

**MINUTES OF THE
WATERTOWN CITY COUNCIL
Regular Meeting Tuesday, November 24, 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, November 24, 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: City Engineer David Martini of Bolton & Menk, Inc., Senior Planner Crystal Foust and Acting Administrator/City Clerk-Treasurer and Finance Director Steven Wallner.

Also present were: John VanTassel, Mark Mangels, Michelle Swanson, Darren Lazan, Richard Raymond, Tom Burandt and Don Hendricks.

2. ADOPT AGENDA

Wallner asked to have Item 6A switched to 6B with a new Item 6A (Letter from Landform about Tuscany Village) added to the agenda. He also asked to have Item 8A-3 (Storm water irrigation at Evergreen Park) added to the agenda. He stated that Item 3C had a change in the wording of the agreement.

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

3. REVIEW OF CONSENT AGENDA

- A. Council Minutes for November 10, 2009 meeting
- B. Approve 2010 Business License Renewals
- C. Joint Powers Agreement for Highway 25 Project
- D. Pay request from City Building Official – MNSPECT, Inc.
- E. Pay request from City Attorney – Melchert, Hubert, Sjodin
- F. Approve Park Commission resignation and reappointments
- G. Approve Planning Commission resignation and reappointments
- H. Certification of Delinquent Utilities and Code Enforcement

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

4. OPEN FORUM

- A. Don Hendricks was representing his brother who is interested in property in Tuscany Village. He was told that he could speak to this issue which was on the agenda as Item 6A.

5. CELEBRATE WATERTOWN

- A. Wallner mentioned that the local businesses are having open houses Friday, Dec. 4 and that there would be a tree lighting ceremony that evening. King stated that the Watertown Area Historical Society would be having a display and entertainment in the skyway Nov. 4. Wallner also mentioned that Santa Day would be Saturday, Dec. 5 at City Hall.

6. **NEW/OLD BUSINESS**

- A. Letter from Landform as development manager for Lakeland Construction Finance

Darren Lazan, principal/owner of Landform, stated to the Council that his company is authorized to negotiate on behalf of Lakeland Construction Finance to move the Tuscany Village project toward completion. Lazan stated that Lakeland has limited financial ability to meet the obligations negotiated by the original developer. He stated that in order to free up additional funds to finish the project, it is necessary to sell existing units to generate proceeds and convince the senior lenders to re-invest in the project. He stated that Lakeland was forced to step in due to the default of the original developer. Lakeland has since gone into receivership and the lender (Bank of Scotland) has put Lakeland on limited resources.

Lazan proposed a two phase program. Phase I consists of selling the existing nine units and Lakeland will agree to make a deposit of \$10,514.62 to bring the escrow deficit balance to zero. The city would issue building permits and certificates of occupancy as the units are completed and meet current building codes. Lakeland would deposit \$9,900 per unit in a separate escrow account to cover landscaping (\$1,200 per unit) and the final lift of asphalt (\$8,700 per unit). Under Phase II Lakeland would address the remaining issues including making a new application for an amendment to the current PUD or a new PUD, a new escrow fund for review of the revised documents and construction schedule.

Duske stated that Lakeland should pay an additional \$15,000 into the escrow account to cover additional charges covered by the city (including engineering). Duske stated that he is frustrated with the way Lakeland has handled the development. He stated that Lakeland had a letter of credit from which the city could not draw any money. He also stated that there were contractors who had not been paid. Duske stated that he had no compassion for the way Lakeland treated the city. Lazan stated that if Lakeland can show there is progress being made, the lender would be willing to loosen the purse strings.

Geiger stated that he was concerned the numbers proposed for the escrow account would not cover the landscaping and final asphalt lift. He stated that he would like to see more detail on the escrow amounts and how the estimated costs were derived. He stated that he didn't want people buying the units without knowing that there may be an assessment.

McDonald agreed with Geiger and Duske but also stated that the benefits of the Landform proposals will outweigh the risks. He also agreed with Geiger that before the city provides any certificates of occupancy, the potential buyer must be informed of possible future assessments.

Hendricks and Burandt spoke to the Council about their situations in Tuscany Village as they related to the discussion on this item.

DUSKE MOVED, GEIGER SECONDED A MOTION TO AUTHORIZE THE CITY ATTORNEY TO CREATE A BINDING CONTRACT WITH REPRESENTATIVES OF LANDFORM AND LAKELAND CONSTRUCTION FINANCE WITH REGARD TO MOVING TUSCANY VILLAGE TOWARD COMPLETION.

MCDONALD MOVED, GEIGER SECONDED AN AMENDMENT TO THE ORIGINAL MOTION STATING THAT THE CITY ATTORNEY FEES ASSOCIATED WITH THE BINDING CONTRACT IN THE ORIGINAL MOTION BE PAID BY LANDFORM.

THE AMENDMENT AND ORIGINAL MOTION EACH CARRIED 5-0.

B. Xcel Energy Gas Franchise Ordinance

The City does not desire Xcel to collect a franchise fee from its customers in the city at this time. If in the future the City desires Xcel to collect a franchise fee, the City may give Xcel notice to amend this franchise ordinance to authorize collection in an amount and upon terms and conditions as Xcel is willing to incorporate in its gas franchise ordinance with other cities.

MCDONALD MOVED, GEIGER SECONDED A MOTION TO ADOPT ORDINANCE 346 (GAS FRANCHISE ORDINANCE) WITH XCEL ENERGY. MOTION CARRIED 5-0.

7. **COMMITTEE REPORT**

A Collaborative Committee

The Council was asked if they saw any projects that the City should collaborate with the Watertown-Mayer School District to save money. Geiger stated that he has seen this done in Chaska where he works and would agree to it here as long as the cost was not excessive. King asked if the City had enough people to coordinate collaboration with the school district on projects. Duske stated that he didn't think there were any projects for collaboration except for policing. He stated that there are businesses in the private sector that need these jobs to survive. McDonald stated that he didn't think the City was equipped to handle the school facilities for snow removal in addition to the public streets and city property. McDonald stated that there didn't seem to be enough interest for collaboration except for policing.

8. **CONSULTANTS' REPORTS**

A. City Engineer

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

GEIGER MOVED, MANN SECONDED A MOTION TO APPROVE THE PAY REQUEST FROM BOLTON & MENK, INC. IN THE AMOUNT OF \$46,080.48. MOTION CARRIED 5-0.

3. Storm Water Irrigation at Evergreen Park

Martini stated that the City could apply for funds from Soil & Water resources to pay for storm water pond irrigation of the fields at Evergreen Park. A pond will be installed in Evergreen Park as part of the reconstruction of Co. Rd. 20. Duske stated that he was concerned about the cost to the city. He stated that none of the infields have grass. Geiger agreed with Duske and stated that he didn't see a need for irrigating the fields. Duske did state that he wanted Martini to include him on the discussion of where the pond would be located.

9. **MAYOR'S REPORT**

A. McDonald read a number of items relating to taxes and debt as stated by Thomas Jefferson.

10. **COUNCIL MEMBERS' REPORTS**

A. King stated that she had attended the Watertown-Mayer Community Ed Advisory meeting and walking audit conducted by the county and city planner Foust.

B. Geiger stated that he had been to the county meeting where the Evergreen pond was discussed.

11. **STAFF REPORTS**

D. Finance Director

1. Request for approval of voucher list/claims roster

GEIGER MOVED, KING 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 8:19 PM.

ATTEST:

Steven Wallner
Clerk-Treasurer

K.J. McDonald
Mayor