

WATERVILLE CITY COUNCIL
REGULAR COUNCIL MEETING
November 5, 2015, 8:00 P.M.

There was a regular meeting of the Waterville City Council held in Council Chambers at 7:00 p.m. on November 5, 2015.

Present: Vail, McIntyre, Wollin, Schmidtke and Mayor Mihalik

Absent: None

Also Present: Administrator/Clerk Teresa Hill, Jason Femrite of Bolton & Menk, and City Attorney Jason Moran

Also Absent: None

1. Call to Order. Mayor Mihalik called the meeting to order at 8:00 p.m., noting that all Council members were present. Also present were Teresa Hill, Administrator/Clerk, Jason Femrite of Bolton & Menk and Jason Moran, City Attorney. Pledge of Allegiance was recited.

2. Approval of Minutes – October 1, 2015 Public Hearing, October 6, 2015 Regular Meeting and October 16, 2015 Special Meeting. Motion by Schmidtke seconded by McIntyre to approve the minutes of the October 1, 2015 Public Hearing, October 6, 2015 Regular Meeting and October 16, 2015 Special Meeting. Unanimous vote. Motion carried.

3. Approval of Agenda/Additional Items to Agenda. Motion by Mihalik, seconded by Wollin to approve the agenda. Unanimous vote. Motion carried.

4. Written Petitions, Requests, Etc. –

A. Resolution 2015R-043 Variance Request – Joe Manders. Joseph Manders, 27135 Hickory Ridge Drive, Elko MN 55020 applied for the following variances: (1) a rear yard setback variance of 10 feet allowing for a 15 ft. rear yard setback; (2) impervious surface variance of 3,630.75 sq. ft. to allow for 20,476 sq. ft. of impervious surface; and (3) flood fill extension regulation variance of 5 ft. allowing for 10 ft. flood fringe fill extension along the east and west sides of the proposed garage to construct a 40'x30' garage. Current zoning allows for a 25 ft. rear yard setback, impervious surface no greater than 25% of the lot size and flood fringe fill must extend 15 ft from the structure into the yard. The existing property is currently zoned R-2 Medium density residential, shoreland and flood plain with the following legal description: Parcel ID #24.495.0419, 419 Lind Street, CIC #27 Tetonka Estates Unit 419 & limited common area of 1/5 interest in common area. Mr. Manders was present at the Council meeting. Mr. Moran reviewed the variance request. Mr. Moran said he had some concerns about the drainage. The only thing that Mr. Moran said he would add to the resolution is a condition which he will call condition #7 that Mr. Manders or his successors and interest meaning anyone that would purchase your property from you in the future would agree to indemnify and hold the City of Waterville harmless if any of your neighbors decided to try to sue the City as a result of the placement of this structure on your property. Mr. McIntyre asked Mr. Manders if he was going to build the floor the same level as the other garage that he is going to be next to so that the water will go to the back so they will be at the same level. Mr. Manders said it will be exactly the same as the Myers garage that was started a couple of weeks ago. Mr. Moran said that the indemnification #7 would read that Mr. Manders and his successors and interest would indemnify and hold the City of Waterville harmless from any and all liability associated with issuance of the variance. Motion by Wollin, seconded by McIntyre to adopt Resolution 2015R-043 with the additional item #7 that Mr. Manders, his successors and interest would indemnify

and hold the City of Waterville harmless from any and all liability associated with issuance of the variance. Unanimous vote. Motion carried.

B. Street Light Request – Hwy 13 and Paquin Street. Ms. Hill said she had a resident come in and said that we should take a look at increasing the lighting by the school on Highway 13 and Paquin. When it gets dark out it is hard to see the kids when they pass there. The individual requested additional lighting at that location. Discussion held regarding the lighting on Hwy 13 and Paquin Street and the turning lanes which are being used as passing lanes. Ms. Vail said we need to look at the lighting and the crossing issues and try to obtain a grant. Motion by McIntyre, seconded by Schmidtke to direct Ms. Hill to look at what it would be to put a proper light facing the right ways crossing from Paquin over Highway 13. Unanimous vote. Motion carried.

