



**City of Newport
City Council Minutes
December 6, 2012**

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 – Brian Anderson, 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

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

- A. Minutes of the November 15, 2012 Regular City Council Meeting
- B. Minutes of the November 15, 2012 Canvas Board Meeting
- C. List of Bills in the Amount of \$183,047.39
- D. **Resolution No. 2012-43** – Supporting the Development of the Mississippi River Trail
- E. Gambling Permits
 - 1. Capital City Strutters – January 21, 2013
 - 2. Church of St. Thomas Aquinas – January 27, 2013
 - 3. Capital City Strutters – April 3, 2013

With 5 Ayes, 0 Nays, the motion carried.

6. VISITORS PRESENTATIONS/PETITIONS/CORRESPONDENCE

A. Eagle Scout Presentation

Mayor Geraghty – I would like to ask Jake Pouliot to step forward to the podium. On Tuesday evening, Jake received his Eagle Scout badge, which is very impressive. I asked Jake if he would read the Eagle Scout oath at tonight's meeting, it has a lot of good values that I think we should be reminded of.

Jake Pouliot - I affirm my allegiance to the three promises of the Scout Oath. I thoughtfully recognize and take upon myself the obligations and responsibilities of an Eagle Scout. On my honor, I will do my best to make my training an example and my status and my influence count strongly for better Scouting and for better citizenship in my troop, in my community, and in my contacts with other people. To this I pledge my sacred honor.

Mayor Geraghty – Congratulations.

Councilman Sumner – This was the first Eagle Scout for Newport in the last ten years, so it is quite an accomplishment. Thank you for being an example for young people to aspire to.

Fire Marshal Mailand presented Mr. Pouliot with an award. The Newport Volunteer Fire Department is the charter organization that sponsors Troop 15 and has since 1957.

7. MAYOR'S REPORT –

Mayor Geraghty – I attended the HPC and Parks Board meetings and Jake's ceremony on Tuesday. Last night, we had the volunteer appreciation dinner and recognized Marge Meconis for her service so she is volunteer of the year. She has put over 25 years of service to the City. I also want to remind people of the Holiday Train next Tuesday in Cottage Grove.

8. COUNCIL REPORTS –

Councilman Gallagher – I attended a Met Council TAB meeting. The Obama Administration made a ruling that all Federal earmarks that were unspent went back to the State of Minnesota instead of going back to the Federal Government so we reallocated about \$10 million locally, which is staying in Hennepin County. It will connect the rail system between Minneapolis and St. Paul.

Councilman Sumner – I also attended the Eagle Scout ceremony. The volunteer dinner was very nice. Finally, today we had a blood drive with the Department of Revenue and were able to donate 92 units. I encourage anybody who is able to give blood to do so.

Councilman Ingemann – I also attended the volunteer dinner.

Councilman Rahm – I also attended the volunteer dinner and wanted to thank all of the volunteers.

9. ADMINISTRATOR'S REPORT –

A. Employee Recognition

Admin. Anderson recognized the following employees for their years of service to the City:

- Fire Department
 - Jim Jacobs: 5 Years
 - Jon Anderson: 5 Years
 - Shane Haverkamp: 5 Years
 - Derek Marson: 10 Years
 - Nick Kowalenko: 15 Years
 - Todd Tokar: 15 Years
 - Steve Cozad: 15 Years
- Police Department:
 - Scott Freemyer: 15 Years
- Public Works Department:
 - Bruce Hanson: 35 Years
 - Chuck Johnson: 35 Years

B. Agreement with Robert Vogel, Preservation Planner for Consulting Services for January 1, 2013 – December 31, 2014

Robert Vogel presented on this item as outlined in the December 6, 2012 City Council packet. Mr. Vogel has been the Heritage Preservation Consultant since 1992. The agreement is for January 1, 2012 through December 31, 2014. Newport is one of fifty cities in Minnesota that has a Heritage Preservation program. Mr. Vogel does a variety of tasks for the City

including organizing the Civil War Sesquicentennial celebration in 2011, attending Heritage Preservation meetings, and planning the Veterans' Memorial in Pioneer Park.

