



**City of Newport  
City Council Minutes  
August 20, 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; Bill Sumner; Tracy Rahm; Dan Lund

**Council Absent** –

**Staff Present** – Deb Hill, City Administrator; Curt Montgomery, Police Chief; Steve Wiley, Fire Chief; Renee Eisenbeisz, Executive Analyst; Fritz Knaak, City Attorney; Jon Herdegen, City Engineer; Sherri Buss, TKDA Planner

**Staff Absent** – Bruce Hanson, Supt. of Public Works;

**4. ADOPT AGENDA**

**Motion by Sumner, seconded by Ingemann, to adopt the Agenda as presented. With 5 Ayes, 0 Nays, 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 August 6, 2015 Regular City Council Meeting
- B. List of Bills in the Amount of \$143,385.17
- C. Approval of Park Permit
- D. Amendment to Agreement between the City and DNR to Purchase Property Along the Levee

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

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

**Tami and Dennis Mitchell, 925 Ellen Court** - Mayor, Council, and staff, we've lived in this City since 1973, which is 42 years. Dennis has served on the Fire Department for 21 years and I was a member of the Ladies Auxiliary. Dennis was a coach for the Newport Athletic Association for a number of years, our three kids attended school here for a time so we've come before you tonight to ask for help. As you know, we've recently had a well closed that was not used by us at any time. It was a Swanlund agricultural well used for their vegetable and fruit business. We believe we should not have to pay for any of this well, however in the closing of this well and the unusual circumstances we were helped by Washington County with two grants and by the State with a grant, which usually doesn't help. The closing was \$10,822.50. Without the help from the County and State, we would never have been able to pay the well driller who has been very patient with us. We have a balance of \$822.50 and that is due now. Being on a fixed income, we are struggling to make this final payment. Because this was a business well that was used in the City, we are asking for your help to make the final payment of \$822.50. Washington County stepped forward with two grants, which is unusual and the State did as well, which is unusual. We are asking for your help.

**Mayor Geraghty** - I'm not necessarily imposed, I just want to make sure if we do it, it's legal and not setting a precedent. I want to ask the attorney.

**Mrs. Mitchell** - The final payment is due by September 15th.

**Councilman Ingemann** - We can talk with Fritz when he gets here.

**Mayor Geraghty** - We'll talk to him but I don't think you'll get an answer tonight.

**Mrs. Mitchell** - That's why we're here tonight because we know they've asked us to pay and have been very patient.

**Mayor Geraghty** - I think legally, we don't have to do anything because it should have been part of the purchase.

**Mrs. Mitchell** - We're wondering why the City inspector or whoever inspected it didn't require it back then.

**Mayor Geraghty** - I don't know what the requirements were then.

**Mrs. Mitchell** - In light of the fact that the County and the State helped because it was a business well.

## **7. MAYOR'S REPORT –**

**Mayor Geraghty** - I attended Pioneer Day and wanted to thank Renee for all her work and South Suburban for all of their work and all of the other businesses that helped that day. We'll have a workshop immediately following the meeting tonight to discuss the budget and solid waste license requirements.

## **8. COUNCIL REPORTS –**

**Councilman Rahm** - I also attended Pioneer Day. Thanks to all of the volunteers that help with that. It's a great family event.

**Councilman Ingemann** - I was at the Planning Commission last Thursday. The State Fair is starting next week and I'll be there on August 28th for the Governor's Fire Prevention Day and will be judging for the Fire Explorers.

**Councilman Sumner** - I was also lucky enough to be at Pioneer Day and it was a nice community event. The weather was against us for a while but held out at the end for Elvis to perform. It's amazing to me, it's an impersonator and people were going gaga over him. I'm also proud to announce that on Wednesday, September 9th at 7:00 p.m. in our Library, there will be a presentation entitled "Farming in the Shadow of the Twin Cities, A Brief History of Agriculture in Newport" by our HPC leader. Lucy Irish, who is credited with operating the first commercial dairy in MN in 1852 will be discussed. I would urge Newport to begin thinking of ways of how we can promote ourselves as the birthplace of the dairy industry in MN.

**Councilman Lund** - I would just like to commend staff for continued efforts to secure grants for the levee properties.

