move the light.

Councilman Rahm - You said they put a shield on?

Mrs. Mitchell - Yes, after I sent the email. There's still light from there.

Mayor Geraghty - Was Bruce or anyone involved with Xcel?

Admin. Hill - It was placed there for safety reasons.

Mayor Geraghty - If it's by you, will that be enough for safety?

Councilman Ingemann - I'm not a lighting specialist but my pole is not that far away.

Councilman Rahm - Will that change anything?

Councilman Ingemann - I don't know.

Councilman Lund - There used to be two lights? So putting up two lights would be the closest to how it was.

Mr. Mitchell - If you do have the time, you'll need to come up after 10:00 p.m., but you'll see the reflections.

Mayor Geraghty - If it goes up by you is anyone else going to complain?

Councilman Ingemann - I don't think so.

Mr. Mitchell - I don't think the angle of the arm is helping. It seems more up high and really does shine down Ford Road. All we can say is come up and take a look at it. Most of the Council people have. If something is going to be done, would it be possible to contact us to go over it because we didn't know the adjustments were going to take place?

Mayor Geraghty - Let's have Bruce schedule a meeting.

Admin. Hill - Ok.

7. MAYOR'S REPORT –

Mayor Geraghty - The Governor was down and talked about rail safety and it was a good discussion.

8. COUNCIL REPORTS –

Councilman Ingemann - I was also at the meeting with the Governor. The street intersection they're talking about is in Newport and St. Paul Park. That intersection is a problem. The way it stands right now, it's not a matter of if but when. The Fire Department will have Booya on July 12th and the parade is on July 11th.

Mayor Geraghty - St. Paul Park is looking at options.

Councilman Rahm - Nothing to report.

Councilman Lund - Nothing to report.

13. ENGINEER'S REPORT –

A. Partial Payment #1 - SCADA Improvements

Engineer Herdegen presented on this item as outlined in the June 18, 2015 City Council packet.

Councilman Rahm - Everything is working now?

Engineer Herdegen - Yes.

Motion by Geraghty, seconded by Ingemann, to approve Partial Payment #1. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

9. ADMINISTRATOR'S REPORT –

A. Public Hearing - To consider and possibly approve a Street Vacation for 9th Street between the Mississippi River and 2nd Avenue

The Public Hearing opened at 5:48 p.m.

Sherri Buss, TKDA Planner, presented on this item as outlined in the June 18, 2015 City Council packet.

Bryan Williams, 121 10th Street - I received notice of this vacation a couple weeks ago and it's the first I've heard of it being up for public discussion. 9th Street runs along my property border and goes down to the river and occupies part of the historic river front. My concern with the vacation is what would happen with the land that's not vacated. I understand half of it would go to me and half would go to the other property owner, the City. What would happen if that land is not developed for public access, my presumption is that they would be made for sale. If private developers were to have access to the historic landmark, I wonder what consequences that would have. I'm working hard to restore it to its former glory, I think it's a source of pride for the City and would like to maintain some control over the portion that I've been maintaining even though it's on City property and has been left to decay. My only concern is that it would create a parcel big enough for development, either residential or a private access to the riverfront. I'm just looking for some clarity.

Ms. Buss - So if 9th Street is vacated, half would go to the adjoining property owners. Our sense from looking at the grading is that it would be almost impossible to develop because the parcels are either in the bluffs or within the setback. There might be two developable parcels along 2nd Avenue.

Mr. Williams - Would those be made for sale for someone to buy for a pathway to the river? I understand that it's City property, but I'm concerned about foot traffic. It creates a sense of privacy for our backyard and was one of the reasons we bought it and people going back and forth every day would make it less desirable.

Admin. Hill - From my understanding, Steve Marko had that problem as it is now.

Ms. Buss - So you're thinking the City would request an easement?

Mr. Williams - Or if the City sold it, a developer would try to build a walkway to the river. I understand the benefit of having river access but I would be concerned about how that was created. Steve Marko maintained it all as a single property.

Ms. Buss - We haven't had any proposals for that. I guess until we have a developer, it'll be hard to say if that would be a possibility.

Admin. Hill - It would be difficult to get a walkway in there from the DNR because it would be visible from the river and they would have to take down vegetation.

Mr. Williams - From a historical standpoint, there's a staircase in the bluff. If that would fall under City property and a developer bought it, they might see it as an opportunity to build a pathway to the river.

Admin. Hill - There's just not enough area to build a house there because of the bluffs.

Councilman Ingemann - If you were to vacate 9th Street, you could create two lots from 927 correct?

Admin. Hill - Yes.

Councilman Rahm - Would it be difficult to build a pathway?

Councilman Lund - It's not very hard to build a pathway. I don't want to tell you that it will never happen but when the City owns it, the time to make revisions to protect things would be part of the process with a developer and I think it would be helpful to have you involved.

Mr. Williams - I would also be willing to make an offer on the property if the City ever sells it.

The Public Hearing closed at 6:00 p.m.

Councilman Ingemann - It'll allow the City to create two buildable parcels to sell.

Mayor Geraghty - But if the other lot was developable, would they want the rest of the land going to the river?

Admin. Hill - There's really no way to get a path to the river, it gets pretty steep.

Motion by Rahm, seconded by Lund, to approve Resolution No. 2015-13 as presented. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

B. Resolution No. 2015-14 - Approving an Extension of the Variance Granted to Mark Gergen for Property Located at 1825 4th Avenue

Sherry Buss, TKDA Planner, presented on this item as outlined in the June 18, 2015 City Council packet.