5. Unfinished Business

A. Resolution 2015R-044 Accepting Truck Bid. Mayor Mihalik said a quote was obtained to repair the truck. The quote was \$30,000. Discussion held regarding having the truck replaced or repaired. Mr. Schmidtke suggested obtaining a used truck. Discussion held. Ms. Hill said the principal and interest payment was factored into the budget. Discussion on how long the truck would last with the repairs. Each Council member gave their opinions regarding the repair of the truck, purchase of a used truck, and purchase of a new truck. Motion by McIntyre, seconded by Wollin to adopt Resolution 2015R-044 accepting the truck bid of Nuss Truck & Equipment in the amount of \$91,090.97. Voting for: Mihalik, Wollin, Vail, McIntyre; Voting against: Schmidtke; Motion carried.

B. Resolution 2015R-045 Accepting Truck Equipment Bid. Motion by McIntyre, seconded by Wollin to adopt Resolution 2015R-045 to accept the Truck Equipment Bid. Voting for: Mihalik, Wollin, Vail, McIntyre; Voting against: Schmidtke; Motion carried.

C. Authorization to obtain finance for Truck and Equipment. Ms. Hill said Council was handed a Resolution 2015R-051 approving the authorization for the issuance of General Obligation Equipment Certificates of Indebtedness, Series 2016A. Ms. Hill said this is the resolution that we will need approved to go forward with the purchase of the truck and equipment. Motion by McIntyre, seconded by Mihalik adopt Resolution 2015R-051 approving the authorization for the issuance of General Obligation Equipment Certificates of Indebtedness, Series 2016A. Voting for: Mihalik, Wollin, Vail, McIntyre; Voting against: Schmidtke; Motion carried.

D. Second Reading Ordinance 153.01 Establishing the State Building Code. Mayor Mihalik said this is the second reading and is not a motion to adopt the state building code. Mr. Schmidtke asked if Council will go over the questions that were asked at the Public Hearing. Mayor Mihalik said we will he is going to make a recommendation to table the next item until we have. Motion by Mihalik, seconded by Wollin to accept the second reading of Ordinance 153.01 establishing the state building code. Unanimous vote. Motion carried.

E. Consideration for the adoption of Ordinance 153.01 establishing the state building code. Mayor Mihalik said we just had the public hearing, there were a lot of great comments and he has heard a number of comments in between the meetings as well, but there is also a lot of questions we owe answers both to ourselves and the citizens. Mayor Mihalik said he would like to make a motion to table letter 5E the consideration for adoption until we have answers to all the questions and then put it back up for discussion and vote. Motion by Mihalik,

seconded by Wollin to table consideration for the adoption of Ordinance 153.01 until we have the answers to the questions from the citizens. Unanimous vote. Motion carried.

F. Casey's Building Donation – Jason Moran. Mayor Mihalik said as everyone knows Casey's came to the City saying that they were anticipating demolishing what was known as the Gilligan's building. As a City we started to explore if this is something the City would like to acquire. We had discussions on all kinds of uses for the building. There were concerns over the parking. The property lines were defined and marked. The property lines are a lot closer than he had anticipated them being. Mayor Mihalik said he asked Mr. Femrite to give Council some idea of what it would cost to create parking. Mr. Femrite brought to us a proposal of where parking can be. The cost for both parking near the lift station and as well as a road to access the building came to approximately \$214,000. Mr. Femrite discussed the parking situation. Discussion held by Council regarding the Casey's building donation. Motion by Mihalik, seconded by Vail that we discontinue the pursuance of the Casey's building donation and that we inform Casey's that due to parking restrictions we are going to be declining their offer and declining Resolution 2015R-046. Unanimous vote. Motion carried.