Councilman Rahm – Thank you for coming in and presenting. I am partly responsible for having your contract looked at. I think this is important for Newport. I think it's important for items like this be reviewed or presented on when new Councilmembers come on because they may not always know what you do. My general philosophy is to review contracts and look at what you provide in order to understand that we are getting a good deal from you. I can tell that you really enjoy this.

Mayor Geraghty – I attended the last meeting and we were talking about goals. You talked about grant writing for bricks and mortar type items, which is not always visible to everyone.

Mr. Vogel will be added to the 2013 Annual Appointments as the Heritage Preservation Consultant. The Annual Appointments will be placed on a January agenda.

C. Resolution No. 2012-44 – Approving a Variance for 1125 2nd Avenue

Sherri Buss, TKDA Planner, presented on this item as outlined in the December 6, 2012 City Council Packet.

The Applicant, Steven Lutzwick, is requesting a variance to allow for a single family home with an opening elevation that is below the floodplain elevation. The property is located at 1125 2nd Avenue, in the River Residential (R1-A) District, Shoreland Overlay District, Floodplain Overlay District, and Mississippi River Critical Area. The lot is approximately .98 acres.

The property is in the floodplain and the FEMA base elevation is 703 feet. The Applicant bought the property with an existing single family home on it. The opening elevation of that house was 700.5 feet. The Applicant removed the existing home and replaced it with a new single family home last year. The Applicant indicates that he consulted with neighbors about the design of the house and that he wanted the house to be consistent in architectural character and elevation with those in the surrounding area. In order to build a house of similar height to others in the area, the opening elevation of the lower level of the new house is at 701.21 feet. This elevation is lower than that allowed by the Zoning Ordinance, and therefore the applicant requests a variance. The application includes eight letters of support from neighboring property owners. The Planning Commission held a public hearing on November 13, 2012 and approved a resolution recommending that the City Council approve the variance.

Councilman Rahm – How do we know that they resolve the drainage issue?

Admin. Anderson – I did talk with the neighbor in the spring and we relayed that to Mr. Lutzwick who took the steps to resolve the issues. I heard from the neighbor again right before the public hearing so we put that condition on. Mr. Lutzwick has been working with the neighbor since the public hearing. I heard from the neighbor who said that the issue has been resolved.

Councilman Gallagher – Shouldn't this have come up before the structure was built? What would happen if we denied this variance?

Ms. Buss – You could deny it and ask them to build the home a different way or modify the home.

Councilman Gallagher – It seems kind of irresponsible that you would do a variance request now.

Admin. Anderson – I think part of it is the way the building application was applied for, it was spread apart so I think the City is partly responsible for this.

Councilman Rahm – When was it built?

Admin. Anderson – It was just completed this year.

Mayor Geraghty – Is that something that should have been caught during the review process?

Admin. Anderson – Typically, yes.

Attorney Knaak – Occasionally you do find yourselves in a situation like this. You can have an after-the-fact variance. Normally there's a penalty if someone builds without a variance. Theoretically, you could require them to tear it down.

Councilman Sumner – Will this be permitted by FEMA?

Engineer Stewart – You have an ordinance that requires the City to notify the DNR when a building like this is constructed.

Councilman Sumner – Can they come back and cause problems with the City?

Attorney Knaak – Not the City but if they do that is the purpose of the indemnification agreement that the applicant had drawn up. I have reviewed the agreement and am fine with it. I don't think you'll have an issue with other agencies.

Councilman Sumner – Would that house have been flooded in our recent floods?

Superintendent Hanson – We've come up to about 700 feet, it would have made it without flooding.

Mayor Geraghty – I'm just wondering where it was missed in the review process.

Engineer Stewart – We have a process that requires submission of a proposed grading plan. As Brian said, the whole process was piecemeal and that was never submitted and I think with the transition of staff it got left out. We found it when he applied for his condition of occupancy.

Mayor Geraghty – Shouldn't that have been reviewed prior to being built?

Engineer Stewart – Yes. The City staff requires the applicant to submit plans and applications and they then forward it to myself and the building inspectors for review. They don't get their building permit until everything is approved.

Councilman Gallagher – Wasn't there a Supreme Court ruling on variances?

Attorney Knaak – Yes, it allows for greater flexibility. Under the circumstances, I would say that you should be relatively comfortable that these are unique and it's unlikely that this will occur again.

