

WATERVILLE CITY COUNCIL  
REGULAR COUNCIL MEETING  
December 1, 2015, 7:00 P.M.

There was a regular meeting of the Waterville City Council held in Council Chambers at 7:00 p.m. on December 1, 2015.

Present: Vail, McIntyre, Wollin, and Schmidtke

Absent: Mayor Mihalik

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

Also Absent: None

**1. Call to Order.** Acting Mayor Dave Wollin called the meeting to order at 7:00 p.m., noting that all Council members were present except Mayor Mihalik. 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 29, 2015 Special Meeting, November 5, 2015 Public Hearing and November 5, 2015 Regular Meeting.** Motion by McIntyre seconded by Vail to approve the minutes of the October 29, 2015 Special Meeting, November 5, 2015 Public Hearing and November 5, 2015 Regular Meeting. Unanimous vote. Motion carried.

**3. Approval of Agenda/Additional Items to Agenda.** Motion by Schmidtke, seconded by McIntyre to approve the agenda. Unanimous vote. Motion carried.

**4. Public Hearings.**

**A. Proposed Assessments for Delinquent refuse and recycling.** Ms. Hill said notices were sent out to the individuals and this is their opportunity to be able to speak with a Waste Management representative in case they have concerns about their assessment. Ms. Grobe, 409 Harmon asked why some bills are higher than others. Ms. Grobe said her daughter has the same size cart as she does but her daughter's costs more than hers. Ms. Hill said it should not be if it is the same size. The representative from Waste Management advised Ms. Grobe to get the information to Ms. Hill for both addresses and they can take a look at it to see what the problem is. Motion by McIntyre, seconded by Vail to end public comment. Unanimous vote. Motion carried.

**B. Proposed Lawn Mowing Assessments.** Ms. Hill said that these properties were sent nuisance ordinance violation for tall weeds and Council passed a Resolution to say that the City could cut the weeds and bill it back to the property and they have not paid their bill. Mr. Wollin asked what the height of the grass is for the nuisance. Mr. Moran said that 12 inches is the height. Discussion held regarding the height requirement. Jennifer Grobe, 409 Harmon, asked if the City always waits until it is 12 inches the next time before you mow it again. Ms. Hill said yes. Ms. Grobe said her daughter lives next door to a property that does that and they were getting all sorts of mosquitoes laying there and all these other things. And the City consistently ends up mowing it anyway. Do these people not intend to ever mow it? Ms. Hill said she cannot say whether they ever intend to mow it, but yes we do wait until it hits that length again. It is another violation at that point. City Attorney Moran suggested that Council have a discussion on the length for tall grass to be a violation. Motion by Vail, seconded by Schmidtke to end public comment. Unanimous vote. Motion carried.