G. Rental Inspection Ordinance. Mayor Mihalik said we have had numerous public discussion regarding the rental inspection ordinance. We are not at the point of whether or not we would like to adopt the rental inspection ordinance or have a discussion on that. Mayor Mihalik said the rental inspection ordinance was originally championed by Chief Chris Meskan. Mayor Mihalik said he has not heard from Chief Meskan on where he is at with the public opinion and he does not believe he was at the public hearings. Mayor Mihalik said that being said in the absence of the champion for this he would like to hear from Council on their opinion on what we should do with this. Mr. Schmidtke said he thought the ordinance looks okay and is in favor of a rental inspection ordinance. Discussion regarding the insurance inspection meeting the same requirements. Mr. Schmidtke inquired if the rental inspection ordinance has been run by the State Fire Marshall's office. Mr. Moran said this version has not. The four changes that were made would not affect the State Fire Marshall. The rental inspection ordinance is the minimum requirements of the state fire code. Mr. Wollin said he likes the changes and would be for the rental inspection ordinance. Mr. McIntyre said he likes the good changes that Mr. Moran put in the rental inspection ordinance. Ms. Vail said she would agree also. She thinks the public hearings we had very good input from the public. She would be in favor of this. Mayor Mihalik said he believes we have addressed all the concerns that the citizens had. A couple of questions he still has is that there is not an official document of what the inspector would use to go and inspect. There is not a checklist. Discussion regarding on what the public is expecting to be inspected. Mr. Schmidtke asked if the State Fire Marshall said that any of the items can be removed. Mr. Schmidtke would like to have this run by the State Fire Marshall. Mayor Mihalik said he would like to offer a suggestion. Two of the concerns were the cost and we don't have a defined cost of the rental inspection. Without the adoption of the State Building Code he believes by default the fire chief is the inspector. We have not determined what that cost is, would that just be the hourly rate of the fire chief or is there a set fee for that. And another concern was the frequency of the inspection. Mayor Mihalik suggested that if this is something that we would ultimately pass if after 12 months if there was less than a 5% discrepancy rate or less than a 10% discrepancy rate the whole thing would sunset and go away. Because if there is not a problem and we do the rental inspections in 2016 and in fact we don't have fire code issues then let the rental inspections go away. The other option is let the City pay for a portion if not all the rental inspections for the first year so it is not an expense and no one incurs a cost for 2 years. Ms. Vail said she would like to see addressed what is grandfathered in. Ms. Hill said you could project the rate schedule. Discussion held regarding

the revisions to the rental inspection ordinance. Mayor Mihalik said he would like to have the State Fire Marshall review the rental inspection ordinance. Mayor Mihalik said he would like Council to consider his thoughts on the cost for 2016 and his thoughts on sun setting the program if there are no concerns. Motion by Mihalik, seconded by Schmidtke to table the rental inspection ordinance to the December meeting. Unanimous vote. Motion carried.

6. Citizen Time (Comments, Information from those present) -

A. Jennifer Grobe, 409 Harmon Street said she was just wondering if Council could address the necessity of having 15 lights on the City shop at night. Mayor Mihalik said the lights are on at the City shop for security purposes. Ms. Grobe said 15 of them? Mayor Mihalik said he does not know how many there are. He asked that very same question and he did ask Ms. Hill about that about a month ago. Ms. Grobe said she thinks that is a little overkill.

B. Curt Gold, 600 Tetonka View Drive was wondering if Ms. Hill has heard back from any of the electric companies about the placement of lights on Tetonka View Drive. Mayor Mihalik said we have not, that originally was going to be on the agenda but it was taken off because we have not heard back.

C. Dave Arnold, 604 Tetonka View Drive said he is wondering where we are at so far on the road out there. Have we went ahead with anything as far as getting some bids maybe for next spring and that type of thing and what is our plan for doing that. Mayor Mihalik said we just finished the 2016 budget that will go for approval next month. Once that is over we can start to take a look at what needs to be done out of capital expenditures. He would hope that would come up in January once we get past 2015 for the budget. Mr. Arnold asked if it would be on the 2016 budget. Mayor Mihalik said it would all depend on the cost would be, he cannot answer that right now. Mr. Arnold said so we haven't done anything as far as knowing what the cost might be. Mayor Mihalik said he believes we talked when we last had this discussion and in January we were going to explore having getting some quotes. Nothing has been done yet. Mr. Arnold said the road has been really really good. It has held up really well. That is good we appreciate that. We would like to make sure we get it in the budget for next year so we can go ahead with that. It has been a sore spot for a long time and he appreciates it.

