



**City of Newport
City Council Minutes
September 3, 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;

Council Absent – Tracy Rahm; Dan Lund

Staff Present – Deb Hill, City Administrator; Bruce Hanson, Supt. of Public Works; Renee Eisenbeisz, Executive Analyst; Fritz Knaak, City Attorney; Jon Herdegen, City Engineer;

Staff Absent –Curt Montgomery, Police Chief; Steve Wiley, Fire Chief;

4. ADOPT AGENDA

Councilman Ingemann - I would like to pull the minutes of the regular August 20, 2015 meeting from the consent agenda.

Motion by Ingemann, seconded by Sumner, to adopt the Agenda as amended. With 3 Ayes, 0 Nays, 2 Absent, the motion carried.

5. ADOPT CONSENT AGENDA

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

- B. Minutes of the August 20, 2015 City Council Workshop Meeting
- C. Minutes of the August 26, 2015 City Council Workshop Meeting
- D. List of Bills in the Amount of \$293,980.45
- E. **Resolution No. 2015-30** - Amending Resolution No. 2015-29
- F. **Resolution No. 2015-31** - For the Appointment of Responsible Authority and Amending the 2015 Annual Appointments

With 3 Ayes, 0 Nays, 2 Absent, the motion carried.

A. Minutes of the August 20, 2015 Regular City Council Meeting

Councilman Ingemann - On page 7, voting under the Resolution for Firefighters, I cannot vote, I abstained and you have me as voting yes.

Executive Analyst Eisenbeisz - I'll change that.

Motion by Geraghty, seconded by Sumner, to approve the August 20, 2015 Regular City Council Meeting minutes as amended. With 3 Ayes, 0 Nays, 2 Absent, the motion carried.

6. VISITORS PRESENTATIONS/PETITIONS/CORRESPONDENCE

A. Dr. Keith Jacobus, Superintendent of South Washington County Schools

Dr. Jacobus - Thank you for letting me come out to speak about our upcoming election. I don't have a presentation but we have information on our website for review. We'll have three questions on the ballot, a general operating levy and two bond questions. The general operating levy question will be asking our community to raise an additional \$10.3 million to maintain our existing programs. We will also be looking at eliminating our deficit spending. We have been spending our fund balance down so we could maintain those programs. We have two bond questions, with the growth that we participate in Woodbury and Cottage Grove, we see anywhere between 1,700 and 2,700 new students. We identified needs that we have at the elementary level in the northeast quadrant and are fine with the purchase of Valley Crossing School. We have needs at the middle school so our first question for \$96 million worth of bonding is to build a new Oltman Middle School. The new site is at 65th Street and Century and is a good central location for Woodbury, Cottage Grove, and Newport. Also in that bond, we would repurpose the old Oltman for our emerging elementary school, Nuevas Fronteras. We would also take a look at demolishing some of the older sections of the old Oltman. The pool will stay. We'll then have four middle schools of 1,300 students. The second bond question is for \$46.5 million and will address our existing high schools and bring them up to 2,300 students and then to go back to all of our elementary schools that have different needs. Some of classroom needs and some of band needs. The three questions will be tied together. The two bonding questions will not pass unless the first question passes. If that passes, the community will look at the first bonding question and then if those two pass, they'll look at the last question. We'll be doing meetings throughout the fall.

Mayor Geraghty - What's the build out for the new Oltman?

Dr. Jacobus - The fall of 2018.

Mayor Geraghty - I attended the open house for Newport Elementary and it's a great school and asset to the community. There are great staff there.

Dr. Jacobus - We also think Oltman will be a great asset too.

Councilman Sumner - Will you build out Oltman?

Dr. Jacobus - The elementary school doesn't need such a large footprint so we might demolish some of the older portions. There's a lot of planning that needs to be done.

Mayor Geraghty - Are there any changes for Newport Elementary?

Dr. Jacobus - I'm not sure of the specific areas for Newport Elementary, I know we need some more room for lunches.