**C. 2016 Proposed Budget and Levy.** Acting Mayor Wollin said he wants everyone to understand that this is not the tax valuation that is done in the spring. Greg Wilmes, 435 Herbert Street North questioned the meeting that is mentioned on his real estate tax forms. Ms. Hill said the meeting on this is on the budget and levy. In April you will receive notice of what your valuation of your home property is and what it is going to be. That is the one that you will need to come to discuss your valuation. Our meeting is usually around the 15<sup>th</sup> of April. That is the one that you can talk to the County Assessor and dispute the value of what he has placed on your property. You can talk to the County Assessor at any time. That date is the date that you can appeal your valuation. Jennifer Grobe, 409 Harmon said for the funding for the City Shop, what fund in the budget does the money come from to pay back the EDA loan. Where does that get stated in here? Ms. Hill said that portion part of it comes from the 601, part of it comes from the 602, water and sewer and then from the general fund streets. You will find in the budget that there are expenditures that are going to the EDA bond fund. Ms. Grobe said so that money is part of the reason that the levy is going to get increased? You were going to raise it 2% or more? The levy was going to be increased by a percentage a couple of meetings ago. Ms. Hill said the levy gets increased due to whatever the Council puts as their dollar amount. They are the decisions of what they plan on or anticipate doing in the upcoming year is what dictates what there levy is to make a balanced budget. Ms. Hill said it is not one individual piece of the puzzle. It is not that the levy is going to go up strictly because I'm going to buy 5% more supplies or fuels went up 6%, it is all a combination of things that happen between debt service and general fund and special revenue funds. Ms. Grobe said on your health and life line on each department, most of the departments some stayed the same or dropped a little bit but the Police Department went up \$7,000 why would that increase that much? Ms. Hill said she can't get into actual specifics, she can tell you in generality our insurance policies are dictated on whether it is single or family coverage and it is also age. So if you have an individual is younger that premium is going to be lower than someone who is older. That is the way the premium works. Ms. Hill said single coverage is 100% and family is 80/20%. That gets a split and whatever that insurance premium is and how those people fall. If somebody takes a jump from age 50 to 55 you are going to see a jump on most of them. Ms. Grobe asked if the City pays insurance for the part-time police officers. Ms. Hill said no. Ms. Grobe said so that is just the three full-time officers that we have. Ms. Hill said that is everybody who is included in that pool or who has wages paid under that department. Mr. Schmidtke said there are three full-time police officers correct? Ms. Hill said there is but there is more in that pool than just the police officers. Ms. Hill said there is more than just the police officers that work in the police department. Ms. Hill said she doesn't want to get into a lot of detail because she is afraid she will do some data practices issues here. Ms. Hill said if there are changes between single coverage and family coverage and what is covered those are all things that do change. Ms. Grobe said it just seems that was a big increase over all the other departments that you have, that one was the biggest increase for three people plus whatever ones you are throwing in there that are police department that is why she was wondering if part-time officers were covered. Ms. Hill said part-time employees are not covered. Ms. Hill said she does not know for sure if she had a final dollar amount on the renewal when she did the last budget because the renewal is January 1<sup>st</sup>. She does not know if she put the new rates into play. She believes she had what the company gave her but she is not going to say it is 100% accurate. Ms. Grobe said so sometimes these are estimates. Ms. Hill said yes, people will change coverage and that will change that whole outcome. Maybe somebody is not currently electing coverage and is being covered under a spouse and all of a sudden decides to be covered under the City policy and that will make a change also. There are lots of factors that go into it. Ms. Grobe said a few years ago the City decided that if you had a line item that you budgeted for but then you didn't get that that you could save that money or transfer it to use somewhere else in your budget somewhere. Is that really a good practice? If

you are budgeting for a specific use that money should go to that specific use and if you are not going to need it then you shouldn't have budgeted for it. She is wondering if a lot of this stuff is budgeted for but you do not necessarily need it or you might not use it but then they use it for something else. She has seen then transferring money saying we are not going to do this but we are going to use it for that. That doesn't seem like a very fair practice to her. Ms. Hill said what the Council has done in previous situations is that the department has "x" dollar amount and this is their anticipated budget and if something comes up where they need to do a major repair on something for instance then they need to try to swap monies around in order to cover that to try to stay within their budget. Ms. Grobe said they come in with your so called wish list of things that they want. You pare it down and try to eliminate different things but yet sometimes that money still sits there, it is not things that is totally necessary but it is something that oh maybe we should have it. It is not a very fiscal way for the taxpayers' money to be spent at certain times. Ms. Hill said she sees what Ms. Grobe is saying and correct her if she is wrong with what she is understanding but there is kind of a budgeting way in which people kind of pad their budgets to make sure that they have extra money so that they can have reserves that isn't the case. What is in the budget is what they really are anticipating on purchasing and buying. Things do change. You may say this street looks like it needs to be done but we are going to have to wait on that because we need to do this and this or this makes a better option for this. So in the process of that year those things are all evaluated again. Ms. Hill said part of that too is some of those expenditures have to come in front of the Council in order to do those purchases and those changes. Acting Mayor Wollin said correct him if he is wrong but some things you can't move around either right, some things are designated. Ms. Hill said there are some restricted funds. There are certain departments and certain restrictions that it needs to be used for. Ms. Hill said for instance in her department her copier blew up and she hasn't budgeted for that copier so she would have to try and compensate within her budget in order to do it. So she is going to have to sacrifice something else in order to make that purchase. And if she can't sacrifice anything in her budget to do that, that is when Council gets even more involved in it and say okay we need to figure out where this money is coming from. Acting Mayor Wollin said it comes down to priorities and that is a tough thing. We have all the streets that need to be fixed, we would like to fix them all, they all need to be fixed but we don't have enough money so we have to prioritize and say we are going to do these and then of course you have a big issue that comes up now we go off the priority list and say well which one is the least priority and we might have to take that money to do something else. Ms. Grobe said she understands to a certain extent. She comes to the budget meetings and she comes to the other meetings and she sees things that really were unnecessary and costly. Money that you have sitting around and say oh we are going to use it for this, but if you didn't have that money budgeted for that specific item that you are not using it for anymore then these things would have to come back through the Council and then you would have a bigger discussion well do we really need to do this, how is this going to be, where is this money going to come from. It just seems like it is not a real good checks and balance yet. Ms. Hill said any of the larger items has to come to Council because there is a certain limit that is on spending that is in our internal control policy and then the Council has to review everything else. It is just smaller items and smaller purchases that come through in that manner. Ms. Hill said one suggestion when you see those things address your Council with that. If you see something that you don't understand why it is in the budget or if you consider it frivolous spending call that item out and talk to your Council members about it. Acting Mayor Wollin said if you have something that you think is bad let us know. Motion by McIntyre, seconded by Vail to end public comment on the budget and levy. Unanimous vote. Motion carried.