D. David Verschoor, 506 North 1st Street. Mr. Verschoor said the business of this museum kind of took him by surprise as an ex-Elysian resident having seen the convulsion that have been caused by that. Who decided there should be a museum here, was that a Council matter. Mayor Mihalik said Council discussed it, absolutely. Mr. Verschoor said did the Council discuss a budget for it? Mayor Mihalik said no we haven't discussed a budget for it. Mr. Verschoor said he sees display case purchase approval. Mayor Mihalik said that is a discussion we are going to have a little later on the agenda. Mr. Verschoor said but you don't have any idea what the museum is going to cost the taxpayers start to finish. We are going to have a museum it is going to cost this much. Mayor Mihalik said no not yet. Mr. Verschoor said okay that is going to happen in the future before money is spent on things. Is there going to be some kind of plan for this museum that is going to take from an idea through fruition. What is it going to do for the town. We have transparency in the Council proceedings, we need to know exactly where some of this money is coming from, where it is going and how it is going to benefit us. Same, same the tajmahall, same same the rain garden. He has never been able to find a number on what the City Garage costs, what the rain garden costs. Was it granted, did the money fall from the sky? He thinks we just need more transparency with what you guys decide to do with the Citizen's money. Mayor Mihalik said thank you sir.

7. New Business.

A. Resolution 2015R-047 Supporting Members of Law Enforcement and Fire Department Personnel. Mayor Mihalik said there has been a rash of police officers, firefighters who have been ambushed in the course of duty for no reason at all but because of who they are. Mayor Mihalik said he considers the firefighters and police officers another part of our armed forces in what they do for this country. As a grass roots effort a couple of cities would like to pass a resolution showing their support for law enforcement and asking for federal legislation identifying this as a hate crime and calling for bullet proof vests and other safety equipment and it is time for cities to step up and say we are not going to take it. Also a firefighter has been ambushed and killed. Mayor Mihalik said he is asking Council to approve Resolution 2015R-047 showing our support and identifying to our legislators that we need something to be done. Identify this as a hate crime, provide the safety equipment and do what is right for those who protect our country. Motion by Mihalik, seconded by Wollin to adopt Resolution 2015R-047 supporting our members of Law Enforcement and Fire Department personnel not just here in Waterville but across the country. Unanimous vote. Motion carried.

B. Public Hearing on 2015 Delinquent Utility Assessments. No one addressed Council.

C. Resolution 2015R-048 Adopting 2015 Delinquent Utility Assessments. Motion by Vail, seconded by Schmidtke to adopt Resolution 2015R-048 adopting the 2015 delinquent utility assessments.

D. Resolution 2015R-049 Authorizing transfer to short lived asset reserves. Mayor Mihalik said that Ms. Hill said this is a requirement from Rural Development basically taking funds out of non-designated account to a designated account. Motion by McIntyre, seconded by Mihalik to adopt Resolution 2015R-049 authorizing transfer to short lived asset reserves. Unanimous vote. Motion carried.

E. Resolution 2015R-050 Resolution accepting Donations – Joseph Kabes. Council received a very generous donation for \$1,000. \$500 for the Police Department and \$500 for the Fire Department from Joseph Kabes. Mayor Mihalik said he would like to extend his thank you to Mr. Kabes. Motion by Mihalik, seconded by McIntyre to adopt Resolution 2015R-050 accepting donations. Unanimous vote. Motion carried.

