



**City of Newport  
City Council Minutes  
December 5, 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;

**Staff Absent** – John Stewart, City Engineer;

**4. ADOPT AGENDA**

**Motion by Ingemann, seconded by Rahm to adopt the Agenda as presented. With 5 Ayes, 0 Nays, the motion carried.**

**5. ADOPT CONSENT AGENDA**

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

- A. Minutes of the November 21, 2013 Regular City Council Meeting
- B. Minutes of the November 21, 2013 City Council Workshop Meeting
- C. List of Bills in the Amount of \$146,688.60
- D. Gambling Permit for Church of St. Thomas Aquinas

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

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

**7. MAYOR'S REPORT –**

**Mayor Geraghty** - Deb and I attended the Chamber breakfast this morning and they had an interesting speaker, one of the co-founders of Anytime Fitness. It was an interesting story. Also, just a reminder that the Holiday Train will be coming to Cottage Grove on December 14. Parking will start at 4:00 p.m. and the show will start at 5 or 6. They're expecting 30,000 people. Canadian Pacific is putting up heated tents for it. The next thing is a statement that I would like to read. This is my statement, not the City Council's statement.

The City of Newport, Washington County and the Washington County Housing and Redevelopment Authority have worked on the Newport Transit Station for over three years and it was with great pride that I was able to speak at the Transit Station groundbreaking. Senator Amy Klobuchar and Representative Betty McCollum were present as well as many other county commissioners of the Red Rock Corridor Commissioner and state officials.

The city sees the transit station as an important amenity critical to the eventual redevelopment of the 40 acres immediately adjacent to the I-494 and Highway 61.

The front page article of the November 26 *Pioneer Press* was disconcerting in view of the well-attended groundbreaking of the planned Red Rock Transit Station as well as implications to the residents and businesses in the County. The lack of due diligence demonstrated by the article is unsettling, portraying Newport in an unnecessarily negative way.

It's important to focus on the facts and the data, considering the many property owners who have invested in this area and made it home. There are dramatic differences between crossing the Wakota Bridge, standing downwind of the waste water lift station located in South St. Paul or walking across the parking lot of the forthcoming Red Rock Transit Station.

A consortium of four South St. Paul businesses involved in reprocessing bio-products recently conducted an odor study. Test sites on the east side of the Mississippi, including the transit site, were included in the study. There were a total of 27 testing sites located on both sides of the river. A total of 19 odor measurements were completed at the Red Rock Transit Station site over a 14 week period. Odor was detected on only one occasion indicating that odor is rarely an issue. The monitor described the odor as "garbage", one of 25 offending descriptors identified during the testing, but the source of the odor detected at the Red Rock site could not be determined. The odor scored 7 out of a possible 60 on the Olfactometer, which means it is strong enough to be detectable by the human nose but "not considered a strong odor unless the occurrence was prolonged and continuous" (as defined by testing consultants). An online odor complaint program which has been in place for over a year has registered only 5 complaints from the east side of the river out of a total of 190 complaints.

The issue of odors on this stretch of the Mississippi was associated historically with the stock yards. Significant improvements, both visual and environmental, have been made in the area over the past several decades since the departure of the stockyards.

The BridgePoint Business Park has replaced the stock yards and the remaining industries related to the meat packing industry have taken strides to reduce odors.

The City of South St. Paul is pursuing an odor ordinance which, if passed, would go into effect in January of 2014. South St. Paul is working closely with businesses to reduce odor emissions. Continued odor monitoring of the South St. Paul businesses will track progress in this area.

The Metropolitan Council will be upgrading the filter at the lift station, located in South St. Paul just south of the Wakota Bridge, which will largely eliminate any odors from the station. The Metropolitan Council is also studying a long range plan of replacing the bio filter with a carbon filter, a longer-term solution to eliminating any odors at the site.

Also, there has been only one complaint every summer about the Resource Recovery facility in Newport in the past few years. In each instance it has been determined that the odor did not originate from this facility.