**Admin. Hill** - We did receive the DNR grant and am still waiting on the FEMA grant.

**Mayor Geraghty** - Everything was in place for that grant right?

**Admin. Hill** - Yes.

## **9. ENGINEER'S REPORT –**

### **A. Partial Payment No. 8 - 2014 Street Improvement Projects**

Jon Herdegen, City Engineer, presented on this item as outlined in the August 20, 2015 City Council packet. The final project cost is projecting to be about \$86,000 under the original budget.

**Motion by Sumner, seconded by Ingemann, to approve Partial Payment #8 at a cost of \$95,349,98. With 5 Ayes, 0 Nays, the motion carried.**

**B. Master Professional Services Agreement between the City and MSA**

Jon Herdegen, City Engineer, presented on this item as outlined in the August 20, 2015 City Council packet.

**Councilman Sumner** - I saw the Attorney nodding his head but I want to make sure he's in agreement that this is a decision that is most beneficial to the City.

**Attorney Knaak** - Yes.

**Councilman Rahm** - Besides the name change, is there anything else that's changed?

**Engineer Herdegen** - Yes, it's a completely different contract.

**Councilman Rahm** - Alright because I didn't have the old one to see what the differences were.

**Mayor Geraghty** - My only question is on the timing, we usually do our annual appointments in January. Do we want to have it expire December 31st or what's the provision on cancellation?

**Engineer Herdegen** - 30 days.

**Attorney Knaak** - You can certainly change it to December 31st.

**Councilman Ingemann** - I'll make that motion to have it terminate December 31st of each year.

**Mayor Geraghty** - And it'll automatically renew with the appointments.

**Motion by Ingemann, seconded by Sumner, to approve the Master Professional Services Agreement between the City and MSA as amended to have the term expire December 31st. With 5 Ayes, 0 Nays, the motion carried.**

**Mayor Geraghty** - I did have a couple questions at Pioneer Day about watering for the street projects. How long are they supposed to water for?

**Engineer Herdegen** - The contract states that once it reaches 75% established, they don't have to water. Some places haven't reached that yet so we'll require them to keep seeding. I think the amount of rain we've had this season has been fairly adequate so they haven't had to water as much.

**10. ADMINISTRATOR'S REPORT –**

**A. Resolution No. 2015-28 - Approving a Conditional Use Permit Requested by Husnik Meat Co. for property located at 94 21st Street**

Sherri Buss, TKDA Planner, presented on this item as outlined in the August 20, 2015 City Council packet.

**Councilman Sumner** - Condition #4 states that "All trash and recycling equipment shall be stored within a closed structure. The materials used to construct the trash enclosure shall be the same materials used on the exterior of the principal structure." I believe that is a concrete block building.

**Ms. Buss** - That's right out of our ordinance.

**Councilman Sumner** - I want to make sure that they can do a wooden surround.

**Ms. Buss** - Yes, that's fine, we just need them to meet the requirements of the ordinance in terms of materials.

**Councilman Sumner** - Is that something we should look at in our ordinance?

**Ms. Buss** - You might want to ask the Planning Commission to do that, it's a pretty strict ordinance. We always need to give some leeway in that.

**Councilman Sumner** - I would make that recommendation.

**Councilman Ingemann** - Renee can put it on her calendar.

**Councilman Sumner** - I heard from one resident that was concerned about the smell but it looks like the residents in South St. Paul have never complained about the smell.

**Mayor Geraghty** - This particular site was a meat-packing facility before Kaiser.

**Councilman Sumner** - Will you have a ceremony?

**Mr. Murphy** - Maybe.

**Councilman Sumner** - What's your expected date of operation? Less than six months?

**Mr. Murphy** - Yes.

**Councilman Lund** - Shall we change the trash enclosure condition to say "The trash enclosure shall meet the building materials requirement?"

**Ms. Buss** - Yes, that's fine.

**Councilman Lund** - Also, I don't think they're planning to have retail sales but I don't want them to have to come back, can we add that? Is anyone against that?

