

**MINUTES OF THE
WATERTOWN CITY COUNCIL
Regular Meeting Tuesday, July 8, 2008**

1. CALL TO ORDER AND ROLL CALL

Pursuant to due call and notice thereof, the regular meeting of the Watertown City Council was called to order, on **Tuesday, July 8, 2008** by Mayor K. J. McDonald at 6:30 PM in the Watertown City Hall Council Chambers.

Upon roll call the following Council Members were present: McDonald, Dan Geiger, Steve Duske, Earline King and Rick Mann.

The following staff members were present: City Attorney David Hubert, City Administrator David Mandt, City Planner Crystal Foust, Public Works Supt. Doug Kammerer and Ken Adolf of Bolton & Menk, Inc..

Also present were: Scott Qualle of MnSpect, Dean Mau of MnSpect and Fire Chief Hubie Widmer.

2. ADOPT AGENDA

Staff asked to have Items 3J (Hollywood Booster Club pass through for Rails to Trails), 3K (Third annual block party Jackson Avenue NW), 3L (Delinquent utility shutoffs) and 8A (Change order for seal coating) added to the agenda and Item 14A (Tuscany Village update) pulled from the agenda. Duske asked to have Item 3M (Senior Commission on Aging) added to the agenda.

DUSKE MOVED, KING SECONDED A MOTION TO ADOPT THE AGENDA AS AMENDED. MOTION CARRIED 5-0.

3. REVIEW OF CONSENT AGENDA

- A. Minutes for June 24, 2008 meeting
- B. Recommendation to approve Lions Club pass through for River Rumble
- C. Pay request from building official
- D. Finance Committee recommendation to defer charges for Forest Hills permits
- E. Park and Recreation Commission recommendation to approve Adopt-A-Park Program
- F. Annexation petition for 800 Angel Ave. SE
- G. Amendment to Fee Schedule for Park Dedication Fee – Ordinance 322
- H. Claims roster
- I. Resolution Identifying The Need for Livable Communities Demonstration Account Funding and Authorizing an Application for Grant Funds
- J. Hollywood Booster Club pass through for Rails to Trails
- K. Third annual block party Jackson Avenue NW
- L. Delinquent utility shutoffs
- M. Senior Commission on Aging by-laws

Geiger asked to pull Item 3D for discussion. He asked why the hook up charges were being deferred. Mandt stated that Forest Hills developer Arnie Esterbrooks had asked for the deferments until the certificate of occupancy is issued. Mandt stated that the Finance Committee recommended the Council approve the deferment of the water, wastewater and stormwater connection charges for a period of 90 days or whenever a certificate of occupancy is issued, whichever is less. He stated that this is the first request of its kind in light of the economy. McDonald stated that this would be one measure to help the developer in selling homes. He stated that the city would benefit as well and the item can be reconsidered at any time. Duske asked if the Council was going to be open to other developers who have the same request. He stated that he would like this deferment be available to other developers as well. McDonald stated that this is a deferment and not a non-payment. If the deferred charges are not paid following the maximum 90 days, a stop work order can be placed on the unit and deferred charges assessed to the property. Geiger stated that he did not like the deferment given to only one developer. He also was concerned about the homeowner bearing the burden if the fees are not paid by the developer. Three stipulations were offered for an ordinance that Geiger requested. The stipulations were: (1) Once water is requested, fees need to be paid; (2) Deferment applies to all developers; and (3) Deferment applies only to the end of 2008. Duske asked that the item be pulled from the consent agenda until the Council reviews the final draft of the ordinance.

4. CONSENT AGENDA APPROVAL

GEIGER MOVED, KING SECONDED A MOTION TO ADOPT THE CONSENT AGENDA AS AMENDED WITH THE REMOVAL OF ITEM 3D. MOTION CARRIED 5-0.

5. OPEN FORUM

A. Town Deputy Derek Sanderson updated the Council on several items including the round about at Hwy. 7 and Co. Rd. 10, which opened Monday, July 14, 2008.