B. County Commissioner Karla Bigham

County Commissioner Bigham - Thank you for letting me come tonight. I just want to update you on two topics. The first being the Library Strategic Plan. I spoke with Admin. Hill, the County staff is going through a strategic plan for our library system. We sent out a survey to you and I wanted to know if you had any follow-up questions on that or comments on how you would like to see the library system go. We should have preliminary results in December and have additional open house meetings in early 2016. We're looking at programming and space needs.

Mayor Geraghty - I think we're doing well with our Library and Community Center and appreciate the support that the County gives to us for presentations.

Executive Analyst Eisenbeisz - The County provides funding for a couple programs throughout the year and also donates books twice a year.

County Commissioner Bigham - We appreciate the partnership we have with you. Feel free to give me a call or email on this subject. Secondly, I would like to talk about the Resource Recovery Joint Powers Board, last week we voted to proceed with purchasing Resource Recovery Technologies. Washington County's amount will be \$5.9 million and that will be out of our County Environmental Charge. Two significant points, with this change, we have to change the Joint Powers Agreement between the two counties and I asked that the City of Newport be put in as an ex-officio member. That will come forward this fall, we're also looking at adding a hauler and the MPCA. The other issue is the by-laws. Those will be ready in September or October and I have asked that the City will receive payments in lieu of taxes. I'll keep you updated. I do feel that this was the best option for the City to keep the taxes and jobs here. The uncertainty for the haulers and transfer stations was too great of a risk. I don't think any of us wanted to be in the garbage processing business but I didn't want to be in the situation where you had a tax base loss and job loss. I do think this was the right move.

Councilman Sumner - What was the total amount paid?

County Commissioner Bigham - \$24.4 million and we're on the hook for \$5.9 million. The cost was broken down by the amount of waste that each county brings in. The price was negotiated between the joint project board's attorney and RRT.

Mayor Geraghty - Had the deal not gone forward, what were the other options?

County Commissioner Bigham - By State law, we have to process our garbage so we would have been out of compliance and it would have gone to a landfill. The cost would have increased. The other option would have been a new agreement between the Counties and RRT and that would have increased the subsidy.

Mayor Geraghty - I appreciate your efforts but I wanted to let the public know that there was a greater purpose for this, not just the tax dollars and jobs. It does make good policy. Who voted against it?

County Commissioner Bigham - It was Commissioner Kriesel, he has issue with the fact that other counties are out of compliance. People can contact him with their concerns. I share the same concern but we can't resolve that issue before this agreement expires. That will be part of our legislative agenda.

7. MAYOR'S REPORT –

Mayor Geraghty - I attended the Newport Elementary open house last night. It's a great asset for the community and they have a great staff there. Earlier this week, Deb and I met with the County Sherriff's Office to talk about interim actions. They were very helpful and cooperative and will be helping with investigative services and we'll be having other discussions for further help and Deb will present that at a later meeting.

8. COUNCIL REPORTS –

Councilman Sumner - There are several things to share. The HPC meeting will be on September 9th at 5:00 p.m. and following that there will be a lecture on "Farming in the Shadow of the Twin Cities, A Brief History of Agriculture in Newport." This is a discussion on Lucy Irish and her beginning the commercial dairy industry. On September 30, the summer photo contest submissions are due, October 1, the winter parking ban starts, October 9, the Fire Department is having an open house, October 10 is a Fun Walk and October 25 is the annual Buckthorn Removal Day.

Councilman Ingemann - Last Friday, I was a judge at the State Fair. On September 11, the Fire Department will have a meat raffle at the Cloverleaf Bar and Grill, it starts at 4:00 p.m. and the last one we had, it was all gone by 6:30. I would suggest coming early.

9. ADMINISTRATOR'S REPORT –

A. Resolution No. 2015-32 - Establishing a Proposed Preliminary Levy Certification for Levy Year 2015, Payable 2016

Admin. Hill presented on this item as outlined in the September 3, 2015 City Council packet.

Councilman Sumner - This can be brought down?

Admin. Hill - Yes, and we anticipate that.

Councilman Sumner - When do we need to make the final decision?

Admin. Hill - December.

Mayor Geraghty - We'll do the public hearing the first meeting and pass the resolution at the second meeting.