F. Display Case Purchase Approval – Mayor Mihalik. Mayor Mihalik said he is bringing this to Council. A couple of months ago we approved repurposing the Senior Center to a Waterville museum. There are a number of donators some of a small donation and some of very large donations who would like to donate to a museum here in the City. As you remember we also authorized Mr. Moran to incorporate as a non-profit for this. Mayor Mihalik said he did speak with the shop teacher at WEM. In order to build display cases for the museum for the donations that people are asking to donate. For a 75 foot display cases 3 feet high 2 feet out that comes with the tempered glass that would be installed in Waseca, the cost for 75 foot display cases is just short of \$5,000. Mayor Mihalik said he is asking Council to approve the \$5,000 and then as the museum would start to collect financial donations the first \$5,000 would go to pay back the City for the cost of the display cases. Discussion held regarding where the \$5,000 would come from. Mayor Mihalik said the general fund. Mr. Schmidtke said let's get some ideas of where this is going and get some costs, then decide what we are going to do. Mr. Wollin said he does think a budget would be a good idea. Ms. Vail said if you look at the fund raiser idea it gets people excited about as we present a concept to them. Ms. Vail said this could be a

community supported event and get the whole community involved in it. Mr. McIntyre said we don't have a proper plan for the space we have in there and how we will structure that. He thinks we should have a floor plan and get some thoughts from people. Discussion held regarding the proposed museum and its design. Motion by Mihalik, seconded by Vail to not purchase the display cases, we can bring this up as a different motion at another time. Unanimous vote. Motion carried.

G. Parking Restrictions. Mayor Mihalik said we are in the middle of our parking restrictions in our downtown area from November 1st to April 1st. Mayor Mihalik said he spoke with the Police Chief and Mr. Clinton Peach regarding how the first week of November was going. Mr. Peach mentioned that he swept the streets and there was one car on the street versus the normal 20 in the morning. Mayor Mihalik said people are now getting accustomed to it. One of the biggest complaints we get is what is viewed as inconsistency on the towing. There are reasons for that. Mayor Mihalik said the importance of cleaning the downtown area is still existent, but is it important that we tow the vehicles. In his opinion he would like the Police to use their discretion this year and not tow vehicles November 1st through April 1st if there is no snow on the ground. There is a parking restriction, ticket the vehicles as expected, have the same deterrence so the cars don't park there but only tow the vehicles in the event of a snow emergency. Discussion regarding the parking restrictions. Motion by Mihalik, seconded by Schmidtke to give directive to the police department to use their discretion and not tow vehicles in the downtown restricted parking area November 1st to April 1st when there is not a snow emergency and to only use their ticketing authority. Unanimous vote. Motion carried.

H. Pay Request #3 Wapasha Construction. Motion by Vail, seconded by Mihalik to approve Pay Request #3 of Wapasha Construction in the amount of \$429,148.93. Unanimous vote. Motion carried.

I. Pay Request #2 GM Contracting. Motion by McIntyre, seconded by Wollin to approve Pay Request #2 of GM Contracting in the amount of \$182,928.83. Unanimous vote. Motion carried.

J. Pay Request #1 Borneke Construction. Motion by Schmidtke, seconded by McIntyre to approve pay request #1 of Borneke Construction in the amount of \$106,099.80. Unanimous vote. Motion carried.

8. Engineer's Report. Mr. Femrite said that the Cannon River Rain Garden project is coming along. They did set that storm ceptor structure at that intersection. That was a significant accomplishment. Mr. Femrite said he credits the contractor for their ingenuity to be able to get that installed in relatively challenging soils at that kind of depth so kudos to them for getting that accomplished. He was excited to see how that came to be. That is set and raised up and are doing the bituminous there. The rain garden took shape, he thinks it is coming along really nice. Kamp Dels forcemain they are finishing up the control panel for that lift station and working on the electronics of that so we are getting close on that item. Mayor Mihalik said he is still seeing some cones out there near Lakeview Resort, will those be coming down soon. Mr. Femrite said yes they should hopefully before the snow falls. Wastewater treatment plant the aeration basin they are still working on that. From all indications everything is going relatively smooth. It is challenging working conditions out there but they are working through it. Mayor Mihalik asked what is making it challenging. Mr. Femrite said the wet soil conditions. It is just muddy out there. They are bringing in a lot of rock to make it a little bit easier to work there throughout the whole winter so they are bringing in some extra rock so that the working