6. CELEBRATE WATERTOWN

A. Mandt updated the Council on the Rails to Trails Festival

B. McDonald read a quote from the Declaration of Independence as a tribute to July 4.

7. NEW/OLD BUSINESS

A. Fire Hydrant installation at 610 Co. Rd. 10 SE. A feasibility study was conducted for this property when the owner, Paul Glasser, requested water and sewer service because he was adding a bathroom in his building. Mandt stated that when Glasser originally applied for a building permit, he stated that he was constructing a dry storage building and would not have a bathroom in the building. It was mutually agreed upon at that time that water and sewer could be hooked up at a later date if a bathroom was added. Mandt stated that the state fire code was adopted since the building was constructed and according to Fire Protection Water Supplies Section 508: Where a portion of the facility or building constructed or moved into

or within the jurisdiction is more than 300 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrant(s) and mains shall be provided where required by the fire code official. There is one hydrant 190 feet from the east property line and another 200 feet from the west property line. These hydrants would be approximately 340 and 350 feet from the building respectively, by an approved route. City staff checked with the State Fire Marshal's Office and they rendered no opinion. Mau stated that they left it up to the local authority having jurisdiction which in this case is Mau as Fire Code Official under the authority of Widmer as Fire Chief. Widmer has requested the fire hydrant and Mau supports his decision. Mau stated that one of the existing hydrants has two 2 ½ inch connections and the fire department has 5 inch hose connections. McDonald stated that the hydrant should be replaced. Geiger stated that with the information from city staff and about the antiquated hydrant, it would make sense to put in a new hydrant. Geiger stated that the new hydrant would benefit other property owners in addition to Glasser and the cost should be distributed among the benefited property owners. McDonald suggested that the city may also have to share in the cost since they are to blame in some respect. Duske stated that he didn't see any fault by the city. He stated that Glasser should pay for the cost of putting in the hydrant and if he wants to he can collect from his neighbors. Mann stated that the city should have asked Glasser how much he could spend on the project when it came time to do the feasibility study. Glasser stated that he thinks he has paid more than his fair share already in taxes for the hydrant. He stated he is not against the fire hydrant but doesn't want to pay the entire cost.

GEIGER MOVED, MANN SECONDED A MOTION TO FOLLOW CITY STAFF RECOMMENDATION TO INSTALL A HYDRANT FOR WATER SERVICE AT 610 COUNTY ROAD 10 SE PURSUANT TO MINNESOTA FIRE CODE REQUIREMENTS SECTION 508.5.1. MOTION CARRIED 5-0.

Duske recommended that city staff determine the costs, meet with Glasser and come back to the next Council meeting with a recommendation. This was agreed upon by Council consensus.

- B. Neisen Building Update. The City Council made a motion May 27, 2008 to give Mike Neisen until June 27, 2008 to complete the following items: (1) Paint the exterior of the building; (2) Plumbing issues regarding hook-up, obstruction and destination; and (3) Awning installation. As of July 1, 2008, the following items remain outstanding: (1) Televising pipes to verify sanitary and storm sewer connections. Obstructions in pipe may require digging under bituminous. (2) Awning not installed. (3) A permit was issued May 20, 2008 to stucco the north wall. MnSpect does not have any inspection records. A lathe inspection would have been required prior to applying the stucco. (4) Numerous permits have been pulled but no inspections have been conducted. Staff offered the following steps for mediation: (1) Failure to call for an inspection is a violation of the building code (misdemeanor), which can result in a fine. (2) Public nuisances affect health. Staff does not know where the sewer is going because there seems to be a minor blockage in the pipe and Public Works cannot televise the line. Staff suspects the sewer may be discharging into the river. (3) Discontinue the grant monies for the awning. (4) Continue to work with Mike Neisen with the good faith effort moving forward.

Prior to the Council meeting and after the information above was prepared for the agenda packets, Public Works used dye to test the sewer connection for the Neisen building and discovered that the storm drains and sewer are discharging into the river. Lewis Avenue will need to be dug up to rectify the problem. Public Works was able to televise part of the sewer line. Neisen has offered to do the work himself. Kammerer stated that one restroom is affected. Neisen has asked to hold off with digging up Lewis until after Rails to Trails (which is July 18-19). Duske stated that the city should ease up on the other construction until the sewer situation is resolved. Mann stated that Neisen is making progress but the city needs to be stringent on the permits so he completes the work. Geiger stated he would be in favor of allowing more time on other construction, but suggested a deadline of July 31 for resolving the sewer situation. The consensus of the Council was to notify Neisen that the exterior work on the building and sewer line must be completed by July 30, 2008. If that happens, the Council will extend the other permits. If the sewer work is not completed by July 30, 2008, the Council will consider shutting down Neisen's business.