**Councilman Ingemann** - No.

**Ms. Buss** - You can add that, it would be "Small-scale manufacturing and retail."

**Motion by Ingemann, seconded by Rahm, to approve Resolution No. 2015-28 as amended. With 5 Ayes, 0 Nays, the motion carried.**

**B. Resolution No. 2015-29 - Establishing an Hourly Rate for the Firefighter Positions of the City of Newport Effective August 1, 2015**

Admin. Hill presented on this item as outlined in the August 20, 2015 City Council packet.

**Mayor Geraghty** - This resolution follows St. Paul Park?

**Admin. Hill** - Yes.

**Councilman Ingemann** - The resolution doesn't show the \$2,000 for Assistant Chiefs and \$3,500 for the Chief.

**Admin. Hill** - After talking with Chief Wiley, it was my impression that we would keep the same lump sums we have now.

**Councilman Ingemann** - I think we should mirror St. Paul Park, which is \$2,000 and \$3,500 because there is a lot of work that's not compensated because it's administrative.

**Councilman Sumner** - Why isn't that compensated?

**Councilman Ingemann** - Because it would cost a lot more than \$3,500.

**Mayor Geraghty** - What is it now?

**Admin. Hill** - Currently, the Assistant Chiefs make an additional \$599.50 and the Chief makes \$999.50.

**Councilman Ingemann** - When we talked last time, we said we would mirror St. Paul Park.

**Mayor Geraghty** - Yes, but I was focused on the hourly tiers.

**Councilman Lund** - I would agree with the Mayor. I'm surprised with the new request of the lump pay. If that was the intent, I didn't see it when we discussed this before.

**Mayor Geraghty** - Have you seen the resolution?

**Chief Wiley** - Yes.

**Mayor Geraghty** - Are you ok with it?

**Chief Wiley** - I would prefer to mirror St. Paul Park with the hourly and lump sum but it's more important to get the hourly inline at this point.

**Councilman Sumner** - Is there a problem with them doing this administrative work and not being compensated?

**Councilman Ingemann** - We'll start putting it on the timesheets.

**Attorney Knaak** - Yes.

**Councilman Sumner** - Is that how we're going to do it?

**Mayor Geraghty** - It's going to stay the same unless we change it now. For now, I'd like to pass this resolution as presented and discuss the lump sum at a different time.

**Councilman Ingemann** - I'd like to put it all on the same resolution.

**Mayor Geraghty** - But you can't vote.

**Councilman Ingemann** - I think you're doing a disservice.

**Mayor Geraghty** - The disservice would be to do nothing.

**Councilman Ingemann** - You're happy to have Newport be the lowest paid fire department in the metro area?

**Mayor Geraghty** - I'll make a motion to approve it as presented. I'm not opposed to raising the lump sum but in my mind, it was never part of the discussion. We focused on the hourly rates and tiers.

**Councilman Ingemann** - You want to read the minutes.

**Mayor Geraghty** - No. Where you proposed the \$2,000 and \$3,500.

**Chief Wiley** - I don't think there was a lot of discussion around it.

**Mayor Geraghty** - In your memo, with the cost-estimate, with the changes in hourly, we'll go to \$58,000?

**Admin. Hill** - Yes.

**Mayor Geraghty** - You didn't focus anything on the lump sums?

**Admin. Hill** - No, I don't know how many assistant chiefs we have.

**Councilman Ingemann** - Two.

**Admin. Hill** - So that would be an additional \$5,300 per year. Our budget last year was at \$37,000, with this resolution, it'll go to \$58,000. We didn't adjust for the extra lump sum.

**Councilman Rahm** - I don't remember talking about the lump sum either. I am in favor of mirroring St. Paul Park though. Whether we do it now or later.

**Mayor Geraghty** - Tom has the minutes and it doesn't say anything about the base pay. We were talking about hourly rates.

**Councilman Sumner** - I don't recall the base pay being mentioned. I have a bigger question about the hourly minimum. Are the guys ok with it going to 1 hour?

**Chief Wiley** - Yes.

**Councilman Sumner** - This has an impact on our budget and it's midyear. I think we can find the money. I think the service they provide is so essential and we saw what happened when they weren't full-staffed with a two house fire.

**Admin. Hill** - One question I have is if you vote for it this year, the hourly would start immediately, would the yearly start this year too?