## 5. Unfinished Business

**A. Rental Inspection Ordinance Update and Fees.** Acting Mayor Wollin said there is a letter from Mayor Mihalik that he has requested to be read into record. Acting Mayor Wollin read the letter from Mayor Mihalik as follows: "Council, I understand the Council will be discussing the rental inspection ordinance at the December meeting. Due to a pre-planned vacation, I will not be present at the meeting, however would like to have my opinion stated. From the beginning I felt the rental inspection was to fill a need other than just the State Fire Code and to help with the upkeep of properties that are not owner-occupied. I do not feel the migration of the ordinance has achieved this goal and is becoming a State Fire Code only inspection. After driving around the City looking for obvious State Fire Code violations it is evident that a rental ordinance is not needed to enforce this state code (for both rental and non-rental properties). If there is a fire code violation within the rental unit, the renter has rights already granted to them by the State of Minnesota. If a claim is filed, it is my understanding that either the State Fire Marshal or the Waterville Fire Chief has authority to investigate. No rental ordinance necessary. During a recent public meeting, the State Fire Marshall stated that the rental ordinance and the State Building code go "hand-in-hand". I believe the State Building code should be addressed first. After which the rental ordinance should be brought back up for discussion. Due to obvious violations regardless of rental or owner-occupied, adding an unnecessary process and burden on landlords is not fair or necessary. I do not feel at this time, that the rental ordinance will assist the progression of the City and should be voted down. Mayor Mihalik". Mr. Moran said pursuant to Councilmember Schmidtke's suggestion at the last meeting he did run the proposed ordinance by the State Fire Marshall Tom Jensen and Mr. Jensen did recommend a number of changes to it. Mr. Moran said the majority of which are fairly minor and those changes are incorporated in the draft that he sent Council that is dated November 13, 2015. Mr. Moran said he had a discussion with Mr. Jensen about this ordinance and his concern about those 44 different itemized areas that are attached at the end of the ordinance. Mr. Moran advised Council of the revisions made to the rental ordinance. Discussion held regarding who the building inspector should be. Discussion held regarding the state building code adoption prior to the rental ordinance. The fees should be discussed prior to adoption of the rental ordinance. If a tenant requests an inspection they would have to pay the inspection fee. Discussion regarding the public hearings that were held and the public input. Ms. Hill said the reason the rental ordinance is on the agenda is so that Council could have an update of the ordinance. Also for consideration is to talk about what type of fee structure that Council is looking at. There was a proposal that the first year fee be waived and then continue after that with whatever fee structure you are looking at. Discussion regarding the City's liability if there is a fire and there is no rental inspections. Mr. Schmidtke asked Mr. Moran to check to see if the City will be held liable for not having rental inspections. Mr. Hill said she thought the gentleman from the Fire Marshall's office stated that this is already a responsibility of the Fire Chief by default. It is the State Fire Marshall's responsibility and they delegated it down to the Fire Chiefs. Jennifer Grobe, 409 Harmon said when you were talking about the fees were you also including the license that the landlords would have to get. Would they have to get a license for the property and then still pay an inspection fee? How big of a fee would that end up being for the license? Mr. Moran said that is something that would be set by the fee schedule. Discussion held regarding how often the rental inspections would be held. Motion by Schmidtke, seconded by McIntyre to table the rental inspection ordinance until the next Council meeting and determine the fees and get an answer from Mr. Moran regarding liability. Unanimous vote. Motion carried.