- C. Landings Lane Sidewalk Quotes Review. Two quotes have been received for construction of a sidewalk on the east side of Landings Lane. Accurate Concrete submitted a quote of \$27,062.99 for south of River Parkway which intersects with Landings Lane and \$47,225.43 for north of River Parkway. Klein Underground submitted a quote of \$23,323.75 for south of River Parkway and \$47,549.15 for north of River Parkway. Klein Underground did not use rebar in their quote while Accurate Concrete did. Rebar is not required or recommended by the city. The north side of River Parkway was listed as an alternate quote. The numbers were based on accurate square yardage quantities provided by Klein Underground. City staff calculated the square yardage of the sidewalk based on a survey of the property and added a five per cent increase. Exact quantities were allowed to be provided by the contractor. Geiger stated that the numbers used for the quotes should be those originally submitted by the contractors. He stated that the numbers shouldn't be adjusted. Mandt stated that city staff was trying to give the Council an accurate picture of the quotes using the actual square yardages. He stated that the Council could not do the north and south sides together without going out for bids, since the total amount was above the \$50,000 threshold for quotes. Another option would be to wait until Aug. 1, 2008 when the threshold will increase to \$100,000 for quotes.

GEIGER MOVED, MANN SECONDED A MOTION TO AWARD THE CONTRACT FOR THE SIDEWALK ON THE SOUTH SIDE OF RIVER PARKWAY TO KLEIN UNDERGROUND FOR \$23,323.75 WITHOUT THE NORTH SIDE ALTERNATE. MOTION CARRIED 5-0.

- D. Petition for services 800 Angel Ave. SE. Sewer is at the intersection of Angel Avenue and Landings Lane. Water is under the newly constructed Angel Avenue. All properties have a water stub connection to them. There is a sewer stub at 800 Angel Ave. SE but it is not connected nor is the property annexed. Staff recommends authorizing Bolton & Menk to conduct a feasibility study to install municipal services for properties along Angel Avenue including 760, 800, 840 and 880 Angel Avenue SW. Mandt stated that city staff will be putting together a funding statement for the property owner to sign before doing a public hearing.

GEIGER MOVED, MANN SECONDED A MOTION TO AUTHORIZE CITY ENGINEER BOLTON & MENK, INC TO CONDUCT A FEASIBILITY STUDY TO INSTALL MUNICIPAL SERVICES FOR PROPERTIES ALONG ANGEL AVENUE INCLUDING 760 ANGEL, 800 ANGEL, 840 ANGEL AND 880 ANGEL AVENUE. MOTION CARRIED 5-0.

8. CITY STAFF REPORTS

- A. City staff requested the addition of two streets on the 2008 street seal coating project. The two streets are Newton Avenue Northeast from County Road 20 to the Luce Line Trail and Newton Avenue Southeast from County Road 10 to Stevens Street. The change order will add \$4,218.80 to the awarded bid of \$43,910.50. This will still be under bidding requirements.

DUSKE MOVED, KING SECONDED A MOTION TO AWARD PEARSON BROTHERS THE CHANGE ORDER OF \$4,218.80 FOR THE TWO ADDITIONAL STREETS FOR THE 2008 STREET SEAL COATING PROJECT. MOTION CARRIED 5-0.

9. COMMITTEE REPORT

- A. Recommendation to approve Forest Hills Development Agreement for Sixth Phase. Foust presented changes for the agreement for the Forest Hills Sixth Addition. Staff recommended the Forest Hills Development Agreement 6th Addition contingent upon the calculations for park dedication and sewer/water area charges are correct. Duske stated that he didn't want the city signing off on Hawthorn Lane road or infrastructure until the road is complete.

