

**MINUTES OF THE
WATERTOWN CITY COUNCIL
Regular Meeting Tuesday, September 22, 2009**

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, September 22, 2009** 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, Rick Mann, Steve Duske and Earline King. Council Member Jodi Martinez was absent.

The following staff members were present: City Engineer David Martini, Senior Planner Crystal Foust, Public Works Supt. Doug Kammerer and Acting Administrator/City Clerk-Treasurer and Finance Director Steven Wallner.

Also present were: Chelsey Rosetter, Arnie Esterbrooks, Steve Embretson and David Dalbec.

2. ADOPT AGENDA

Wallner asked to have Items 3G (Water shut off list), 3H (Resignation of Council Member Jodi Martinez), 3I (Approve temporary road closure for Royals River Triathlon) and 3J (Anthony Seipp easement) added to the agenda.

DUSKE MOVED, KING SECONDED A MOTION TO ADOPT THE AGENDA AS AMENDED. MOTION CARRIED 4-0.

3. REVIEW OF CONSENT AGENDA

- A. Council minutes for September 8, 2009 meeting
- B. Approval of Aug. 13, 2009 Planning Commission minutes
- C. Pay request City Attorney – Melchert, Hubert, Sjodin PLLP
- D. Pay request City Building Inspector – MNSpect, Inc.
- E. Approval of Commission on Aging voting members and terms of office
- F. Approval of Park Land Lease with Sonder, Inc
- G. Water Shut Off List
- H. Letter of resignation from Council Member Jodi Martinez
- I. Approve temporary road closure for Royals River Triathlon
- J. Approve Anthony Seipp easement

DUSKE MOVED, KING SECONDED A MOTION TO ADOPT THE CONSENT AGENDA AS AMENDED. MOTION CARRIED 4-0.

4. OPEN FORUM

5. CELEBRATE WATERTOWN

- A. Wallner acknowledged Chelsey Rosetter, 2007 graduate of Watertown-Mayer High School, who was attending the council meeting for a journalism writing assignment from the University of Minnesota. She was asked later in the meeting to give her impressions of the meeting and ask questions.
- B. Leon Fritzke was honored for his 20 years of service with the Public Works Department of the City. He received an engraved clock.

6. **NEW/OLD BUSINESS**

- A. Amendment to Forest Hills 1st Development Agreement

Foust stated that there are two items that are addressed in the amendment to the development agreement. The first being the replat of some single family lots associated with the first addition. The developer requested a refund for the park dedication fees associated with the elimination of one lot, which would equate to \$1679.01. Staff consulted with legal staff regarding the park dedication fee. The park dedication ordinance does not speak to whether or not a refund shall be given if a developer desires to replat and eliminate a lot. At the time of the replat, the developer had not addressed his concern about the refund of the neighborhood park and equipment fees. At this point, based on legal clarification from the city attorney, the Council would be able to retain the \$1679.01.

The second item is addressing the recalculation of the equipment fees. The signed Forest Hills Development Agreement for the first addition showed that the developer was to pay \$27,779.21 in equipment fees. The revenue account shows that the city received \$29,111.36 on May 8, 2006. This amount was in a draft development agreement based on 177 gross acres. The gross acres for Forest Hills are 171 acres. The change was reflected in the development agreement that was signed and executed in 2006. Staff recommended the account be readjusted to reflect the correct amount of \$1,332.16.

DUSKE MOVED, KING SECONDED A MOTION TO APPROVE AN AMENDMENT TO THE FOREST HILLS 1ST PHASE DEVELOPMENT AGREEMENT REFUNDING \$1,332.16 TO ROLLING GREEN, INC. MOTION CARRIED 4-0.

- B. Amendment to Forest Hills 3rd Development Agreement

Foust stated to the Council that the calculations in the development agreement for the third addition executed in 2006 used 10.41 acres for the entire plat including outlots for future phases. Based on the ordinance, the community park dedication and sewer area charge amount should be determined by the land not being platted into outlots for future phases in order to retain land for future subdivision. This allows the City to collect the dollar value for the community park dedication and sewer area charge when lots are actually being created. These fees are based on the fair market value of land, for park dedication and the utility rate study for the sewer area charge. Therefore, the ordinance was applied incorrectly and the calculation should have been based on 3.48 acres which is the lots and common area created in the third addition. The difference in the amount paid and the amount owed for park dedication is \$15,592.50 and

\$18,018 for sewer area charge. Park dedication fees, sewer area charges and all other applicable fees for Outlot A and Outlot D, will be collected when this area is subdivided into future phases.