Motion by Geraghty, seconded by Sumner, to approve Resolution No. 2015-32 as presented. With 3 Ayes, 0 Nays, 2 Absent, the motion carried.

B. Discussion Regarding Ordinance Amendment Regarding Disposing of Debris in Public Right-of-Way

Admin. Hill - This was brought up by Councilman Rahm. Since he's not here, do we want to push it to the next meeting?

Councilman Sumner - I would like to wait.

Mayor Geraghty - Yes.

C. Approval of Resignation from Jeremy Brodin, Police Officer

Admin. Hill - We received a letter of resignation from Officer Brodin, he is moving to another department. This is a two week notice.

Mayor Geraghty - We'll accept it but not his terms. Deb sent a follow-up letter regarding his use of vacation.

Councilman Sumner - This was his resignation?

Admin. Hill - Yes.

Councilman Sumner - I just want the public to know that it was his decision to leave.

Motion by Ingemann, seconded by Sumner, to approve Officer Brodin's resignation but not the terms in his letter. With 3 Ayes, 0 Nays, 2 Absent, the motion carried.

Executive Analyst Eisenbeisz - I'm starting to work with Municode on the recodification and legal review. One question that came up is if the Council would like to be involved in reviewing their recommendations or just adopt the final version that staff will be reviewing?

Councilman Sumner - I would like to be involved and I think others would like to as well.

Executive Analyst Eisenbeisz - Do you want to review everything or just the substantial changes?

Mayor Geraghty - I'll rely on staff, I'm more concerned about substantial changes.

Executive Analyst Eisenbeisz - Ok.

Admin. Hill - Also, we met with our insurance broker today and are talking about our increase. We're looking at whether or not it would be beneficial to go outside of the co-op, which is a little scary. Finally, for the levy, the co-pay for family insurance, we're at 91.5% for this year and the plan is to go to 90% for next year.

10. ATTORNEY'S REPORT -

A. Stipulation of Settlement Between David Quade and the City of Newport

Attorney Knaak presented on this item as outlined in the September 3, 2015 City Council packet.

Mayor Geraghty - Is it still scheduled for the 14th? I'm still mulling this over and don't know why this is in the City's best interest and not just keeping the street.

Attorney Knaak - The interest the City has is in the access and safety. That is maintained and preserved in this agreement. Quade has his own issues in regards to safety. We were advised that Homeland Security does not like unsecured railroad crossings and they are being pressured to put up a fence. Doing so without our input and access by the City would create a problem for safety purposes. They had some pressure to seal that off.

Mayor Geraghty - Would arms take care of that? There's a lot of crossings that are unsecured.

Attorney Knaak - MnDot's response was that they were just as concerned with it remaining open. They were willing to come up with a solution but this will take care of that.

Mayor Geraghty - What if we don't approve this?

Attorney Knaak - Then we litigate and you're still maintaining the street.

Mayor Geraghty - By not vacating, we would keep our rights?

Attorney Knaak - Yes, but there's a safety matter in question.

Mayor Geraghty - I'm not going to be in favor of approving it and vacating it.

Supt. Hanson - I'm not sure it's in the City's best interest to vacate the street and I'm still concerned about what would happen to the other part of 1st Street because now we have a street that ends at a railroad crossing.

Councilman Ingemann - If Homeland Security is that concerned then the railroad would be putting up cross arms. We need to get to the other rail as well because they've had problems in the past.

Mr. Nesvig, Attorney for Mr. Quade - I wanted to clarify a couple points. The Homeland Security issue is in regards to the semi-trucks because some of them have sensitive materials and need to be secured. The railroad and DOT, this is a dangerous crossing, so the DOT and railroad would love to close that crossing. That's independent of the Homeland Security thing.

Mayor Geraghty - Can't he secure his own private property?

Mr. Nesvig - Yes, but the City is concerned because they need to get to the other tracks. This agreement addresses that concern. What we're talking about here, the half of a street.

Mayor Geraghty - I don't care if it's half of a street, it's still our 30 feet.