conditions are a little more pleasurable for them. Mr. Schmidtke asked if they will be overlaying by the raingarden, Lake Street when they are done? Mr. Femrite said they are going to patch in the area that they have excavated. Mr. Schmidtke asked if they were going to put one lift in for now because it is going to settle. Mr. Femrite said yes, absolutely and coning up around the structure so that they can come back and mill that down and put in the final lift next year. Because you are right it will settle it is 25 feet deep, you are right. Mr. Schmidtke asked if there have been any overruns. Mr. Femrite said not that he is aware of.

9. Attorney's Report. Mr. Moran said he had nothing to add that we haven't already talked about.

10. Administrator's Report. Ms. Hill had nothing to report everything was covered earlier.

11. Council Discussion.

A. Mr. McIntyre said he thinks there should be a thank you to go out to all of the volunteers who came and helped to plant 1,900 plants at the rain garden. He knows because he spent a lot of time out there and it was great having high school kids come down there on a Friday afternoon. They did a fantastic job helping us get a lot of that done. Otherwise we would still be working there. It looks good.

B. Ms. Vail said she would like to add to that it was great to work with such a positive group of young people and the rest of us that were there. They were very excited to learn about how to improve the quality of our lakes. A special thanks to the school and she plans to go up to the school and attend some of their classes and give them a thank you in person. She would also like to say if none of you have gone down by the Lions Park the mural is coming along nicely. Kim is working very hard on that. We will see how the weather goes whether that can get done.

C. Ms. Vail said she would also like to give a thank you to the Council members that helped with the cleaning upstairs. Ms. Vail said she thinks in another two or three hours they should be about done. With the staff helping to take the items downstairs. Also a special thank you to Darla Mihalik working as we were cleaning over at the Senior Center. She has put many hours in on that. Also with the EDA which she is a member we have been working on that with a volunteer program and that will be coming forward more out of the EDA at that point, but that is a very exciting thing that she thinks will be very beneficial to our town as many people are not sure where to go to volunteer and they have many qualities that they could help improve our town so that is very exciting also.

D. Mayor Mihalik said he would like to make mention in our packet we had a letter here from LeRoy and Marlene thanking the Waterville Fire Department and Rescue squad "for their kindness, patience and professionalism and promptness when they were needed." Mayor Mihalik said he would also extend his thank you not for this one circumstance but for everything the rescue squad, fire department and police department does when it is needed. Kudos to the Fire Department it is awesome to see that. Mayor Mihalik said to Mr. Schmidtke if he happens to see Chief Meskan send him his thank you as well.

E. Mr. Wollin said he has another one with no letter, but on Halloween night you were aware that a child was hit on the street by a car, and was rushed to the emergency room. It was right in front of his house basically. The parents and neighbors all said how quickly the fire department was there, how good a job they did. The kid is alright he just has a lot of stitches.

Mr. Wollin said it was a bloody mess, the kid ran out in front of a car Halloween night. They just wanted to say how great the Fire Department did on rescue there. Mayor Mihalik said it is a hard night to go out as well when you have so many people on the streets.

12. Approval of Disbursements. Motion by Schmidtke seconded by Vail to approve the disbursements in the amount of \$1,119,221.12. Unanimous vote. Motion carried.

13. Impress Cash Fund. Motion by McIntyre, seconded by Wollin to approve the impress cash fund in the amount of \$45.20. Unanimous vote. Motion carried.

14. Closed Meeting – Attorney/Client privilege. Motion by Mihalik, seconded by Wollin to go into closed session for attorney/client privilege discussion. Unanimous vote. Motion carried. Meeting closed 9:05 p.m.

15. Open Meeting. Meeting reopened 9:25 p.m.

16. Adjourn. Motion by Mihalik, seconded by Schmidtke to adjourn. Unanimous vote. Motion carried. Meeting adjourned 9:25 p.m.

Stephen Mihalik, Mayor

Teresa Hill, Administrator/Clerk