**Mayor Geraghty** - The hourly would be August 1 but the lump sum isn't on the table now.

**Chief Wiley** - Would it help if that was January 1st?

**Mayor Geraghty** - I'm not opposed with coming back with a proposal.

**Councilman Lund** - I would be more comfortable with a January 1st start date.

**Mayor Geraghty** - So that's a \$2,500 increase for the Chief and a \$1,400 increase for the Assistants?

**Councilman Lund** - I think the Park gets some funding from the refinery too.

**Councilman Rahm** - For me to vote on the additional compensation, I need to see it in front of me.

**Mayor Geraghty** - I would say we pass this and you bring something back on the first meeting in September.

**Councilman Sumner** - In order to add it to the budget, we're going to talk about that tonight. Should we pencil in additional funding?

**Mayor Geraghty** - It'll be part of the discussion. I'm assuming the budget accounts for the new hourly rates.

**Admin. Hill** - Yes.

**Mayor Geraghty** - It doesn't prevent us from looking at it and if we can find an increase for the Chief and Assistants we can pass a resolution making it effective January 1st.

**Councilman Sumner** - Would the department support that?

**Chief Wiley** - Yes.

**Mayor Geraghty** - It caught us by surprise.

**Motion by Geraghty, seconded by Lund, to approve Resolution No. 2015-29 as presented. With 4 Ayes, 0 Nays, Ingemann Abstaining, the motion carried.**

**Councilman Lund** - What's the timeline for FEMA?

**Admin. Hill** - They said August.

**Councilman Sumner** - I wanted to bring up again, the question about the odors in South St. Paul, can you talk about that?

**Admin. Hill** - We'll be meeting with South St. Paul staff and Sanimax regarding it. We encourage residents to fill out South St. Paul's online complaint form. It's on our website.

**Councilman Sumner** - So it goes to South St. Paul directly?

**Admin Hill** - Yes.

**Councilman Lund** - I'm so sick of their promises and installing equipment and saying it's running when it's just as bad. It's time for bigger guns. I've personally been trying to figure out who to contact, the MPCA. If the City needs to pay for monitoring, I'm in favor of that. Twice now, they've said that they'll schedule time for me to come there. They probably know I'm not interested in seeing their shiny new equipment. Whatever they have, it's not working and I think we should push harder. I'm tired of this.

**Admin. Hill** - We'll be meeting with them in the next couple weeks.

**Councilman Lund** - I don't know if you have people at the State that you can contact.

**Ms. Buss** - The MPCA doesn't control odors anymore, that's why the City created their own ordinance on it. The hard part is determining when they've crossed the threshold. South St. Paul has done a lot of work on it. You can probably talk with their City attorney. It's just as frustrating for them.

**Councilman Lund** - Minneapolis has had success, I don't know if South St. Paul is really the expert.

**Mayor Geraghty** - You can start a class-action lawsuit.

**Councilman Lund** - At some point, it's a quality of life thing.

**Admin. Hill** - We'll inform you of how this meeting goes. The HRA is also involved.

## **11. ATTORNEY'S REPORT -**

**Attorney Knaak** - I have a couple items. We had a final arbitration meeting with matters that you are familiar with. I think it went well, briefing is scheduled to be completed in a month so we should have a final resolution in a couple months. The second item is in regards to the Quade matter. I sent a copy of a stipulation over but didn't ask for you to have a copy, that's my mistake. Yesterday, we met with Quade and his lawyer and reached, what I believe is a resolution. Quade's lawyer has presented a stipulation for settlement to me today that I can recommend to you. I know they were both anxious to get the matter resolved. We're not set to be at court until the middle of September so we'll have a Council meeting before that to review the stipulation. A lot of it is language that I drafted. I would like to discuss it with Bruce.

**Admin. Hill** - I took a look at it and the one thing that I flagged was whether or not 15 feet would be enough in Bruce's

eyes.

**Attorney Knaak** - And we may not get more than that.

**Mayor Geraghty** - What's the downside of going to the judge? We can't lose our street.

**Attorney Knaak** - No but in order to get the full width, we may need to have a dispute with the neighbor to the south to undo what they did. The point here is that this provides the City with keeping the street for safety reasons and a possible easement underneath the road.