Ms. Buss – We've been using the new rulings for variances and have a draft ordinance for the next Planning Commission meeting to update the City Code.

Councilman Gallagher – The previous home was lower correct?

Ms. Buss – Yes, the previous home was at 700.5 feet and this one is at 701 feet.

Councilman Rahm – Do we know if the previous home was ever flooded?

Ms. Buss – I'm not sure.

Councilman Gallagher – Is there a penalty?

Ms. Buss – I don't think the City has one currently.

Executive Analyst Helm – We don't for variances.

Councilman Gallagher – Is there anything that should be done now to set precedence?

Attorney Knaak – No but I would recommend that you had a penalty.

Councilman Gallagher – Can we legally impose a fine now?

Attorney Knaak – No, however they did build without a variance which is violation of the Code and considered a misdemeanor.

Admin. Anderson – I don't think it was intentional.

Mayor Geraghty – Did you just miss the elevation requirements?

Steven Lutzwick, 1125 2nd Avenue – No, I think we spoke with the City about 1 ½ years prior to construction and checked our numbers twice. I think some of the contracted individuals changed in the process and the initial plan that was presented had the elevations on the very first page. I was not aware that the proposed elevations were below the floodplain. It was signed off on numerous times during the process. It wasn't picked up on until we applied for the certificate of occupancy.

Motion by Sumner, seconded by Gallagher to approve Resolution No. 2012-44 approving a variance for 1125 2nd Avenue. With 5 Ayes, 0 Nays, the motion carried.

D. 2013 Budget Proposal

The Public Hearing opened at 6:27 p.m.

Admin. Anderson presented on the 2013 proposed budget, a copy of the presentation is attached to be included in the official minutes. The tax levy that is being proposed is \$50,620 more than the 2012 levy for a total of \$2,361,620.

Tom Aguilar-Downing, 1550 Wild Ridge Court – I have been looking through the tax records on the Washington County website. It might be interesting to see what the taxes would be for a home at 75% or 25%, not just the median value. I know my home is looking at a 3% increase, which is more like \$70. As I look at other taxing authorities, they are trying to hold things flat which means an increase less than 1% for me. In my case, the taxes are not holding flat so you might want to consider both sides.

Councilman Rahm – The bills that you're looking at is the proposed bill.

Admin. Anderson – I think Newport's bell-shaped curve for homes is rather spread out in that we have a large number of higher-end homes and a large number of lower homes.

Councilman Rahm – We're keeping it flat. One of the issues that comes up is looking at median household income for Newport. The median incomes are going down for Newport. In 2000, the median income was \$45,373 and in 2011, it was \$45,447.

Mayor Geraghty – I recognize your point and it affects businesses as well. I'm not going to say that everyone's taxes will go up or down but we can try to limit the spending.

Councilman Rahm – I would like to say that people should keep on the other government entities such as school boards and the county.

Mayor Geraghty – I would like to propose decreasing the levy to \$2,351,000, which is \$10,620 less than what was presented. The general fund levy would be \$2,128,900.

Admin. Anderson – I would recommend that we decrease the amount that is transferred to the EDA fund by \$10,620.

Motion by Geraghty, seconded by Rahm to approve Resolution No. 2012-45 Approving a Levy Certification for Levy Year 2012, Payable 2013, and Adopting the 2013 General Fund Operating Budget, the 2013 Water, Sewer, Storm Water, and Streetlight Enterprise Funds, the 2013 Economic Development Authority Budget, and the 2013-2017 CIP as amended. With 5 Ayes, 0 Nays, the motion carried.

E. Resolution No. 2012-46 – Adopting the 2013 Annual Fee Schedule

Executive Analyst Helm presented on this item as outlined in the December 6, 2012 City Council Packet.

Councilman Gallagher – I would recommend that we double the fee for building without variances.

Councilman Rahm – For the public data requests, how are we going to determine the cost?

Executive Analyst Helm – It would be based on the staff's hourly wage.

Councilman Rahm – I can see have a two-tiered schedule to ensure that our citizens have the ability to request information without being charged a lot. If something doesn't take too long it should be a small fee whereas if it takes a lot of staff time then we should charge a larger fee.