**B. Establishing Completion Deadline for Fire Department Report.** Mr. McIntyre has been working with Chief Meskan on the operations manual. Mr. McIntyre said that the Fire Department report is being worked on and should be done by the end of December. Mr. McIntyre said that he would like the HR Committee review the report. Motion by Wollin, seconded by McIntyre that we have the Fire Department report deadline be the January 5, 2015 regular meeting. Unanimous vote. Motion carried.

**C. Tetonka View Drive Street Lighting.** Mr. Kasparek of MVEC provided Council with 2 options and the cost for a decorative colonial light and installation. One option would require boring under the road and that would be more costly. Discussion held regarding the cost of installation in the winter versus waiting until spring. Motion by McIntyre, seconded by Schmidtke that we move forward to putting the light in on Tetonka View Drive with the estimate of \$845 for the light plus the cost of installation for Option 2 which is next to the utilities. Unanimous vote. Motion carried.

**D. Water Rate.** Ms. Hill said at the last meeting she was asked without factoring in the conservation rate what would our water rates need to be. Ms. Hill is presenting that information based on Rural Water's spreadsheet. This is information for Council that they had requested at the last meeting. The two options provided is the first 1,000 included in the base rate and not included in the base rate.

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

**A.** Jennifer Grobe, 409 Harmon Street, said she still has a concern about the lights at the City Shop, couldn't they cut that down to maybe 5 instead of 15. They said it is for security purposes but they are right across the street from the Police Department. It is kind of excessive. Mr. Wollin said he wouldn't mind seeing what the bill is for those to figure that out. Ms. Hill said it is included in everything. Ms. Hill said that they are energy efficient lights. Ms. Vail said she thinks as you build any new building she is sure that with the new sewage plant the same type of thing for vandalism. She knows it has helped in other areas in town when we have had vandalism we added lights on that. Ms. Vail said it is for security and break-in issues. Mr. Wollin said at the new schools compared to our school that is well past its prime. When they build new schools it seems that there are lights all around. He thinks it is a trend. Ms. Vail said with the energy efficient lights and more for the security issue to protect the building. Mr. Wollin said we do have citizens who have definitely noticed and thinks it is excessive. He doesn't know if we need to do any more checking on that. Mr. McIntyre said it is new to them and if you go by that maintenance building that Faribault has right off of 35, that thing is lit up like a castle. It is the new process with new buildings. Mr. Wollin thanks Ms. Grobe for her opinion.

**7. New Business.**

**A. Resolution 2015R-052 Adopting Delinquent Refuse and Recycling Assessments.** Motion by Schmidtke, seconded by Vail to adopt Resolution 2015R-052 Adopting Delinquent refuse and recycling assessments. Unanimous vote. Motion carried.

**B. Resolution 2015R-053 Adopting Lawn Mowing Assessments.** Motion by Wollin, seconded by Schmidtke to adopt Resolution 2015R-053 Adopting law mowing assessments. Unanimous vote. Motion carried.

**C. Resolution 2015R-054 Adopting the 2016 Property Tax Levy.** Mr. Schmidtke asked if this will show up on the levy that we raised correct. Ms. Hill said the resolution is the

same as what was proposed. Motion by McIntyre, seconded by Vail to adopt Resolution 2015R-054 adopting the 2015 Property Tax Levy. Unanimous vote. Motion carried.