Duske stated that he agreed with the money owed to the developer but he asked why it was being discussed years after the third phase was executed. Esterbrooks stated that the math checked out but the overcharge was in the way the ordinance was applied to the formula. He stated that the park dedication is a convoluted formula. Duske expressed his displeasure with the many small phases being implemented by the developer. Esterbrooks stated that the market has changed and has forced developers to do things differently to accommodate as many people as possible to keep developments going. McDonald stated that a mistake was made and now a fair settlement has been reached.

MCDONALD MOVED, KING SECONDED A MOTION TO APPROVE AN AMENDMENT TO THE FOREST HILLS THIRD PHASE DEVELOPMENT AGREEMENT REFUNDING ROLLING GREEN, INC AN AMOUNT EQUAL TO \$15,592.50 FOR PARK DEDICATION AND \$18,018 FOR SEWER AREA CHARGE. PARK DEDICATION FEES, SEWER AREA CHARGE AND ALL OTHER APPLICABLE FEES FOR OUTLOT A AND OUTLOT D OF FOREST HILLS THIRD ADDITION SHALL BE COLLECTED WHEN THIS AREA IS SUBDIVIDED INTO FUTURE PHASES. MOTION DIED ON 2-2 VOTE. MCDONALD AND KING VOTED AYE AND DUSKE AND MANN VOTED NAY.

Later in the meeting Dalbec stated that he was disappointed with the vote. Duske stated that he voted no because he needs to see documentation for the money being refunded and how the underfunded escrow account will be replenished. McDonald stated that the issue would be revisited at the next council meeting. Wallner stated that he would be calculating the escrow accounts this week and would have that information available for the meeting.

C. Forest Hills 7th Addition Final Plat

Foust stated to the Council that this phase of development consists of one 4-plex along Hawthorne Avenue. This was reviewed by the Planning Commission and City Council last summer as part of a sixth addition. The resident who is purchasing the first unit is requesting occupancy as soon as possible. The earliest that a building could be completed is February 2010. The developer has requested to complete the public improvements by June 30, 2010. The unit that has been sold has a sewer and water stub. The two units (one being sold and one being a model) will need a temporary certificate of occupancy. Each unit would need to provide adequate access in accordance with the International Fire Code. Each unit shall have a driveway 26 feet wide that can accommodate 75,000 pounds. The driveway will be maintained by the developer, including snow removal. No permanent certificate of occupancy will be issued until utilities, first lift, landscaping and private driveways are complete.

Any approval of Forest Hills 7th Addition shall be contingent on the following four items:

1. Hawthorne Lane shall be extended an additional 50 feet to the southeast in addition to what is shown on the plan, dated May 14, 2008, with a temporary turn-around, approved by the city engineer.

2. Sidewalks shall be constructed on the livable side only.
3. Development agreement for Forest Hills 7th Addition shall be approved by the City Council.
4. The two units constructed prior to completion of the public improvements will have temporary access off of Forest Hills lane with a Class V driveway, built to accommodate fire apparatus weighing at least 75,000 pounds and a minimum width of 26 feet in accordance with the International Fire code. The private driveway shall be maintained, including snow removal, by the developer or his/her designee.

Duske objected to giving full discounts (as per the incentive program) on units not being built until next year. Foust stated that discounts would apply when the building permit was issued.

DUSKE MOVED, KING SECONDED A MOTION TO APPROVE THE FOREST HILLS 7TH ADDITION FINAL PLAT PROVIDING THE FIRST UNIT SOLD RECEIVES SPECIFIED INCENTIVES FOR WATER, SEWER, STORMWATER TRUNK CHARGES AND BUILDING PERMIT FEES AND THE SECOND UNIT RECEIVES ONLY BENEFITS ON THE BUILDING PERMIT FEES.

There was some disagreement on the amount of the incentives that were approved at the May 12, 2009 council meeting regarding Forest Hills.

McDonald recessed the council meeting for five minutes while Wallner checked on the May 12, 2009 council minutes. When the meeting was reconvened, Wallner stated that the Council had approved a motion to set the trunk charge discounts at \$1,000 each for water and sewer, \$500 for storm water and reduce building permit fees by the city portion on 10 specified lots. Water, wastewater and storm water trunk charges would be deferred 90 days or when a certificate of occupancy is issued.

Embretson of Baton Homes stated that the city discounts were taken into account when he priced the two units. He stated that he doesn't mind paying up front for WAC and SAC charges with discounts and not waiting for the 90-day deferment. Foust stated that the builder has 180 days to act on the permit once it is approved. As long as there is continued action every 180 days, the permit can be extended. McDonald suggested the Council stay with the original staff recommendation and asked Duske if he would be willing to withdraw his motion. Duske stated that his concern was the delay this fall in getting water and sewer hooked up. Dalbec stated that he has six months to put in the water and sewer after paying WAC and SAC charges up front. Duske agreed to withdraw his motion.

