



**City of Newport  
City Council Minutes  
July 18, 2013**

**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, Steven Gallagher

**Council Absent** –

**Staff Present** – Deb Hill, City Administrator; Bruce Hanson, Supt. of Public Works; Curt Montgomery, Police Chief; Mark Mailand, Fire Chief; Renee Helm, Executive Analyst; Fritz Knaak, City Attorney; John Stewart, City Engineer

**Staff Absent** –

**4. ADOPT AGENDA**

**Mayor Geraghty** – We'll be removing item 11.A from the agenda.

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

- A. Minutes of the June 20, 2013 Regular City Council Meeting
- B. Minutes of the June 27, 2013 Special City Council Meeting
- C. List of Bills in the Amount of \$180,847.91

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

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

**Kay Buetow, 1777 3<sup>rd</sup> Avenue** – I'm here in front of the Council to ask them to make a change to the ordinance that doesn't allow vinyl fencing in residential areas. I was in the process of installing one in my yard and was told that I could not install that in my yard and that it was passed by the Council last year.

**Admin. Hill** – We have specific materials that are allowed for fencing. Other communities do not exclude vinyl fencing. I was going to talk about this in my report to see if the Council would like to have the Planning Commission review this and have a public hearing on it.

**Councilman Gallagher** – Do we need to have a public hearing?

**Executive Analyst Helm** – Because it's part of the zoning code, it needs to go to the Planning Commission for a public hearing first.

**Mrs. Buetow** – Which takes me out to September or October and I'm already in the middle of a contract. It's an improvement to my property and the community.

**Mayor Geraghty** – I'm sure we'll make the amendment, I'm just not sure how fast we can do it because we need to go through certain steps.

**Executive Analyst Helm** – We've already passed the deadline for notification for the August meeting so it will be the September meeting before we can get to the public hearing.

**Councilman Gallagher** – Fritz is this necessary?

**Attorney Knaak** – I would suggest that if you are anticipating that you would approve the amendment that you can waive the requirements for Mrs. Buetow as a Council. Note that once you do that you may have to do it for another person.

**Councilman Gallagher** – Waive the requirement for the public hearing or the material?

**Attorney Knaak** – For the material and for a specific property.

**Councilman Sumner** – So the waiving would only subject us to waiving the material requirements until we approve the amendment in a couple months?

**Attorney Knaak** – Correct.

**Councilman Sumner** – I see no problem with that.

**Mayor Geraghty** – Can we do it now?

**Attorney Knaak** – It should be on the August 1 agenda but since she already has a contract and is in the process of installing it you can make the motion now and make sure that it's reflected in the minutes.

**Motion by Gallagher, seconded by Sumner, to waive the material regulations for fencing for 1777 3<sup>rd</sup> Avenue and to allow Mrs. Buetow to install a vinyl fence. With 5 Ayes, 0 Nays, the motion carried.**

**Mrs. Buetow** - Are there any updates on 515 4<sup>th</sup> Avenue?

**Admin. Hill** – The last time I spoke with Bob LaBrosse on this was that he was working with Mr. Gackstetter and has a working list.

**Executive Analyst Helm** – He has electrical, reroof, reside and window permits. He just pulled the reroof, reside and window permits at the beginning of July. Those permits expire six months from issuance or last inspection and the electrical permit expires a year from issuance or last inspection.

**Mrs. Buetow** - So he's given another six months?

**Councilman Gallagher** – Yes, that's what the permit allows for.

**Mrs. Buetow** – So there's no good faith, just pulling the permits is enough?

**Admin. Hill** – Bob is contacting him every couple weeks to make sure he's working. I'll make a note to get an update.

**Tom Long, 2204 Hastings Avenue** – I'm here to request a couple items for 2204 Hastings Avenue. Before I get directly into the requests I think it's important that you have some background. I bought the property in 1980 and operated a used car lot until 1986. I leased the property out and they operated another used car lot until 2010. During that time, Highway 61 was reconstructed and we lost our access. The State of MN promised us a driveway but they installed it on the City's property so I can't use it. Along that same time, the City's Community Service Officer determined that we could not park cars on the Swanlund property next door so we lost some business from that. I've worked with realtors and they've