Admin. Anderson – I think that is the intent.

Councilman Ingemann – Does \$0.25 per page cover the costs?

Chief Montgomery – I believe that is a state statute for police reports.

Attorney Knaak – The statute says that you are allowed to charge a reasonable amount in the actual cost occurred. \$0.25 per page is a standard everywhere. If in fact you are dealing with a request that requires a substantial amount of time you can charge for the value of that time. The best practice would be to give an estimate to the person requesting the data. It does have to be a reasonable fee.

Mayor Geraghty – I think the intent is to get at actual costs and at some point we will have to write a tiered rate.

Attorney Knaak – The one cautionary thing I would raise is that the fee cannot prevent individuals from requesting data.

Councilman Gallagher – My personal opinion is that that's the role of government, to provide information to citizens so it should be accessible to everyone at a reasonable cost.

Councilman Rahm – With all of the things we've been doing by putting more items online, it does create more questions so we should be able to budget for those questions and providing that data.

Councilman Gallagher – I think we should have a structured amount.

Councilman Ingemann – It should be \$0.25 per page if it takes less than 30 minutes and anything above that should be charged by the hour.

Councilman Rahm – I favor something like that.

Admin. Anderson – Do you want to decrease the fee for using City Hall to \$35?

Councilman Ingemann – With a damage deposit. Do we have a fee for using the library as well?

Executive Analyst Helm – We don't but we could add it.

Superintendent Hanson – We did do that in the past but we've had problems with it because it's not very conducive to visitors with all of the equipment.

Councilman Sumner – I like the idea of them using the library more.

Councilman Gallagher – Let's keep City Hall as is and add a fee for renting the library.

Councilman Rahm – Why do we want to reduce it?

Executive Analyst Helm – It just seemed a bit high.

Councilman Gallagher – What stops us from increasing the off-sale liquor license to \$240 right away?

Executive Analyst Helm – Nothing, I just thought it might be a little easier transition for businesses.

Councilman Sumner – Do any of them get the training now?

Executive Analyst Helm – No.

Councilman Sumner – So that would be a good incentive.

Councilman Gallagher – Does the on-sale get any type of rebate?

Executive Analyst Helm – Not that I could find when I was doing my research.

Councilman Sumner – Can we give them the same incentive?

Attorney Knaak – You're probably better off leaving it as is with the on-sale liquor license because the more you deviate from what other cities do the more you welcome yourself to objection and litigation. On-sale businesses have an incredible amount of incentive with how much they make by having an on-sale liquor license.

Councilman Gallagher – Do we have a notary?

Executive Analyst Helm – Yes

Councilman Gallagher – I don't see a cost for it.

Mayor Geraghty – I think it's more of a service.

Councilman Sumner – So are you saying we would need to solicit advice?

Attorney Knaak – I'm just recommending it because they may provide information to you.

Executive Analyst Helm – The changes are: building without a variance is double the fee, use of the community center is \$35 and did you reach a consensus for the public data request?

Mayor Geraghty – I think we can leave the wording but we need some clarification at a future meeting.

Motion by Rahm, seconded by Ingemann to approve Resolution No. 2012-46 Adopting the 2013 Annual Fee Schedule as amended. With 5 Ayes, 0 Nays, the motion carried.

F. Resolution No. 2012-47 – Directing the City Administrator to Certify Unpaid Water, Sanitary Sewer, Storm Sewer, and Street Lighting Charges to the County Treasurer/Auditor

Admin. Anderson presented on this item as outlined in the December 6, 2012 City Council packet. Individuals have until December 15, 2012 to pay their overdue bills as staff will be assessing the amounts on December 17, 2012.

Motion by Rahm, seconded by Gallagher to approve Resolution No. 2012-47 Directing the City Administrator to Certify Unpaid Water, Sanitary Sewer, Storm Sewer, and Street Lighting Charges to the County Treasurer/Auditor as presented. With 5 Ayes, 0 Nays, the motion carried.

Councilman Rahm left at 7:27 p.m.

10. ATTORNEY’S REPORT –

Attorney Knaak – You have before you the prosecution report. The volumes continue to escalate. It’s no additional time as far as you’re concerned.