Mr. Nesvig - No, when you acquire a road, you acquire the travelled surface only and that's approximately 9 to 10 feet as Mr. Hanson testified. Also, all you have is the right to use the surface of the road, not put pipes underneath. After 40 years, with nothing being of record, there's a conclusive presumption of abandonment unless you can prove that you've maintained it. This can be an expensive case to fight and we've resolved it.

Mayor Geraghty - Bruce, have we maintained that street?

Supt. Hanson - Yes.

Mr. Nesvig - That's disputed. We've come to a sure thing and you get an easement and access to the property. If we go to trial and you lose, you don't get anything.

Councilman Ingemann - And if we win, you get nothing.

Mr. Nesvig - It makes more sense to approve this.

Attorney Knaak - There's a dispute about the law and fact. I'm reasonably confident the City would prevail. I'm ultimately focusing on the City's best interest and that's maintaining access. The agreement is to do that and will also provide an easement. The City is giving up the responsibility of maintaining the road. If it works for the property owner and does not meaningfully and negatively impact the City's interest then why wouldn't you. It's tempting to say "It's ours, we're not giving it up" and fight. That's not what happened with your neighbors to the south and we could bring a lawsuit forward to undo what St. Paul Park did. I think, and will recommend to you, that this stipulation resolves the issue and maintains what the City needs.

Mayor Geraghty - Is there a way to structure this without us vacating the street?

Attorney Knaak - You could by making it more complicated. You could grant them a right to put a fence over the right-of-way. I don't know why you would want to do that.

Mayor Geraghty - I don't know if we can approve this tonight anyways, doesn't it need four votes. I can't guarantee that it'll be vacated.

Attorney Knaak - I think you need a majority but will double check.

Supt. Hanson - I would also like to look at the rest of 1st Street because this will create a dead end at the railroad crossings and a safety hazard.

Mr. Nesvig - You're voting on the stipulation tonight which says that you will vacate it.

Mayor Geraghty - I think if we vote tonight, it'll be turned down. I raised some issues at the last meeting and am still vetting them.

Attorney Knaak - Perhaps the thing to do would be to table it.

Mayor Geraghty - You'll be in court before then won't you?

Attorney Knaak - Yes, on the 14th. We could ask for a continuance.

Mayor Geraghty - I don't know if you want to brainstorm more about doing the same thing without vacating the street.

Mr. Nesvig - There really is no 1st Street there, it's never been platted. You're really not giving much up. I think you can vote on this tonight and then it proceeds with the vacation.

Councilman Sumner - What's the history of accessing through a locked gate like this? They say that we'll have access.

Councilman Ingemann - If we need to cut a lock we can.

Mayor Geraghty - I still believe they can secure their property.

Mr. Nesvig - The Police and Fire can go through anything they need to.

Motion by Geraghty, seconded by Ingemann, to table the Stipulation to the September 17, 2015 City Council meeting. With 3 Ayes, 0 Nays, the motion carried.

11. POLICE CHIEF'S REPORT - Not present to report.

12. FIRE CHIEF'S REPORT – Not present to report.

13. ENGINEER'S REPORT

A. Public Hearing - To Consider and Possibly Adopt the Wellhead Protection Plan Part II

The public hearing opened at 6:23 p.m.

Mark Lundgren, MSA Wastewater Engineer, presented on this item as outlined in the attached PowerPoint.

Councilman Ingemann - Does the Jordan aquifer flow from the north to the south or is it just a puddle of water? If the puddle sits there and goes toward the north then we have a major problem but not so if it flows from the south.

Mr. Lundgren - I believe it's north to south.

Mayor Geraghty - Who all gets this plan?

Mr. Lundgren - This is the end of our public comment period, we sent it out to your neighboring communities, the County, State, Conservation District. They've had a chance to comment the last 60 days. All of those comments and any tonight will be incorporated into the final plan and then go to the Department of Health for another review period where they will either accept or reject the plan.

Mayor Geraghty - What happens after approval?

Mr. Lundgren - The City will use it to help guide their source water protection planning for the next 10 years. The plan is meant to be used as a guidance document.

Robyn Hoerr, MN Rural Water Association - The City does have a wellhead protection manager and leads the charge for the City and that is Bruce Hanson.

