

**MINUTES OF THE
WATERTOWN CITY COUNCIL
Regular Meeting Tuesday, October 27, 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, October 27, 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, Earline King and Dan Geiger.

The following staff members were present: Senior Planner Crystal Foust, City Attorney David Hubert and Acting Administrator/City Clerk-Treasurer and Finance Director Steven Wallner.

Also present were: Dan Lonnes, Dale and Debbie Muhs, Steve Burns, Don Ketcher, Randy Ketcher, Kyle McDonough, Arlin and Carolyn Seashore, Karsten Anderson, John McCain, Therese Salonek.

2. ADOPT AGENDA

Wallner asked to have Item 6A pulled from the agenda and also asked to have Items 6D and 6E precede Item 6C on the agenda.

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

3. REVIEW OF CONSENT AGENDA

- A. Council minutes for October 13, 2009 meeting
- B. Council workshop minutes from October 13, 2009
- C. Planning Commission minutes from September 10, 2009
- D. Request for waiver of Community Center rental fee for health seminar on November 19, 2009
- E. Pay request from City Building Inspector – MNSPECT, Inc.
- F. Pay request from City Attorney – Melchert, Hubert, Sjodin, PLLP

MANN MOVED, GEIGER SECONDED A MOTION TO ADOPT THE CONSENT AGENDA. MOTION CARRIED 5-0.

4. OPEN FORUM

5. CELEBRATE WATERTOWN

- A. Wallner informed the Council that the Sheriff's Office had apprehended the burglars in connection with the numerous burglaries in Watertown.

6. NEW/OLD BUSINESS

B. Carter Street Street Vacation and Easement Discussion

Foust explained to the Council that in 2003 the Council received a petition and approved a resolution to vacate a portion of Carter Street from Angel Avenue to Lewis Avenue and as a result a 20-foot easement was granted to the city by the property owners at 116 and 200 Angel Avenue Northwest. The easement was given for the purpose of installing, maintaining and improving drainage, utilities, walkway or pathway. Arlin Seashore (200 Angel Ave NW) had asked the city to vacate Carter Street to add onto his house. He stated that the city would not give him a variance. McDonald continued by stating he had received a call from a resident (112 Angel Ave NW) who was unable to access his backyard because he was landlocked unless he went through his neighbor's yard. The easement did not allow for other property owners to access the alley. McDonald stated that the resident has asked to have the easement adjusted to allow access to the alley.

Don Ketcher stated that he inherited the property at 112 Angel Ave NW from his aunt and uncle about seven years ago and didn't know about the street vacation. He said his son, Randy, has been living in the house for the past two years. Arlin Seashore (200 Angel Ave. NW) stated that he allowed Randy to use the area of the easement on occasion to get to his backyard but that Randy abused the privilege and he told Randy that he couldn't use that area anymore. Dale Muhs stated that he is closing on the property at 116 Angel Ave NW, which previously was owned by his parents. He stated that he had no problem with the easement and would allow Randy to use the easement area to remove a freezer from his father's house. Randy stated that in the times he drove on the area of the easement he tried to be careful. He believes the access to Carter Street should not have been taken from his family.

McDonald stated that having no access affects the use of the property when sold. He stated that the city should help by putting something in writing for the new owners of the vacated street so that everyone understands. He suggested a written proposal to expand the present access to allow for specific purposes. Geiger stated that if there is a way to provide an access to the alley for the other property owners it should be done. McDonald suggested that the city attorney prepare language within an easement for property owners in the future. Mann stated that he was not in favor of the city getting involved in an issue that should have been handled by a neighborly agreement. Duske agreed that he would rather have neighbors work out their differences. He stated that if the city hires an attorney to work this out he doesn't believe the city should pay for the expense.

McDonald asked Seashore if he would be willing to sit down with his neighbors and allow them to work out an agreement to use the access. Seashore stated that he would think about it. No decision was made by the Council. McDonald stated that the issue would be taken under advisement.