GEIGER MOVED, KING SECONDED A MOTION TO FOLLOW CITY STAFF RECOMMENDATION TO APPROVE THE FOREST HILLS DEVELOPMENT AGREEMENT SIXTH ADDITION CONTINGENT UPON THE CALCULATIONS FOR PARK DEDICATION AND SEWER/WATER AREA CHARGES BEING CORRECT; COMPLETION OF ALL IMPROVEMENTS REQUIRED BY THE AGREEMENT ON OR BEFORE NOVEMBER 1, 2008, EXCEPT THE BITUMINOUS WEARING COURSE; AND THE ADDITION OF SECTION 19.03: HAWTHORN STREET NOT ACCEPTED DUE TO TEMPORARY NATURE. MOTION CARRIED 5-0.

- B. Planning Commission recommendation to approve Pool Ordinance changes and public hearing. City staff researched other city codes to determine the appropriate regulation for outdoor residential swimming pools. The Planning Commission recommended changes defining temporary vs. permanent pools, recommendations for fences, exceptions for above ground outdoor pools and enforcement.

McDonald recessed the Council meeting and opened the public hearing.

There was no public comment.

McDonald closed the public hearing and reopened the Council meeting.

MCDONALD MOVED, GEIGER SECONDED A MOTION TO ACCEPT THE CITY STAFF RECOMMENDATION TO APPROVE ORDINANCE 321 AMENDING SECTIONS 62-1 AND 62-477, SUBD. (c) (7) OF THE MUNICIPAL CODE OF WATERTOWN, MINNESOTA, PERTAINING TO DEFINITIONS AND ACCESSORY BUILDINGS AND STRUCTURES (SWIMMING POOLS-FENCING). MOTION CARRIED 5-0.

- C. Committee recommendation for Elementary School easement. Mandt presented four recommendations following an on-site meeting July 2, 2008 to review the as-built condition of the proposed drainage and utility easement across the new elementary school property. Mandt stated that the school district's attorney will submit a draft of the easement to the School Board Monday, July 21, 2008 and to the City Council Tuesday, July 22, 2008. He stated that the easement must be recorded for the sale of land east of the elementary school by Terry Hartman to Jerry Berg. Duske stated he didn't think the eight inch line is large enough for utilities when other developments have larger sized lines.

The four recommendations offered by the city staff for the easement were:

1. Existing school owned facilities within the easement are to be maintained and operated by the School District. The School District shall be responsible for making underground facilities so that they can be easily located in year-round conditions.
2. The City acknowledges that certain facilities have been constructed in the easement including curb and gutter, parking lot, gate post, sidewalk, soccer field, utility crossings and a geothermal vault. In the event that maintenance or construction work is performed on the City's water and sewer facilities within the easement, the city will specify that the existing facilities be protected. In the event that the school's facilities can not be protected due to the nature or location of the needed work, the school will be responsible for the cost of restoring its facilities.
3. In the event that excavation is needed for maintenance or construction of the City's water and sewer, the City will be responsible for restoration of turf, curb and gutter, and hard cover as necessary.
4. The School District acknowledges the existence of the easement and agrees that no additional encroachments will be made in the future. In addition, the school agrees to remove six existing trees from the easement.

GEIGER MOVED, KING SECONDED A MOTION TO APPROVE THE FOUR CITY STAFF RECOMMENDATIONS BE INCORPORATED INTO THE EASEMENT. MOTION CARRIED 4-1. DUSKE VOTED NAY.

10. **ATTORNEY'S REPORT**

11. **ENGINEER'S REPORT**

12. **MAYOR'S REPORT**

- A. McDonald reported that the street dance held at Luce Line Lodge was a success.

13. COUNCIL MEMBER'S REPORT

- A. Geiger stated that he hoped there would be no other road construction or trail closures for Rails to Trails Festival
- B. Geiger encouraged people to get wood chips from the Public Works compost site.

14. ADMINISTRATOR'S REPORT

- A. Mandt updated the Council on the round about that is to open next week at the intersection of Co. Rd. 10 and Hwy. 7.
- B. Mandt updated the Council and public on the improvements for Channel 12. Residents will soon be able to view council meetings on the city's web site.

15. FINANCE DIRECTOR REPORT

16. PLANNER REPORT

17. ADJOURNMENT

THERE BEING NO FURTHER BUSINESS THE MEETING WAS ADJOURNED AT 9:25 PM.

Respectfully Submitted,

ATTEST:

Steven Wallner
Clerk-Treasurer

K.J. McDonald
Mayor