**D. Resolution 2015R-055 Adopting the 2016 Budget and 2015 Budget Revisions.**

Mr. Schmidtke said he thinks we have got too much spending on the budget and we could have cut more out of the budget for 2015. Motion by McIntyre, seconded by Vail to adopt Resolution 2015R-055 adopting the 2016 budget and the 2015 budget revisions. Voting for: Vail, McIntyre, Wollin; Voting against: Schmidtke. Motion carried.

**E. Resolution 2015R-056 Closing Fund 608 to General Fund.**

Ms. Hill said this is part of the sale of Hilltop. What it does is it gives her the ability to close the fund and whatever is due back to the general fund comes back to the general fund instead of leaving that out there in that other fund. Motion by Vail, seconded by Schmidtke to adopt Resolution 2015R-056 Closing Fund 608 to General Fund. Unanimous vote. Motion carried.

**F. Pay Request #4 Wapasha Construction.**

Motion by Wollin, seconded by McIntyre to approve Pay Request #4 to Wapasha Construction in the amount of \$131,252.00. Unanimous vote. Motion carried.

**G. Pay Request #2 Borneke Construction.**

Motion by McIntyre, seconded by Vail to approve pay request #2 to Borneke Construction in the amount of \$45,945.56. Unanimous vote. Motion carried.

**H. Resolution 2015R-057 Providing for Issuance and Sale of Equipment Note.**

Mr. Schmidtke asked if the Resolution was for the truck. Ms. Hill advised that it is. Mr. Schmidtke asked where the money is coming from for this. Ms. Hill said you are doing a bond for it. At the last meeting Council approved Baird to go out and negotiate and issue the debt for the financing package of the truck. They negotiated with Frandsen Bank on the terms. Mr. Schmidtke questioned page 10, item 10 where it says "to provide moneys for payment of the principal and interest on the Note there is hereby levied upon all of the taxable property in the City a direct annual ad valorem tax which shall be spread upon the tax rolls." Mr. Schmidtke said does that mean it is going to be a levy. Ms. Hill said it is part of your budget. Mr. Schmidtke said it is a special levy correct? Ms. Hill said she will probably log it as a special one. Ms. Hill said you will be taking care of it in your line item budgets but she also has to show it as an expense in that bond fund. So the revenues and expenses have to be shown in both. Motion by Vail, seconded by McIntyre to adopt Resolution 2015R-057 providing for issuance and sale of equipment note. Voting for: Vail, McIntyre, Wollin; Voting against: Schmidtke. Motion carried.

**I. Grant Contract for Acquisition and Elevation of At-Risk Property and Structures.**

Ms. Hill said this is part of the FEMA elevation and buy-out project. We submitted our application to FEMA and they were reviewing it. She just got word on that, they had a couple of comments, it will probably be months down the road before that becomes approved. However, she was contacted by the State and they said that they would utilize her federal application to consider additional funding in the same manner that they did during the flooding. During the flooding the Feds picked up 75% and the State picked up 25%. Under this scenario we were looking at 75% Federal and 25% property owner. Now the state is saying that they would consider picking up the other 25% so they are going to grant the 25% of the project so the property owner should have no cost to elevate or buy-out of that acquisition. Before we talked that the one acquisition was going to cost the City "x" dollar amount. With this agreement the

State will take care of that. It is a good thing for us. Motion by Schmidtke, seconded by McIntyre to approve the State of Minnesota Grant Contract with the City of Waterville, Minnesota for Acquisition & Elevation of At-Risk Property and Structures. Unanimous vote. Motion carried.

**8. Engineer's Report.** Mr. Femrite said at the Wastewater Treatment Plant the Eurasian Basin structure that they have been working on for most of the fall they do have about 80% of that concrete completed. They hope to get that enclosed. The control building has been started. They are hoping to get some of the walls up on that and do some winter construction. The chlorine contact basin again has been started and the pre-treatment building has been started. Obviously they are going to be working over the winter. They will be enclosing some of the concrete works so that they can continue. They are 7 ½ percent completed on the contract. They are planning on working through the winter. On the Kamp Dels forcemain and lift station as we know the lift station was set out there we are still waiting on the control panel to fully get built and installed out there before that can get finalized. There was no pay estimate on that this month because they did not have any progress on that. Mr. Femrite said the rain garden is essentially complete. They did get that storm ceptor structure in that we talked about at the last meeting which was a big accomplishment and they got the bituminous down before the plants closed. It is all wrapped up for the winter there.