DUSKE MOVED, MANN SECONDED A MOTION TO APPROVE THE FOREST HILLS 7TH ADDITION FINAL PLAT CONTINGENT ON THE FOLLOWING FOUR ITEMS: (1) HAWTHORNE LANE EXTENDED AN ADDITIONAL 50 FEET TO THE SOUTHEAST IN ADDITION TO WHAT IS SHOWN ON THE PLAN, DATED MAY 14, 2008, WITH A TEMPORARY TURN-AROUND APPROVED BY THE CITY ENGINEER; (2) SIDEWALKS SHALL BE CONSTRUCTED ON THE LIVABLE SIDE ONLY; (3) DEVELOPMENT AGREEMENT FOR FOREST HILLS 7TH ADDITION SHALL BE APPROVED BY CITY COUNCIL; (4) THE TWO UNITS CONSTRUCTED PRIOR TO COMPLETION OF THE PUBLIC

IMPROVEMENTS WILL HAVE TEMPORARY ACCESS OFF OF FOREST HILLS LANE WITH A CLASS V DRIVEWAY, BUILT TO ACCOMMODATE FIRE APPARATUS WEIGHING AT LEAST 75,000 POUNDS AND A MINIMUM WIDTH OF 26 FEET IN ACCORDANCE WITH THE INTERNATIONAL FIRE CODE. THE DRIVEWAY (CLASSIFIED AS A PRIVATE DRIVEWAY) SHALL BE MAINTAINED, INCLUDING SNOW REMOVAL, BY THE DEVELOPER OR HIS/HER DESIGNEE. MOTION CARRIED 4-0.

D. Forest Hills 7th Addition Development Agreement

Foust presented the Council with a list of items that have changed from previous development agreements and have been incorporated into the development agreement for Forest Hills 7th Addition. Duske had some changes for the agreement. He stated that the City will not accept any improvements to Hawthorne Lane between Forest Hills Lane and Balsam Lane until all improvements to Hawthorne Lane are fully completed and the access minimum width on Forest Hills Lane shall be 26 feet.

MANN MOVED, KING SECONDED A MOTION TO APPROVE THE DEVELOPMENT AGREEMENT FOR FOREST HILLS 7TH ADDITION INCLUDING CHANGES BY COUNCIL MEMBER DUSKE. MOTION CARRIED 4-0.

E. Discussion of Ordinances for Permitting Golf Carts within City of Watertown and Establishing a Fee

Council discussed this issue at two previous meetings. Staff researched questions that were asked during the meetings. Foust stated that the Carver County Attorney Office had informed her that at this point the county cannot permit golf carts on county roads, which means that golf carts would not be able to use Territorial Street to cross the bridge over the Crow River. No action was taken by the Council.

F. Public Hearing on Ordinance to Amend Design Standards – Metal Roofs

McDonald recessed the council meeting for the public hearing. There was no public comment.

McDonald closed the public hearing and reconvened the council meeting.

MCDONALD MOVED, KING SECONDED A MOTION TO ADOPT ORDINANCE 344 AMENDING CHAPTER 52 OF THE MUNICIPAL CODE REGARDING DESIGN STANDARDS BY AMENDING THE TEXT PERTAINING TO EXTERIOR MATERIAL SELECTION FOR BUILDINGS IN RESIDENTIAL DISTRICTS (METAL ROOFS). MOTION CARRIED 4-0.

7. **COMMITTEE REPORT**

8. **CONSULTANTS' REPORTS**

A. Engineer's Report

1. Project Update
2. Pay request Bolton & Menk, Inc.

KING MOVED, DUSKE SECONDED A MOTION TO APPROVE THE PAY REQUEST OF BOLTON & MENK, INC. FOR \$54,073.79. MOTION CARRIED 4-0.

9. MAYOR'S REPORT

10. COUNCIL MEMBERS' REPORTS

- A. Duske thanked Leon Fritzsche for his 20 years of service and Steven Wallner for his work with the Watertown-Mayer School Board and Operations Committee.

11. STAFF REPORTS

- A. Administrator's Report

1. Gas Franchise Agreement

Wallner presented the Council with options offered by Xcel Energy. One option included a fee for residents. The second option did not include language for a fee and the third option included language to permit a fee in the future. The consensus was to go with the third option. Wallner will work on a franchise agreement based on the opinions he received from the Council. He stated that Xcel is neutral on a fee but wants a franchise agreement.

- D. Finance Director

1. Request for approval of voucher list/claims roster

KING MOVED, DUSKE SECONDED A MOTION TO APPROVE THE VOUCHER LIST/CLAIMS ROSTER. MOTION CARRIED 4-0.

12. ADJOURNMENT

THERE BEING NO FURTHER BUSINESS THE MEETING WAS ADJOURNED AT 8:26 PM.

ATTEST:

Steven Wallner
Clerk-Treasurer

K.J. McDonald
Mayor