D. Recommendation to Approve Wilson Development Services Proposal for County Road 20 Right-of-Way Acquisition

It has been determined by the city and county that two parcels located along Co. Rd. 20 need to be acquired in full to facilitate the geometric alignment of the reconstructed roadway. The city has been informed by the county that they will pay for 50% of the acquisition costs for the two parcels: 12390 Co. Rd. 20 and 401

Territorial Street East. In a letter to the Council, City Engineer David Martini recommended that the city hire Wilson Development Services to work with Bolton & Menk, Inc. to provide appraisal, acquisition and relocation assistance for the two parcels. Wilson Development Services charges for the actual time provided up to the maximum not exceed amount. If the city decides to use eminent domain to ensure the purchase of property, a minimum compensation damage report will also be necessary.

McDonald asked if the city could reduce its costs by negotiating directly with the property owners. Duske stated that the city doesn't have the manpower and this needs to be taken care of as soon as possible. Wallner suggested that Wilson do the appraisals and then representatives of the city could work with the property owners to come to an agreement on a price and Wilson could complete the necessary paperwork. Geiger stated that he would feel more comfortable to have Wilson do all the work.

DUSKE MOVED, KING SECONDED A MOTION TO ACCEPT WILSON DEVELOPMENT SERVICES PROPOSAL TO PROVIDE APPRAISAL, ACQUISITION AND RELOCATION ASSISTANCE FOR TWO PARCELS ASSOCIATED WITH THE COUNTY ROAD 20 RIGHT-OF-WAY ACQUISITIONS. MOTION CARRIED 5-0.

E. Recommendation to Approve County Road 20 Scope and Layout

Wallner presented the scope and layout of the proposed reconstruction of County Road 20 as prepared by Martini in a letter to the council, following a council workshop October 20. Wallner stated that eight considerations were presented at the meeting along with the possibility of a pedestrian underpass from Forest Hills to the elementary added to the scope of the project. Wallner stated that a final decision on an underpass (culvert) would be made at a later time. Representatives of the Watertown-Mayer School District and Board were in attendance at the meeting. School Board Member John McCain stated that he was glad to see the Council was willing to consider a box culvert in the scope of the project. School Board Member Steve Burns presented a proposal he had received from Widmer Construction for a 12x12 foot box culvert for \$121,983. Geiger asked the Council if they would consider not installing the pathway between Paul Avenue and the fire station and put that money toward a culvert under Co. Rd. 20. Duske disagreed and stated that the pathway is needed for residents and families for their safety.

MANN MOVED, KING SECONDED A MOTION TO APPROVE THE COUNTY ROAD 20 SCOPE AND LAYOUT INCLUDING THE POSSIBILITY OF A PEDESTRIAN UNDERPASS AND AUTHORIZE BOLTON & MENK TO PROCEED WITH PROJECT DEVELOPMENT TASKS. MOTION CARRIED 5-0.

C. Planning Commission Recommendation to Approve Floodplain Ordinance

Since the adoption of the city's 2030 Comprehensive Plan, staff has been preparing various ordinance revisions for review by the Planning Commission and City Council. Foust stated that among those needing a revision was the Floodplain Ordinance. The changes have been made in order to become consistent with the DNR Floodplain Model Ordinance. In the floodplain district (Section 62-655) language was changed to require a conditional use permit for fill in excess of 100 cubic yards instead of 1,000

cubic yards for existing lots within the flood fringe district. Additional language was added to read that no new subdivision of land shall occur which creates a lot extending into a delineated floodplain. Section 62-652(b) was updated to incorporate all the Letter of Map revisions that have taken place since the last adopted floodplain ordinance in 2003. These revisions will be established in the city's official zoning map after adoption of the new ordinance. Geiger stated that he would rather see 500 cubic yards instead of 1000 cubic yards as a minimum to require a conditional use permit.