determined that a used car lot is the best use of the property. I requested a change in zoning to allow for a used car lot by a letter to the previous Administrator in October 2012, I still haven't received a response. My first request is in regards to the number of driveways allowed with the new street improvement projects. It's my understanding that only one driveway is allowed per property, this property cannot operate with only one driveway, it needs two. Secondly, I would like to request slanted curbing along Ford Road because I can't afford to lose any more parking spaces. I would also like to have 35 feet of curbing instead of the required 32 feet. The previous Administrator had shown interest in purchasing the property for the North Ravine project. I would like to let you know that it is for sale. Finally, I would like to request that the property be rezoned or a conditional use permit to allow for a used car lot.

**Councilman Gallagher** – Your letter states that you already have a conditional use permit. Fritz, doesn't a CUP stay with the property?

**Attorney Knaak** – A CUP does. If there is a rezoning then it would be non-conforming use.

**Mayor Geraghty** – Doesn't it go away if it's not used for a certain amount of time?

**Attorney Knaak** – Yes.

**Executive Analyst Helm** – Do you know when you received the CUP?

**Mr. Long** – It was in place when I bought it in 1980.

**Mayor Geraghty** – When did it stop being a used car lot?

**Mr. Long** – 2010 or so.

**Councilman Rahm** – Did you bring something to the Planning Commission before?

**Mr. Long** – No, I sent the letter to the previous Administrator.

**Councilman Gallagher** – Do you currently have a driveway on Hastings Avenue?

**Mr. Long** – No, I'm just asking for 2 driveways on Ford Road with 35 feet of slanted curbing between. I drove up and down Hastings Avenue and several of the businesses have at least two driveways.

**Councilman Gallagher** – But they are on Hastings Avenue, not side streets.

**Councilman Rahm** – It looks like there's a driveway on Hastings Avenue for your property.

**Mr. Long** – That is not on my property, it's on City property.

**Councilman Gallagher** – Could we grant an easement for that entrance?

**Superintendent Hanson** – Sure.

**Councilman Gallagher** – Would that help you?

**Mr. Long** – I could make that work.

**Councilman Gallagher** – When do you need an answer from the City? From what I understand we don't need your property for the North Ravine project but maybe this is something that our Planning Commission wants to discuss first.

**Engineer Stewart** – If I could, I would explain why I recommended that Mr. Long come before the City Council instead of the Planning Commission. First, our policy states that you can only have one driveway and it's 36 feet wide for a

commercial site. Even if Mr. Long only had one driveway, he would still be exceeding the length requirement so the Council would need to grant a variance for that.

**Councilman Sumner** – We can grant a variance can't we?

**Engineer Stewart** – Yes.

**Mayor Geraghty** – There needs to be some hardship.

**Councilman Sumner** – Does that meet with the current variance granting rights Fritz?

**Attorney Knaak** – I would say you have some more discretion.

**Councilman Gallagher** – I don't believe economic hardship is.

**Attorney Knaak** – You have a certain amount of increased flexibility in how you handle hardships.

**Councilman Sumner** – So we could take this to the Planning Commission?

**Engineer Stewart** – The other issue is that there is an ordinance that would prohibit the parking of cars on the City right-of-way. He is parking cars on the right-of-way for Ford Road.

**Councilman Rahm** – You don't have much land there to operate a used car lot.

**Mr. Long** – Not a big one, it could handle about 30 cars.

**Engineer Stewart** – I would suggest that we send this to the Planning Commission or bring it back to the City Council with some answers to his questions.

**Councilman Gallagher** – I think some more detail would help.

**Mayor Geraghty** – As it is today, you only have the one driveway correct?

**Mr. Long** – I have two driveways and it works well.

**Mayor Geraghty** – What's there now?

**Mr. Long** – Auto repair.

**Mayor Geraghty** – Have they been keeping it clean because I know I received a lot of complaints about it last year?

**Mr. Long** - It's been better. I've had both auto repair and car lots there and the car lot businesses keep it a lot cleaner because it reflects on their business.