Mayor Geraghty - When does the current one end?

Executive Analyst Eisenbeisz - It expired May 15th but he got the request for the extension in before that.

Motion by Geraghty, seconded by Rahm, to approve Resolution No. 2015-14 as presented. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

C. Ordinance No. 2015-4 - Approving Amendments to Section 811.07, Section 1330, and Section 1390

Sherri Buss, TKDA Planner, presented on this item as outlined in the June 18, 2015 City Council packet.

Councilman Rahm - I do have some comments on our enforcement. We have things where people are parking in front yards. We have these codes, but if we don't enforce them then what good are they?

Executive Analyst Eisenbeisz - The ones existing now, would be grandfathered in.

Councilman Rahm - I'm talking about dirt or gravel.

Ms. Buss - That's not grandfathered in so it would be an enforcement issue.

Councilman Rahm - Also, we thought that if we did curb and guttering, it would help with determining where the driveway is.

Admin. Hill - That's helped immensely.

Councilman Ingemann - At one time, there was language saying "at the discretion of" and the Planning Commission decided that there needs to be set standards.

Ms. Buss - Yes, the language references a public works design manual.

Motion by Ingemann, seconded by Geraghty, to approve Ordinance No. 2015-4 as presented. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

D. Ordinance No. 2015-5 - Amending Chapter 7 to add Section 780, Social Host

Admin. Hill and Executive Analyst Eisenbeisz presented on this item as outlined in the June 18, 2015 City Council packet.

Councilman Rahm - I've had people on my property drinking, they sneak on to my property. Would I be liable?

Attorney Knaak - You wouldn't be a social host. The classic case is when parents are on vacation and the kids have a party. The parents would be found to be responsible in a civil sense.

Councilman Ingemann - The reason I thought this was State Statute was because I used to work with someone whose son went to a party, drank and got into a car accident on the way home and died. It was close and the guy got away scott free.

Councilman Lund - These laws are pretty ambiguous and leave room for interpretation and I would prefer our version to be more specific and say that the host is present and has knowledge. There's a lot of kids that steal beer from their parents and a party of three is not very many kids. This has nothing to do with civil liability.

Mayor Geraghty - How would that work if you put that language in there if the parents aren't present?

Attorney Knaak - They would not be criminally responsible but civilly, it wouldn't change anything.

Executive Analyst Eisenbeisz - So you would like to add the two additional findings and say that the host needs to be present?

Councilman Lund - My preference would be that the host has to be present and have knowledge.

Executive Analyst Eisenbeisz - Ok, I can work with Attorney Knaak.

Mayor Geraghty - Do you want to work on a draft and bring it forward?

Executive Analyst Eisenbeisz - I certainly can.

Councilman Rahm - I want to make sure Bill is here.

Mayor Geraghty - Ok, we'll table it.

Admin. Hill - We received notice that it's a bonding year for the State. We received notice on Tuesday and it's due tomorrow. There was no time to have a resolution in front of the Council. We put in a couple requests for the I&I issue and to purchase the Maxwell site.

10. ATTORNEY'S REPORT - Nothing to report.

11. POLICE CHIEF'S REPORT - Nothing to report.

12. FIRE CHIEF'S REPORT – Nothing to report.

14. SUPERINTENDENT OF PUBLIC WORKS REPORT - Nothing to report.

15. NEW/OLD BUSINESS

16. ADJOURNMENT

Motion by Geraghty, seconded by Ingemann, to adjourn the regular Council Meeting at 6:22 P.M. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

Signed: _____

Tim Geraghty, Mayor

Respectfully Submitted,

Renee Eisenbeisz
Executive Analyst

RESOLUTION NO. 2015-15

A RESOLUTION APPROVING A PREMISE PERMIT FOR COTTAGE GROVE ATHLETIC ASSOCIATION TO OPERATE AT OPINION BREWING COMPANY, 374 21ST STREET, NEWPORT, MN 55055

WHEREAS, The City Council of Newport received an application for Cottage Grove Athletic Association to operate lawful gambling at 374 21st Street, Newport, MN 55055; and

WHEREAS, The State of Minnesota Gambling Regulations require local governmental approval of all premise locations for lawful gambling operations conducted by non-profit organizations; and

WHEREAS, The City Council of Newport has carefully examined the application for lawful gambling to be conducted by the Cottage Grove Athletic Association.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the Newport City Council hereby approves of the application for Minnesota Lawful Gambling activities to be conducted at the Opinion Brewing Company, 374 21st Street, Newport, MN 55055 for the period from July 1, 2015 to December 31, 2015.
2. That a copy of this Resolution be sent to Cottage Grove Athletic Association.
3. That the Mayor signs the local government acknowledgement on the premises permit application.
4. That a copy of this Resolution be attached to the Application for Lawful Gambling presented by Cottage Grove Athletic Association.
5. That Cottage Grove Athletic Association will present the City with 25% of its monthly net earnings to the City of Newport, 10% of which will fund City functions and 15% of which will fund community-related functions.

Adopted by this council this 18th day of June, 2015 by the Newport City Council.

Motion by: _____, Seconded by: _____

VOTE:	Geraghty	_____
	Ingemann	_____
	Sumner	_____
	Rahm	_____
	Lund	_____

Signed: _____
Tim Geraghty, Mayor

ATTEST: _____
Deb Hill, City Administrator