The City of Newport will continue to assess and, wherever possible, work toward potential solutions to minimize odors. The City will keep in communication with the City of South St. Paul regarding the odor ordinance and complaint monitoring. The City will continue to investigate complaints from residents and businesses, and where needed pursue potential solutions.

The City of Newport in partnership with the Washington County HRA intends to keep moving forward with redevelopment around the transit station. Washington County HRA has been planning for redevelopment of this area since 2010; meeting with potential developers and community members where odor has never been identified as a deterrent to the successfulness of residential and commercial redevelopment. There are vibrant housing communities in former industrial areas across the Twin Cities and this is the future vision for the City of Newport.

The Red Rock Transit Station is the next step for our community; and this will be the beginning of the transformation of this area of our community.

## 8. COUNCIL REPORTS –

**Councilman Gallagher** - Excellent statement. I also went to the opening, which was very well attended and well done by our County Commissioner, Autumn Lehrke and the other staff.

**Councilman Sumner** - Nothing to report.

**Councilman Ingemann** – I was also at the groundbreaking ceremony for the transit station and all of the County Commissioners were there except a particular one that voted no.

**Councilman Rahm** – I was also at the groundbreaking ceremony and would like to thank Autumn Lehrke for her role. The event was very well attended and I thought it went smoothly. It's a start of a new opportunity for Newport as we move forward.

## 9. ADMINISTRATOR'S REPORT –

### A. Employee Recognition

Police Chief Montgomery and Fire Chief Mailand recognized the following employees for their years of service with the City:

- Police Department:
  - Jeremy Brodin: 5 Years
  - Joel Muellner: 15 Years
  
- Fire Department
  - Dom Kluender: 5 Years
  - Dan Keller: 5 Years
  - Brandon Boche: 15 Years

**Mayor Geraghty** - Extend our thanks and gratitude to all of the them from the City.

### B. Public Hearing - To Review Liquor License Applications for New Owners, Autumn and Derrick Lehrke, of the Red Rock Saloon

**The Public Hearing opened at 5:41 p.m.**

**Mayor Geraghty** - I assume we did the background checks.

**Executive Analyst Helm** - Yes, they came back clean so staff is recommending that the City Council approve the licenses before you.

**The Public Hearing closed at 5:42 p.m.**

**Councilman Sumner** - I'm pretty excited about having this new venture in the north end of town, part of our development. Brewing companies have been taking hold around the Twin Cities. I saw recently that St. Paul was going to expand the capacity. Do we have any restrictions on the amount of barrels that can be produced?

**Councilman Ingemann** - We're working on that with the Planning Commission.

**Councilman Sumner** - You've seen the two different amounts that are available in St. Paul versus Minneapolis.

**Councilman Ingemann** - Yes. There are two different types.

**Admin. Hill** - Sherri Buss, our planner, has been formulating our ordinance based on St. Paul's ordinance because they are the most up to date with it. St. Paul is reviewing their ordinance so she is waiting until then. She's on top of it.

**Councilman Sumner** - I just want to make sure that we address the capacity issue. If we follow St. Paul, it's less capacity than Minneapolis. I don't want to implement something and not have it up to the possible standards. When do you expect to have that done?

**Executive Analyst Helm** - Draft language will go back to the Planning Commission in January or February because Sherri wanted to wait until St. Paul approved their amendments.

**Councilman Sumner** - Do you have an idea of what size you expect to be operating at?

**Autumn Lehrke** - We plan on being Washington County's first brew pub. Because of that, we're limited to 3,500 barrels per year.

**Councilman Sumner** - What is Minneapolis' capacity?

**Executive Analyst Helm** - I believe the 3,500 barrel capacity is a State Regulation.

**Councilman Rahm** - The liquor licenses are existing already so we're not creating anything new right?

**Councilman Ingemann** - Yes, it's a transfer of ownership.

**Mayor Geraghty** - Is this yearly?

**Executive Analyst Helm** - Liquor licenses expire June 30 of each year so it'll come back to you in June.

**Mrs. Lehrke** - We plan on closing in a few weeks and will be renovating. We're hoping to get the brew pub started in the fall.