**Mayor Geraghty** – We'll have to research the legal aspects.

**Attorney Knaak** – I'd like to see the language of the original conditional use permit as well.

**Councilman Gallagher** – I think you need to make an application to go before the Planning Commission.

**Mr. Long** – Mr. Knaak, will I be hearing from you regarding the conditional use permit?

**Attorney Knaak** – I'll be working with staff and either myself or staff will get back to you.

**Councilman Gallagher** – When does the paving project start for him?

**Engineer Stewart** – Next year.

**7. MAYOR'S REPORT** – Nothing to report

**8. COUNCIL REPORTS** –

**Councilman Gallagher** – The Booya was excellent. I also wanted to say that Bruce and the guys have been doing an excellent job with the changes in staff.

**Councilman Sumner** – I attended the Booya parade on Saturday and Booya on Sunday. I also attended the Heritage Preservation Commission meeting on July 10. This was the celebration of Preservation month and we talked about the Veterans' Memorial and we have not had an overwhelming response to purchasing pavers so it's been pushed back to 2014. I was wondering if the pavers are going to be durable enough to handle the winters.

**Councilman Gallagher** – Duluth has pavers outside and they've lasted.

**Councilman Ingemann** – Como Zoo has had pavers outside that have lasted for several years.

**Councilman Sumner** – Are we using the same company?

**Mayor Geraghty** – I'm sure we can find a company.

**Councilman Sumner** – If we can find those, I will continue to encourage people to purchase them. We also talked about the upcoming 125<sup>th</sup> anniversary of the incorporation of Newport. At that time, the Newport Township included Grey Cloud Island, parts of St. Paul Park and the Red Rock area. One of the reasons they incorporated was to open up a library, which we still have today. We also talked about the Mill Pond area. It's a very complex historical site. Apparently, there's still a house on that site with a log structure which is supposed to be the oldest log structure in Minnesota. We also talked about the reconstruction of the wall at 10<sup>th</sup> Street. I went there after the meeting and the wall has dilapidated immensely. Mr. Vogel was saying that there was a wall that was constructed at the end of an airport in Minnesota and he may be able to retain the material from that wall because they don't want to rebuild it.

**Councilman Ingemann** – The Booya on Sunday had great weather.

**Councilman Rahm** – I also attended the Booya parade and festival this weekend with my family. I wanted to thank all of the volunteers who helped put that together.

**9. ADMINISTRATOR'S REPORT** –

**A. Advertise and Hire Library Assistant**

Admin. Hill presented on this item as outlined in the July 18, 2013 City Council packet.

**Councilman Gallagher** – It says that it'll report directly to the Executive Analyst. Does Renee's job description entail supervision?

**Admin. Hill** – We may have to update that. She does supervise the Summer Rec employees. We can certainly add that.

**Councilman Sumner** – Under "Knowledge, Skills and Abilities" it says the "Ability to search and answer reference questions," I think it should be "Ability to research."

**Admin. Hill** – We can make that change.

**Councilman Rahm** – When we hire someone do they sign a statement that says that they are an at-will employee? I would recommend that we have them do that if we don't.

**Councilman Sumner** – Does that apply to everyone?

**Councilman Rahm** – It should apply to everyone who is not an elected official or union employee.

**Executive Analyst Helm** – I'll have to check our Personnel Policy because I believe that says that they are an at-will employee and they sign an affidavit stating that they have read and understand the Policy. We can certainly add that to their letter of acceptance.

**Attorney Knaak** – I would say that's a good idea.

**Councilman Gallagher** – Let's have one Councilmember meet the person before we hire them.

**Motion by Ingemann, seconded by Rahm, to approve advertising and hiring a Library and Community Center Attendant. With 5 Ayes, 0 Nays, the motion carried.**

### **B. Ordinance No. 2013-7 – Amending Chapter 5, Alcoholic Beverages**

Admin. Hill presented on this item as outlined in the July 18, 2013 City Council packet.