**Mayor Geraghty** - Briefly, what are they gaining by this and what are we giving up?

**Attorney Knaak** - They're gaining control over the right-of-way so they can put up a fence. You would have a code or key to the gate in emergency situations. If neither of those work, the City could go through and not be liable for damages. There's a lot to like about it. I want to run it by Bruce.

**Mayor Geraghty** - I don't know how we could lose our 30 feet ever.

**Attorney Knaak** - The issue is that whatever we need to gain access to, we'll have. The only real issue is the potential easement to have that water or sewer loop and then the question would be "What would be entitled to?" Realistically, we own the northern half of that roadway. Before St. Paul Park got rid of their portion, you could argue that there was a width there of public right-of-way regardless of which city owned it.

**Councilman Ingemann** - That's the part that they couldn't give away right?

**Attorney Knaak** - They did.

**Councilman Ingemann** - Quade could put fences down the side of the street.

**Attorney Knaak** - He could. He claims they're getting pressure from the Department of Homeland Security. What I have to focus on is the interest of the City, which is to maintain that access for safety purposes and then to have that loop easement available.

**Councilman Lund** - Has there been any discussion on where the fence is going to go? It seems that if it's closer than the length of a semi with a reasonable buffer, that'll be asking for trouble.

**Mayor Geraghty** - They'll have a different access.

**Attorney Knaak** - My guess is that during normal business hours, it won't be closed but I don't know. The other issue is that the Department of Transportation called and were thinking that blocking it off would do a public safety benefit. They were startled by the fact that the City was adamant and why. One of the things they said was that they weren't sure if they liked the idea of emergency vehicles crossing a major railroad right-of-way. They suggested coming up with alternative solutions. I haven't heard anything from them.

**Councilman Lund** - The most dangerous is that if the fence is 60 feet and the truck is 70 feet and stops on the tracks.

**Attorney Knaak** - I would suggest that that's between Mr. Quade and the Department of Transportation. St. Paul Park wants them to go towards the south and change the traffic configuration. Our interest is in the safety concern and accessing with emergency vehicles.

**Councilman Lund** - They're going to close that access?

**Attorney Knaak** - As I understand it, yes.

**Mayor Geraghty** - Who owns the property to the north side of the road?

**Attorney Knaak** - The whole thing is Quade's.

**Mayor Geraghty** - If we took this, we'd pretty much be vacating?

**Attorney Knaak** - Yes, I'll make sure you have a copy for review. In addition to that there would be an express recorded easement for the City and a recorded order providing for that road access without liability.

**Mayor Geraghty** - Thanks. The Mitchell's were here previously and asked about the possibility of the City assisting the cost of removing a commercial well that they've been dealing with. The total cost was \$10,822 and they secured grants from the State and County to assist and are asking the City to pay \$822.50, the final amount. I didn't think legally, we're required to do anything. I would be willing to look at it as long as it doesn't set a precedence.

**Attorney Knaak** - One could argue that there is a public purpose to close the well in terms of safety and pollution. It is a private well though and closing wells is normally done during the house closing.

**Mayor Geraghty** - Do you know if it was required in the 70's?

**Attorney Knaak** - I don't think so. This appears to be public payment for a private purpose but given the overall public policy of trying to close these wells, I think you could come up with a good argument. Your second point was good, there are bound to be other wells and property owners that would come forward.

**Mayor Geraghty** - In that case, my question would be if it's a 12-inch well and then we'd give them \$822. If we said no in future requests, they could fight it.

**Councilman Ingemann** - Would it be within reason to make a motion?

**Mayor Geraghty** - Once we get to old business.

## **12. POLICE CHIEF'S REPORT**

**Chief Montgomery** - I have a letter to read to you that's dated today.

"Newport City Council, I'm retiring as the Newport Chief of Police. Starting next week, on August 24th, 2015, I will be on vacation. I plan on taking most of the days off until September 29th, 2015. I will stop in during this vacation from time to time and do some work that will be needed. I will return to work on September 30th, 2015 for an eight hour shift. On September 30th, 2015, after working an eight hour shift, I will be done as an employee with the City of Newport and will be officially retired." I signed it Curt Montgomery.