Mayor Geraghty - Is this document used for emergency action?

Ms. Hoerr - There is a portion of the plan that discusses emergency strategies.

Mayor Geraghty - Are you watching for stuff?

Supt. Hanson - Yes. This also looks at development.

Councilman Sumner - I have a couple comments. First on page 73 of the Packet - On the top it says "As shown in Figure 3, east Newport and portions west of Highway 61 have a high infiltration rate causing surface runoff on the soils to be low." The next sentence says "It should be noted that the City's wells are located in this area where there is rapid infiltration rate causing surface runoff as well as very high vulnerability of the aquifer." Shouldn't rapid infiltration lower the runoff? Is something left out of that sentence?

Mr. Lundgren - Yes, I will look at that.

Councilman Sumner - Then on page 75, the fourth paragraph, where it says "Of concern to the WHP team around Newport Well No. 2 are four leaking underground storage tanks as identified from MPCA data. Additionally, a petroleum brownfield site was identified in the IWMA of Well No. 1 along with an existing stormwater pond. Due to their proximity to the Wellheads, these sites will be considered further in the Chapter 6 action steps." Are those storage tanks still there?

Supt. Hanson - No but they were contaminated points.

Mr. Lundgren - You need to know where they were.

Councilman Sumner - It sounds like they are still there.

Engineer Herdegen - We'll confirm that they're no longer there and then change the wording.

Councilman Sumner - Then, the last sentence, "The City of Newport intends to work better understand," shouldn't it be "to better understand?" It's also on the next page. Where was the precipitation data taken from?

Mr. Lundgren - From the closest gauging station.

Engineer Herdegen - It's either South St. Paul or La Lake on Catherine Drive.

Councilman Sumner - Rainfall differs significantly at locations.

The public hearing closed at 6:41 p.m.

Engineer Herdegen - I'd be happy for the Council to direct us to proceed with making these changes and the Council will bring it to the next meeting for consideration.

Motion by Ingemann, seconded by Geraghty, to table the Wellhead Protection Plan Part II to the September 17, 2015 City Council meeting. With 3 Ayes, 0 Nays, the motion carried.

Councilman Sumner - In the north ravine pond, there's an overflow pipe, what's the size and where does it go? Does it go under the highway?

Supt. Hanson - It's infiltrating right now. The second one is an infiltration pond that's closed off right now.

Engineer Herdegen - Yes, we haven't opened the pipe yet so we can establish the vegetation.

Supt. Hanson - This will end our three year warranty on those vegetations.

Councilman Sumner - There is a saddle between those ponds, I would like to know that it's lower than the water inlet on the south side of Ford Road because if it's higher, the water will back up into that catch basin.

Supt. Hanson - We have a check valve so it can't back up.

Engineer Herdegen - We can provide an as-built drawing and you can let us know where your concerns are.

Councilman Sumner - So everything off of Valley Road goes into that drain?

Supt. Hanson - Yes.

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

15. NEW/OLD BUSINESS

Councilman Ingemann - I gave Renee a copy of a proposed motion for the next meeting.

Mayor Geraghty - Ok, we'll get it on the agenda.

16. ADJOURNMENT

Motion by Ingemann, seconded by Geraghty, to adjourn the regular Council Meeting at 6:46 P.M. With 3 Ayes, 0 Nays, 2 Absent, the motion carried.

Signed: _____
Tim Geraghty, Mayor

Respectfully Submitted,

Renee Eisenbeisz
Executive Analyst

Management Strategies - Categories

1. Management Of Wells
2. Monitoring, Inventory, And Hydrogeological Study
3. hazardous Wastes And Household Hazardous Waste
4. Storage Tanks And Underground Pipelines, Spill Prevention And Management
5. Turf And Stormwater Management
6. Drinking Water Supply And Wellhead Protection Education (Community Wide)
7. Water Supply Conservation And Emergency Planning
8. Management Of Leaking Underground Storage Tank Sites
9. Brownfield Sites Information Gathering
10. Septic System Education



7

Public Comment

- Questions or Comments?



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