**Councilman Sumner** – It looks to me that the 1,000 feet for the Red Rock Saloon goes into the transit area site.

**Councilman Ingemann** – The north end is still open.

**Councilman Sumner** – Do we want to prohibit development in that area though?

**Councilman Rahm** - Are the two current businesses in violation of the 1,000 feet rule because the circles intersect?

**Executive Analyst Helm** – No, because they're not within 1,000 feet of each other.

**Councilman Sumner** – I would like to open up more of the transit area.

**Councilman Gallagher** – Why do we want to make this change?

**Councilman Ingemann** – Because of the lawsuit.

**Councilman Gallagher** – But we won the lawsuit.

**Councilman Ingemann** – We don't want it to happen again.

**Councilman Gallagher** – But we already set the precedent. I think we should keep it in the Council's discretion without making this change. I don't want to limit our ability to adapt to a project that might come forward in the transit area.

**Councilman Ingemann** – There's still a large amount of the site that is available.

**Councilman Gallagher** – What if one of our current off-sale businesses closes or doesn't have consistent hours. I don't think we should limit ourselves. For that reason, I'm going to vote no.

**Councilman Ingemann** – There's still area to the south.

**Councilman Sumner** – I'm not interested in restricting businesses either.

**Councilman Rahm** - Bill, would you suggest 500 feet instead of 1,000 feet?

**Councilman Sumner** - After hearing Steve's comments I think we did demonstrate that we have the rights to allow or disallow a liquor store anywhere in town.

**Mayor Geraghty** – They could sue us again.

**Councilman Sumner** – Could we go to 800 feet?

**Councilman Gallagher** – Or could we exclude the west side of Highway 61?

**Attorney Knaak** – You can do that.

**Councilman Gallagher** – I would be open to that and then it would be up to the Council's discretion.

**Councilman Rahm** – Well if we're going to put restrictions on off-sale liquor businesses I would like a better reason why and I think the 1,000 feet does that.

**Councilman Gallagher** – But we have natural dividers such as Highway 61.

**Councilman Ingemann** – But do we want to be known as the City that only has liquor stores?

**Mayor Geraghty** – These circles are going to shift anyways if the current two businesses move or if someone opens up a business in the allowed areas.

**Motion by Geraghty, seconded by Ingemann, to approve Ordinance No. 2013-7. With 3 Ayes, Sumner and Gallagher voting Nay, the motion carried.**

## **10. ATTORNEY'S REPORT –**

### **A. Monthly Prosecution Report**

**Attorney Knaak** – You have before you the prosecution report. We're somewhat closer to what used to be the normal level.

## **11. POLICE CHIEF'S REPORT –**

### **A. Joint Powers Agreement between Washington County and the City of Newport for the SWAT Team**

This item was removed from the agenda.

### **B. June 2013 Activity Report**

**Chief Montgomery** – In mid-June, Minnesota P.O.S.T. Board came out, they license the Police Department, we received a passing grade.

**12. FIRE CHIEF'S REPORT** – Chief Mailand reported on Booya and thanked staff and volunteers for helping with it.

## **13. ENGINEER'S REPORT –**

**Engineer Stewart** – I would like to remind you that the assessment hearing for the 2013 projects will be on August 1, 2013.

## **14. SUPERINTENDENT OF PUBLIC WORKS REPORT –**

**Councilman Gallagher** – How are the new guys?

**Superintendent Hanson** – Very good, I'll bring them to a future meeting to introduce them.

**Councilman Rahm** – How is the solar panel at Bailey Forest coming along?

**Superintendent Hanson** – We're really disappointed with the support we've received from Atl-E. They don't have a master plan to go with the kit and it's frustrating.

**15. NEW/OLD BUSINESS**

**16. ADJOURNMENT**

**Motion by Geraghty, seconded by Gallagher, to adjourn the regular Council Meeting at 6:33 P.M. With 5 Ayes, 0 Nays, the motion carried.**

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

Tim Geraghty, Mayor

Respectfully Submitted,

Renee Helm  
Executive Analyst