I ask that the Council accept my letter of retirement as presented to you.

**Mayor Geraghty** - Ok, what's your last day?

**Chief Montgomery** - September 30th.

**Mayor Geraghty** - I'll make a motion.

**Councilman Rahm** - If we don't approve it you can't leave.

**Motion by Geraghty, seconded by Rahm to accept the letter of retirement from the Police Chief. With 4 Ayes, Ingemann voting Nay, the motion carried.**

**Chief Montgomery** - There are a couple things that need to be addressed such as responsible authority for data requests. I

would recommend that you do that tonight because I won't be around much and there'll be requests. Also, a replacement.

**Mayor Geraghty** - You surprised us all. Thank you for your many years of service and I hope you enjoy retirement.

**Chief Montgomery** - Thank you, I will. I'm financially able to retire, that's the key. I have a long honey-do list and am hoping that it's agreeable so I don't feel like I need to go back to work.

### **13. FIRE CHIEF'S REPORT –**

**Chief Wiley** - There's a meat raffle on September 11th at the Cloverleaf. We've had incredible turnout from the community and support from the Cloverleaf in the past. We've added two new members to the Fire Department, Luke Berthiaume and Brian Duncan. That brings us up to 25. These are the first two new hires in 5 years. We're excited to have them.

**Councilman Sumner** - Do we know why they decided to join at this time?

**Chief Wiley** - Luke goes to church with another firefighter and started talking about it with him and felt like it was something he'd like to do and Brian knows another firefighter so word of mouth.

**Councilman Sumner** - I think that's very positive. We want to do everything we can to encourage growth in the department.

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

### **15. NEW/OLD BUSINESS**

**Councilman Rahm** - I would like the Council to look at our ordinances for dumping. We've had a lot of dumping on Century Avenue. I used our new code and found only three areas that discuss it and nothing prohibits it. It prohibits drug dumping but nothing about trash.

**Mayor Geraghty** - Did you try other words? I thought we had something with signs for a \$500 fine.

**Attorney Knaak** - We've enforced tires in the nuisance code.

**Councilman Rahm** - It specifically calls those out, I couldn't find anything about dumping except for meth labs.

**Mayor Geraghty** - Let's look at it.

**Admin. Hill** - We'll take a look at it.

**Councilman Ingemann** - Can I make a motion that due to the public safety nature of a 12-inch well that is now capped, that we assist in the payment of approximately \$800.

**Councilman Rahm** - I just want to make sure we're not obligated in the future.

**Mayor Geraghty** - A 12-inch well in a residential setting and have received assistance from the County and State.

**Councilman Rahm** - When we did these things, I wish we would have a formal resolution outlining it.

**Motion by Ingemann, seconded by Geraghty, to pay \$800 towards capping a 12-inch commercial well located at 925 Ellen Court. With 3 Ayes, Sumner and Lund voting Nay, the motion carried.**

**Attorney Knaak** - The question I have is in regards to the news you just received. You might want to have a workshop to discuss the chief vacancy.

**Mayor Geraghty** - I think we can authorize the Administrator to advertise and get it going.

**Councilman Ingemann** - We'll need to appoint an interim right?

**Admin. Hill** - At least starting at the end of September. If you're going to appoint one of the officers or get someone from the outside. I think we'll need to get together because we need a starting salary. We have an updated job description from Springsted. Maybe we can have a workshop next week.

**Attorney Knaak** - The only reason I suggest it is because you usually have some notice.

**Mayor Geraghty** - I think you could start the advertising and we can talk about starting salary. Is anyone open earlier next week?

**Councilman Ingemann** - How about Wednesday?

**Councilman Lund** - That works for me?

**Councilman Sumner** - I'm open.

**Councilman Rahm** - I'm out but that's fine.

**Admin. Hill** - Wednesday at 5?

**Mayor Geraghty** - Yes.

## 16. ADJOURNMENT

**Motion by Geraghty, seconded by Rahm, to adjourn the regular Council Meeting at 6:34 P.M. With 5 Ayes, 0 Nays, the motion carried.**

Signed: \_\_\_\_\_  
Tim Geraghty, Mayor

Respectfully Submitted,

Renee Eisenbeisz  
Executive Analyst