**Motion by Geraghty, seconded by Sumner to approve the Liquor Licenses for Autumn and Derrick Lehrke for the Red Rock Saloon. With 5 Ayes, 0 Nays, the motion carried.**

### **C. 2014 Budget Proposal**

**The Public Hearing opened at 6:05 p.m.**

Admin. Hill presented on this item as outlined in the December 5, 2013 City Council packet.

**Councilman Rahm** - For LGA funding, did we have years where we got more LGA for the road construction?

**Mayor Geraghty** - During the construction period, there were some special appropriations that came in a number of years. It was a specific set aside for Newport.

**Councilman Rahm** - For a city the size of Newport, a reduction of \$718,000 is very significant but I wonder if we got more before 2008 and now it's coming down to an average. I understand that 2015 and 2016 are projected but our fund balance in 2016 is 69.5% which is high. As a Council we might want to be lower.

**Admin. Hill** - That is the year that one of our debt service levees comes off and if we have street projects, that

might change. It shows that we have some give with the budget in the next couple years.

**Councilman Sumner** - On the proposed certification, is the 2014 General Obligation Bond a one-time thing?

**Admin. Hill** - That will come off in 2029.

**The Public Hearing closed at 6:15 p.m.**

**Mayor Geraghty** - Thanks Deb for all your work on it.

**Motion by Geraghty, seconded by Sumner to approve Resolution No. 2013-57 Approving a Levy Certification for Levy Year 2013, Payable 2014, and Adopting the 2014 General Fund Operating Budget, the 2014 Water, Sewer, Storm Water, and Streetlight Enterprise Funds, the 2014 Economic Development Authority Budget, and the 2014-2019 CIP. With 5 Ayes, 0 Nays, the motion carried.**

#### **D. Resolution No. 2013-58 - Adopting the 2014 Annual Fee Schedule**

Executive Analyst Helm presented on this item as outlined in the December 5, 2013 City Council packet.

**Councilman Rahm** - I have some questions on the escrow fees. You chose these cities because of similar type of structure correct?

**Executive Analyst Helm** - Yes. Sherri is the consultant Scandia and Stillwater Township so she recommended we look at those and then Bayport and St. Paul Park are similar in size.

**Councilman Rahm** - I appreciate the analysis but my concern is that when we do comparisons that we use our area here like Cottage Grove and Woodbury. St. Paul Park is great because it's similar in size and on the river. Some of the recommended fees are sometimes twice as much as the average. Also, they're much higher than St. Paul Park. Do we think that will be a problem with getting businesses here? What are some of the fees in Cottage Grove? Ours are a little higher and I'm concerned about that. I understand that we give it back if we don't use it all.

**Executive Analyst Helm** - Sherri did note that for commercial items take more time and we sometimes have to bring in the engineer.

**Councilman Rahm** - So we're trying to recover costs better? I understand that.

**Executive Analyst Helm** - Yes, instead of sending out invoices and waiting for their check to come in.

**Councilman Rahm** - But again, for the commercial interim use permit, the average is \$375 and we're recommending \$1,500, that's quite a difference. If I was looking at places and saw that price, it might deter me a little bit.

**Councilman Sumner** - I had similar concerns that we not price ourselves out in the initial review stage.

**Admin. Hill** - We've had a couple instances this last year where they went well beyond the paid escrow. We're trying to balance it out because it's so much easier to get it upfront than have to invoice them afterwards.