11. POLICE CHIEF’S REPORT – Nothing to report

12. FIRE CHIEF’S REPORT – Chief Mailand reported on the number of calls in the past few weeks, which include: gas leak, mutual aid call to St. Paul Park Refinery, and a tipped semi. The toy drive will be on Sunday, December 9 at the Newport Center from 10:00 a.m. to 1:00 p.m. All proceeds go to the Friends in Need Food Shelf.

13. ENGINEER’S REPORT – Nothing to report

14. SUPERINTENDENT OF PUBLIC WORKS REPORT – Nothing to report

15. NEW/OLD BUSINESS

16. ADJOURNMENT

Motion by Geraghty, seconded by Sumner, to adjourn the regular Council Meeting at 7:30 P.M. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

Signed: _____

Tim Geraghty, Mayor

Respectfully Submitted,

Renee Helm
Executive Analyst

City of Newport

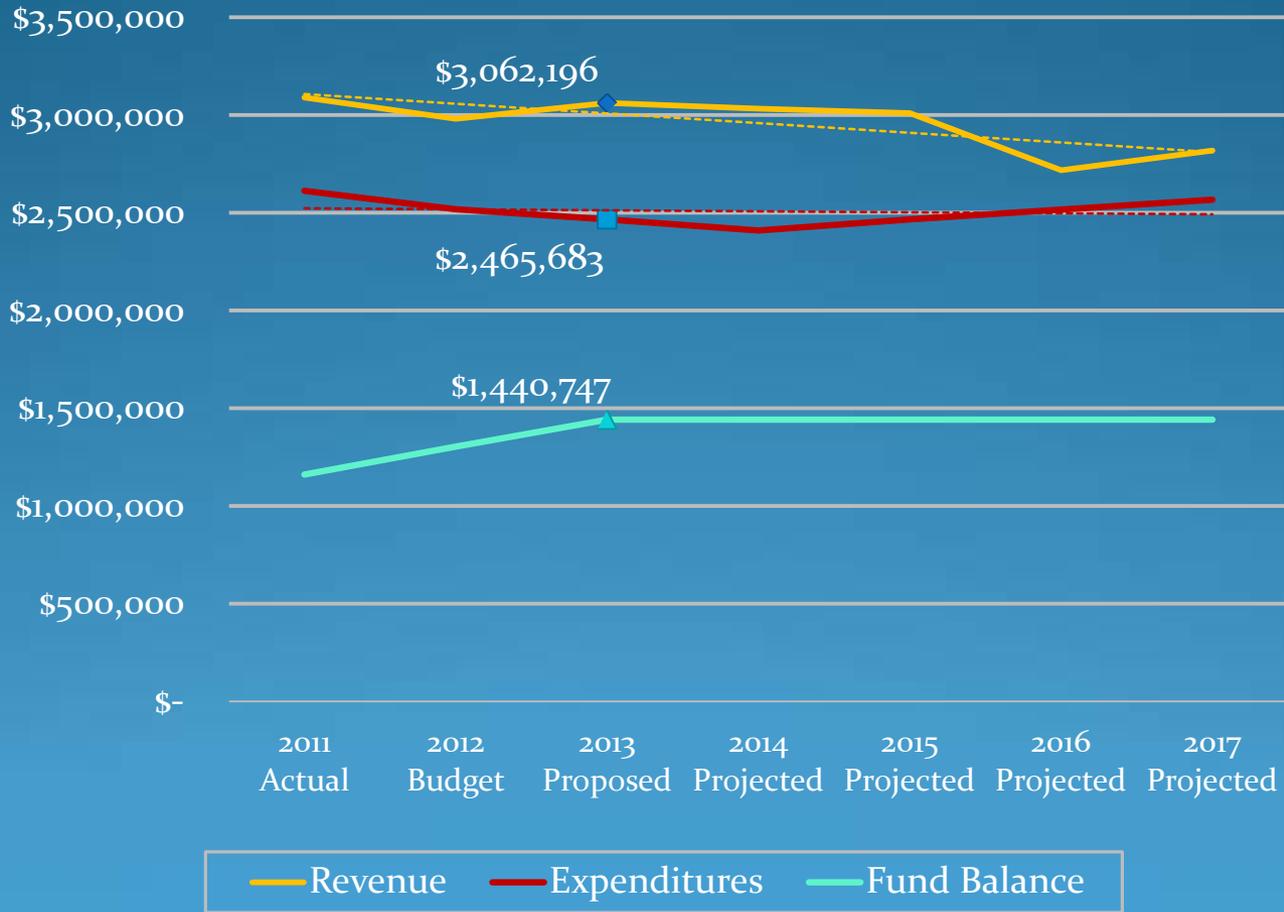


Proposed 2013 Budget & Property Tax Levy

Truth in Taxation Hearing

December 6, 2012

General Fund



2013 General Fund

| | 2011 Actual | 2012 Budget | 2013 Proposed | 2014 Projected | 2015 Projected | 2016 Projected | 2017 Projected |
|--------------------|------------------|------------------|------------------|-------------------|-------------------|-------------------|-------------------|
| Revenue | <u>3,088,899</u> | <u>2,980,785</u> | <u>3,062,196</u> | <u>3,032,178</u> | <u>3,009,640</u> | <u>2,717,968</u> | <u>2,818,284</u> |
| Expenditures | 2,611,503 | 2,518,454 | 2,465,683 | 2,409,078 | 2,466,440 | 2,515,769 | 2,566,083 |
| Transfers | 165,320 | 319,000 | 459,200 | 614,100 | 543,200 | 202,200 | 252,200 |
| Total Exp. | <u>2,776,823</u> | <u>2,837,454</u> | <u>2,924,883</u> | <u>3,023,178</u> | <u>3,009,640</u> | <u>2,717,969</u> | <u>2,818,283</u> |
| Fund Balance | <u>1,160,102</u> | <u>1,303,434</u> | <u>1,440,747</u> | <u>1,440,747</u> | <u>1,440,747</u> | <u>1,440,747</u> | <u>1,440,747</u> |
| FB as % of Exp. | 42% | 46% | 49% | 48% | 48% | 53% | 51% |
| Tax Impact | | 865 | 861 | 859 | 858 | 860 | 861 |