GEIGER MOVED, DUSKE SECONDED A MOTION TO ADOPT THE FLOODPLAIN MANAGEMENT ORDINANCE WITH THE REQUIREMENT OF A CONDITIONAL USE PERMIT FOR FILL IN EXCESS OF 500 CUBIC YARDS FOR EXISTING LOTS WITHIN THE FLOOD FRINGE DISTRICT. MOTION CARRIED 5-0.

7. COMMITTEE REPORT

8. CONSULTANTS' REPORTS

- A. Engineer's Report
 - 1. Project Updates
 - 2. Pay Request from City Engineer – Bolton & Menk, Inc.

GEIGER MOVED, KING SECONDED A MOTION TO ACCEPT THE PAY REQUEST FROM CITY ENGINEER BOLTON & MENK, INC. IN THE AMOUNT OF \$86,410.05. MOTION CARRIED 5-0.

9. MAYOR'S REPORT

- A. McDonald asked city staff to write a letter of thanks to the Carver County Sheriff's Office to thank them and all officers involved in the apprehension of the burglars who had burglarized several homes over the past few weeks.

10. COUNCIL MEMBERS' REPORTS

- A. Geiger stated that the businesses downtown will be handing out candy for Halloween on Friday, Oct. 30. This is an annual event sponsored by the Watertown Chamber.

11. STAFF REPORTS

- A. Administrator's Report
 - 1. Wallner stated that he had sent a copy of upcoming meetings for council members to review.
- B. Community Development Report
 - 1. Tuscany Village Certificate of Occupancy

Foust stated that she has had numerous calls recently about property in Tuscany Village. She stated that requests for certificates of occupancy are being submitted to the Council because of the issues connected with Tuscany Village. She asked the Council for authorization to work with each unit and

asked if the Council was interested in issuing a certificate of occupancy and require an escrow account be established for any outstanding work. Each unit is at a different stage of development. Foust stated that she has a request for a certificate of occupancy for a unit on Sienna Drive which has been cleared with MNSPECT and only has landscaping left to complete. She suggested the city collect an escrow amount to the landscaping, which would be completed next year due to the lateness of the growing season this year. Wallner stated that the city is seeing positive movement in Tuscany and there is hope that a developer will finish the rest of the project. Geiger stated that he remembered last year when the building inspector said no certificate of occupancy should be given until the unit is completely finished. He stated that unfinished landscaping should not hold up a certificate of occupancy if everything else is finished on the unit. King and Mann agreed. Duske stated that he has many concerns about the units in Tuscany Village which go back to the beginning of the development. He stated that no certificates of occupancy should be given until the development is done. He also was concerned about the Tuscany Village escrow account having a deficit and he didn't want to help Lakeland in any way. Wallner stated that Richard Lerew of Lakeland Construction told him that he would put up \$9,000 for landscaping and street improvements for each unit. Wallner stated that he didn't have anything in writing concerning this commitment.

DUSKE MOVED TO TABLE THE ITEM. THE MOTION FAILED ON A 4-1 VOTE.

DUSKE MOVED, KING SECONDED A MOTION TO POSTPONE THE ITEM UNTIL THE NEXT COUNCIL MEETING (TUESDAY, NOVEMBER 10) AND ALLOW THE CITY STAFF TO WORK WITH RICHARD LEREW OF LAKELAND CONSTRUCTION ON GETTING THE ESCROW BALANCED AND SETTING ESCROW ACCOUNTS FOR OTHER IMPROVEMENTS. MOTION CARRIED 5-0.

D. Finance Director

1. Request for approval of voucher list/claims roster

MANN MOVED, GEIGER SECONDED A MOTION TO APPROVE THE VOUCHER LIST/CLAIMS ROSTER. MOTION CARRIED 5-0.

12. ADJOURNMENT

THERE BEING NO FURTHER BUSINESS THE MEETING WAS ADJOURNED AT 8:43 PM.

ATTEST:

Steven Wallner
Clerk-Treasurer

K.J. McDonald
Mayor