**9. Attorney's Report.** Mr. Moran said that Hilltop has been closed out. Mr. Moran said one thing he should mention, back to the rental inspection ordinance, it does seem as if we are gradually getting closer and closer toward making it a fire code issue only and not so much building code or building standards. Mr. Moran said it has always been his opinion that we should probably have the building inspector do this inspection. If we are going to be working intricately with the State Fire Marshall's office in reviewing this now a second time and me calling them and asking them additional questions; if your intent truly is to make this a fire code issue then we need to revisit this and we need to revisit it in the sense of who is going to perform this inspection. Is it going to be the Fire Chief, is it going to be the building inspector, in all his other cities it is the building inspector. But it seems as if we are progressively making this more a fire code issue. We need to have a discussion on who is going to do the implementation of this ordinance if Council chooses to pass it. We need to be coming to the next meeting with an idea if we are going to have the building inspector do it or if it is going to be the Fire Chief. Mr. Moran said the way it is written right now it is really lending itself to the Fire Chief and he would have some concerns about that. Because the Fire Chief would not necessarily be an independent contractor where the building inspector is an independent contractor and then he could use the shield of statutory immunity that he was talking about earlier. If the building inspector inspects it he is a completely independent entity, he is a sub-contractor and he could use the immunity defense. If it is going to be the Fire Chief that becomes a little more problematic. Mr. McIntyre said the thing is when you are doing a rental inspection it is more than just what a fire code is. It is what the building is, the condition, and the plumbing and the heating, all that stuff so it is not just a fire code. It needs to be dealt with that way and have a building inspector doing the inspection so that we have coverage all the way around. Mr. Moran said maybe we need to do as other cities have done and address the building code first. Mr. Schmidtke said rental property that all goes together the fire stuff and all of this here. Mr. Moran said he raises it because his concern is who is going to be doing these inspections and is it your intent to have the Fire Chief do these inspections. Mr. Schmidtke said no, his was to have the building inspector do all that. Mr. McIntyre said you need a proper building inspector to do it, they know what they are looking for. Mr. Moran said then we get into the issue does the building inspector have the kind of familiarity that the Fire Chief has with the state fire code. He

would guess probably not. Mr. Schmidtke said there are rental guys that do that stuff so you would have to find somebody that is what they do, rental inspections. They would be familiar with both sides of it. Mr. Moran asked who our inspector was, Dan Murphy. Ms. Hill said no, all we have is zoning and that is Don Jacobson. All he does is setbacks. Mr. McIntyre said you would want an outside contractor to do that. Mr. Moran said we need to really be thinking about who is going to implement this and who is going to inspect it. He would prefer that the Fire Chief not take on that. Mr. Schmidtke said right. Mr. McIntyre said and not our Zoning Inspector either. Mr. Wollin said we will save that for discussion in the next meeting.

**10. Administrator's Report.** Ms. Hill said that we closed out the grant portion for the painting of the Lions Park. She just wanted to mention that SMIF was very impressed with the work that was done and the mural that was done. It turned out very nice.

**11. Council Discussion.** No Council discussion.

**12. Approval of Disbursements.** Motion by Schmidtke seconded by McIntyre to approve the disbursements in the amount of \$897,227.93. Unanimous vote. Motion carried.

**13. Impress Cash Fund.** Motion by McIntyre, seconded by Vail to approve the impress cash fund in the amount of \$6.41. Unanimous vote. Motion carried.

**14. Adjourn.** Motion by Vail, seconded by Schmidtke to adjourn. Unanimous vote. Motion carried. Meeting adjourned 9:10 p.m.

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Dave Wollin, Acting Mayor

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Teresa Hill, Administrator/Clerk