Other Financing Sources (uses)

| | 2013 | 2014 | 2015 | 2016 | 2017 | Total |
|----------------------------|----------------|----------------|----------------|----------------|----------------|------------------|
| Economic Development Fund | 280,000 | 218,500 | 361,000 | 25,000 | 75,000 | 959,500 |
| Heritage Preservation Fund | 7,200 | 7,200 | 7,200 | 7,200 | 7,200 | 36,000 |
| Parks Fund | 57,000 | 40,000 | 40,000 | 50,000 | 50,000 | 237,000 |
| Equipment Fund | 75,000 | 278,400 | 50,000 | 50,000 | 50,000 | 503,400 |
| Building Fund | 40,000 | 70,000 | 85,000 | 70,000 | 70,000 | 335,000 |
| Total | 459,200 | 614,100 | 543,200 | 202,200 | 252,200 | 2,070,900 |

Proposed Levy Certification

| | | |
|---------------------------------|-----------|------------------|
| General Fund | \$ | 2,139,520 |
| Equipment Cert. of Ind. | | 91,928 |
| Bonded Indebtedness | | 130,172 |
| Total Levy Certification | \$ | 2,361,620 |

Summary

- The Tax Impact on a median value home of \$145,100 in Newport will decrease by \$4.78 to \$860.40
 - \$2.38 per day for 24hr. police, fire, snow plowing, street usage and maintenance, access to groomed parks & trail system, etc.
 - Newport's expenditures per capita are "middle of the road" 112 out of 225 cities based upon 2010
- Although not a direct reflection of the tax impact, the local tax rate goes up as market value goes down and vice-versa
- Recently Newport has had a TIF decertification and replaced MVHC with Market Exclusion program, which shifted the burden to City's and businesses
- How cities pay for projects and equipment affects their local tax rate
 - Special assessment policy and percent paid by property owner
 - Is staff time charged to enterprise funds
 - Are there other enterprise funds being used (liquor, street lights)
 - How fiscal disparities plays into overall rate, *etc.*

Questions

City Administration Office: 651-459-5677

County Tax Department: 651-430-6175