**Councilman Sumner** - I would recommend that we clearly state that in the ordinance.

**Executive Analyst Helm** - That is on the application already.

**Mayor Geraghty** - Which one was \$1,500 again?

**Councilman Rahm** - Commercial Interim Use Permit. Looking at some of the peer cities, the most is \$500.

**Executive Analyst Helm** - Sherri recommended that the interim use and conditional use be the same fees because they both the same amount of time.

**Councilman Rahm** - And that's fine but there's quite a difference between the peer cities and the recommended. I just think some of those are outside the norm.

**Admin. Hill** - \$300 does not get a lot of staff time for a commercial request. Any conditional use permit seems to be more timely. An interim use permit is for a business that comes in and you don't want the business there for the long run so they are reviewed every two or three years. You have more control with an interim use.

**Councilman Rahm** - I wish we had Cottage Grove as a comparison even though they're a bigger city but they're on the Highway 61 corridor so businesses would be looking at everyone.

**Mayor Geraghty** - The only difference is that they have in-house staff.

**Councilman Rahm** - So it would be comparing apples to oranges.

**Executive Analyst Helm** - Yes and that's why we didn't look at them.

**Councilman Gallagher** - If you're going to open a business, would \$700 stop you?

**Councilman Rahm** - No. It also goes back to branding and attracting businesses here and if someone puts out an article saying that our fees are double that would hurt our brand.

**Councilman Gallagher** - What if we put deposit instead of escrow?

**Councilman Ingemann** - It's the same thing.

**Councilman Gallagher** - We don't have that statement though. We have on the bottom that some are based on the current escrow fee.

**Executive Analyst Helm** - Subdivisions, site plan reviews, final plats and planned unit developments are based on the current escrow fees which range from \$2,000 to \$4,500. So we should be charging a minimum of \$2,000 for all planning requests. Typically when a smaller request comes in we consult with Sherri to see what fee would work.

**Councilman Rahm** - She reviewed and recommended these?

**Executive Analyst Helm** - Yes, based on her experience with the planning requests that have come in.

**Councilman Sumner** - And believing she is giving us a realistic cost range instead of a supplemental cost range. I think there's a reason for it and I will vote for it but I had the same concerns. If they come here and find the amenities and site to their liking, they'll cover those additional costs.

**Mayor Geraghty** - This covers both planning and engineering?

**Executive Analyst Helm** - Yes.

**Councilman Rahm** - What if we reduce the \$1,500 to \$1,000 so that's the highest number there. They're a little closer in the range and more competitive. Do we need to approve this tonight?

**Executive Analyst Helm** - Before 2014.

**Councilman Rahm** - Should we come back and look at the values?

**Councilman Ingemann** - They're not out of line.

**Mayor Geraghty** - We can drop the \$1,500 to \$1,000 but they could end up owing more.

**Councilman Rahm** - If it was dropped down, I would support that because it's not out of line.

**Councilman Gallagher** - I'll make a motion to approve the Resolution and reducing the price for commercial conditional use permits and interim use permits from \$1,500 to \$1,000.

**Councilman Sumner** - Can we talk about other fees now? For the chicken permit, is that \$25 per chicken or \$25 for the whole permit?

**Executive Analyst Helm** - That's for the whole permit. The maximum amount of chickens is four. We haven't had anyone apply.

**Councilman Sumner** - What about the costs for books at the library, is there any option to deviate from those prices?

**Mayor Geraghty** - I think our policy allows for some discretion.

**Councilman Sumner** - I just know that there are times when books don't sell and if you reduce the price then they sell.

**Executive Analyst Helm** - We can do that.

**Motion by Gallagher, seconded by Rahm to approve Resolution No. 2013-58 Adopting the 2014 Annual Fee Schedule as amended. With 5 Ayes, 0 Nays, the motion carried.**

**E. Resolution No. 2013-59 - Directing the City Administrator to Certify Unpaid Water, Sanitary Sewer, Storm Sewer and Street Lighting Charges to the County Treasurer/Auditor**

Admin. Hill presented on this item as outlined in the December 5, 2013 City Council packet. Individuals have until December 18, 2013 to pay their delinquent bills.

**Councilman Gallagher** - The ones on here that are banks, do we know if they're vacant?

**Admin. Hill** - They're probably going through foreclosure.

**Executive Analyst Helm** - I'll double check the bank owned properties to see if they are vacant.

**Mayor Geraghty** - Do the banks get the water bills?

**Admin. Hill** - Yes.

**Councilman Gallagher** - And the vacant fees?

**Executive Analyst Helm** - When I'm notified that a house is vacant I send out the packet. I think we have two vacant homes currently.

**Councilman Rahm** - But they usually don't pay that fee until they're sold.

**Executive Analyst Helm** - They pay them when they register them as vacant.

**Motion by Rahm, seconded by Ingemann to approve Resolution No. 2013-59 Directing the City Administrator to Certify Unpaid Water, Sanitary Sewer, Storm Sewer and Street Lighting Charges to the County Treasurer/Auditor as amended to a cost of \$27,328.59. With 5 Ayes, 0 Nays, the motion carried.**

## **10. ATTORNEY'S REPORT –**

Attorney Knaak presented on the monthly Prosecution Report as attached. Attorney Knaak will be providing statistics on the Hearing Officer's cases per Councilman Gallagher's request with the next report.

**Councilman Gallagher** - Fritz, what do you see as the most cases that you prosecute that actually go to court?

**Attorney Knaak** - The way it's supposed to work is the kinds of things that we say are more the DUI's, serious traffic offenses and ordinance violations. I would say it tends to be driving and license related.

**Councilman Gallagher** - So DWI's are not handled by the County?

**Attorney Knaak** - No. We do a fair number of gross misdemeanor cases.

## **11. POLICE CHIEF'S REPORT –**

### **A. October 2013 Activity Report**

### **B. Public Hearing - To Review Alleged Legal Non-Compliance of an Off-Sale Liquor License Holder**

**The Public Hearing opened at 6:24 p.m.**

Chief Montgomery and Executive Analyst Helm presented on this item as outlined in the December 5, 2013 City Council packet.

**Mayor Geraghty** - When did the ownership change hands?

**Executive Analyst Helm** - The City Council approved the license for the new owners in June.

**Attorney Knaak** - If I may, you're in the public hearing phase of this. The City has a graduated discipline process. This would require a determination that there had been a violation. My recommendation is that you conduct the hearing, close it and take formal action at the next meeting. I will give you options in terms of what you would like to do, there will be findings of fact based on this and then a determination. The graduated discipline in this case is a one day suspension. You have some discretion but I would recommend that you not deviate from it.

**Councilman Gallagher** - Is there a civil penalty as well?

**Attorney Knaak** - I don't recall. Because you get to determine when that day is, that can amount to a substantial amount of money.

**Councilman Gallagher** - So New Year's Eve?

**Attorney Knaak** - If you wish, yes. There are other options. One variant would be that you would provide for a specific dollar amount. Generally, the one that gets remembered is the actual suspension.

**Councilman Ingemann** - Does this fall under the same thing as serving to a minor?

**Attorney Knaak** - Yes. There can be criminal consequences to this as well.

**Councilman Ingemann** - Serving to a minor has never come to the Council before.

**Attorney Knaak** - I don't think it has come before you as a criminal issue but it can when you're reviewing the renewal of a license.

**Mayor Geraghty** - Did we update this ordinance too?

**Councilman Gallagher** - I think we just did it.

**Brian Her, Owner of Newport Liquor** - I'm sorry for the mistake. I am more restrict right now to check more on everyone. Even though they use their credit card we need to make sure their name matches their ID before we sell to them. So right now, I'm responsible for that. I'll take what the Council sees as appropriate. I'm here to accept that mistake.

**Councilman Rahm** - Chief, can you tell us how you conduct the compliance check?

**Chief Montgomery** - Investigator Freemyer had an 18 year old male go into Newport Liquor to buy Coors Light and he came out with a 12-pack of Coors Light beer. The 18 year old male described the employee that sold it to him and Investigator Freemyer went inside and identified him. It should be noted that there is training through the County that is available to all liquor establishments. I highly suggest that that training be done for all employees so they don't make this mistake again.

**Mayor Geraghty** - Was that a cash sale?

**Chief Montgomery** - Yes.

**Councilman Gallagher** - Were there charges filed?

**Chief Montgomery** - Yes, they were sent in and are still pending.

**The Public Hearing closed at 6:31 p.m.**

**Mayor Geraghty** - We would like this to come back at our next meeting with our findings and recommendation.

**Councilman Gallagher** - Should we make the findings now?

**Attorney Knaak** - No, my recommendation is that you close the public hearing, which you did, and make the findings and vote on it at the next meeting. Sometimes there is some give and take or negotiations in these cases, which did not occur here.

**12. FIRE CHIEF'S REPORT** – Chief Mailand presented the recognition award to Brandon Boche who arrived after item 9.A. He also reminded the Council that the Annual Food and Toy Drive will be on December 8 from 10 to 1 at Newport Center. There are also barrels at Cloverleaf Bar and Grill and North Pole Restaurant until December 18. Cash donations to the Friends in Need Food Shelf are best. Finally, he thanked Public Works for plowing.

**13. ENGINEER'S REPORT** –  
**A. Partial Payment #3**

**Motion by Geraghty, seconded by Rahm to approve Partial Payment #3 in the amount of \$20,170.40. With 5 Ayes, 0 Nays, the motion carried.**

**14. SUPERINTENDENT OF PUBLIC WORKS REPORT** – Superintendent Hanson reminded citizens that it is illegal to push snow into the public streets.

Councilman Sumner - How is our salt supply?

Superintendent Hanson - It's doing well so far but it'll go fast if we get more of these storms.

**15. NEW/OLD BUSINESS**

**16. ADJOURNMENT**

**Motion by Geraghty, seconded by Ingemann, to adjourn the regular Council Meeting at 6:37 P.M. With 5 Ayes, 0 Nays, the motion carried.**

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

Respectfully Submitted,

Renee Helm  
Executive Analyst

# HOLSTAD & KNAAK, PLC

Attorneys at Law

Frederic W. Knaak\*  
Wayne B. Holstad\*\*

*\*Also Licensed in  
Wisconsin & Colorado*

*\*\*Also Licensed in  
Massachusetts, Iowa,  
Federal Court of Claims*

4501 Allendale Drive  
St. Paul, MN 55127  
Telephone: (651) 490-9078  
Facsimile: (651) 490-1580

*Of Counsel*  
Donald W. Kohler  
Thomas M. Dailey, P.A.  
Matthew E. Ludt  
Joseph B. Marshall

*Paralegal*  
Michelle E. Hagland  
mhagland@klaw.us

## **MEMORANDUM: MONTHLY NEWPORT PROSECUTION REPORT**

TO: MAYOR AND MEMBERS OF THE CITY COUNCIL  
FROM: FRITZ KNAAK, NEWPORT CITY ATTORNEY  
DATE: December 3, 2013

---

This past month, our office has represented the City in a total of 58 prosecutions that were followed through to conviction or alternative disposition. They break down as follows:

Arraignments & Rule 8 Hearings:	23
Pretrials:	20
Omnibus Hearings:	6
Court Trials:	2
Jury Trials:	3
Revocation/Plea Hearings/Sentencing:	4

The report from the court Hearing Officer regarding Newport tickets for the month of November is summarized as follows:

Customers	32	
Citations	34	
Charges	53	73.33% Resolved
Disposed	28	
CFD/DUP	5	
Contest/NG	3	
DNQ	9	
Extension	6	
No Guidelines	0	
Parking	2	
Petty Misdemeanor	24	
Misdemeanor	27	