

WATERVILLE CITY COUNCIL  
ORGANIZATIONAL AND REGULAR COUNCIL MEETING  
January 5, 2016, 7:00 P.M.

There was an organizational and regular meeting of the Waterville City Council held in Council Chambers at 7:00 p.m. on January 5, 2016.

Present: Vail, McIntyre, Wollin and Mayor Mihalik

Absent: Schmidtke

Also Present: Administrator/Clerk Teresa Hill, City Attorney Jason Moran and City Engineer Jason Femrite (arrived 7:04 p.m.)

Also Absent: None

**1. Call to Order.** Mayor Mihalik called the meeting to order at 7:00 p.m., noting that all Council members were present except Schmidtke. Also present were Teresa Hill, Administrator/Clerk, Jason Moran, City Attorney, and Jason Femrite, City Engineer of Bolton & Menk (arrived 7:04 p.m.). Pledge of Allegiance was recited.

**2. Approval of Minutes – December 1, 2015 Regular Meeting.** Motion by McIntyre seconded by Wollin to approve the minutes of the December 1, 2015 Regular meeting. Voting for: Vail, McIntyre, Wollin; Abstain: Mihalik (was not present at 12/1/15 mtg.) 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. Organizational Consent Agenda.** Mayor Mihalik said that next is the organizational consent agenda. This item is approved all at once unless a Council member or Citizen would like to take one of the items off the list.

**A. Depositories of City Funds:**

Frandsen Bank – Waterville Branch

Elysian Bank

AIM

4M Fund

Northland Securities/Northland Trust Services

Robert W. Baird & Co.

US Bank

**B. Official Newspaper – Lake Region Life**

**C. Treasurer Contract and Appointment – Linda Nelson**

**D. Assistant Weed Inspector – Chief of Police**

**E. Regular Meeting Time and Date – First Tuesday of the month 7:00 p.m.**

**F. Zoning Inspector – Don Jacobson**

**G. Acting Mayor – David Wollin**

**H. Audit Committee**

1. Stephen Mihalik

2. Valerie Vail

3. Roy McIntyre

**I. Community Education Appointment – Council Valerie Vail**

**J. City Engineer - Bolton & Menk/Jason Femrite**

**K. Authorized Check signers:**

Stephen Mihalik, Mayor  
Teresa Hill, Administrator/Clerk  
Linda Nelson, Treasurer  
David Wollin, Acting Mayor  
Valerie Vail, Councilmember

- L. Economic Development Commission Appointments (6 year term)**
  - 1. Council member – Val Vail
- M. Financial Auditors – Abdo Eick & Myers**
- N. Planning and Zoning Commissioner – Tim Smith**
- O. HR Committee**
  - 1. Mayor Mihalik
  - 2. Council Member - Roy McIntyre
  - 3. Police Commissioner - Art Sorgatz
  - 4. City Attorney Moran - ex officio member
  - 5. Administrator - Clerk Hill - ex officio member

Motion by McIntyre, seconded by Mihalik to approve the organizational consent agenda.  
Unanimous vote. Motion carried.

## **5. Unfinished Business**

### **A. Rental Inspection Update – Jason Moran.**

1. Report on Liability – Mr. Moran advised that he checked with the State Fire Marshall’s office concerning liability issues that were raised at the last meeting. The State Fire Marshall’s office specifically Tom Jensen agreed with the opinion that he had rendered at the last meeting; that is that if there is an event that occurs in the City of Waterville and it is not open notorious, something that we did not know of our liability would be fairly limited. Our liability increases in situations where something is open notorious or basically right in front of us. Another situation where liability could be increased is if a Citizen calls in and reports something and the City doesn’t act on it. The State Fire Code applies throughout the City and State regardless whether or not it has passed a rental ordinance that you have before you. The City is also charged with the duty of enforcing that in certain situations. One of those situations is if someone comes to City Hall and makes a complaint. Ms. Hill typically would pass it on to the Fire Chief for an inspection. If a City did not inspect a complaint there could be some liability. We of course would not, not act on a complaint so Mr. Moran thinks our liability on the State Fire Code is fairly small. There are other legal defenses that we can use if an event was to occur like statutory immunity. Mr. Moran said the liability is fairly minimal unless something is open, obvious, notorious, or something is reported to us. Mayor Mihalik said the State Fire Code applies to all properties not just rentals. That same liability exists whether it is an owner occupied or a rental. Mr. Moran said if we did pass the rental ordinance that we are looking at he would want to further insulate our liability by having an independent third party do the inspection. Mr. Moran said he thinks if we had the Fire Chief do the inspection it would increase our liability.

2. Fee Survey – Mr. Moran conducted a fee survey that other cities in the area use which includes the cities of Elysian, Cleveland, Janesville, Kilkenny, Le Center, Le Sueur, Madison Lake, Montgomery, Morristown, New Prague and Waseca. The Cities of Morristown and Cleveland did not get back to him. He presumes it is because they do not do these types of inspections. Mr. Moran also listed the cities that use the State Building Code and those are Elysian, Janesville, Le Sueur, Montgomery, New Prague and Waseca. Virtually every city around us has adopted the State Building Code. The survey lists how often the inspections are

conducted, the initial inspection fee. Mayor Mihalik said the fees in the survey are fairly reasonable. Mr. Moran said the primary goal is just to cover the inspector's cost. The ordinance that he submitted we have insulated the landlords from habitual inspection requests. If the tenant requests an inspection the tenant pays for the inspection.

**B. Ordinance Number 116 Establishing Chapter 115. Residential Rental Property Registration and Licensing.** Mayor Mihalik said his opinion is that the rental ordinance started off as a fire code ordinance for rental properties and has started to morph itself more into a blight ordinance where we address a number of other items and has gotten back to being a fire code ordinance. Mayor Mihalik said the State Fire Code applies to all properties, not just rentals, but owner occupied as well. Our liability is the same regardless of the type of property. Mayor Mihalik said he has a hard time creating a disparate impact on renters or a different population of the City for a Code that applies to everybody. Mayor Mihalik said the way the ordinance sits today he is not in favor of it. He sees no reason to impose a regulation that people need to follow just because they rent a property. Mayor Mihalik said that the State Building Code was passed in the cities that have the rental ordinance prior to adopting a rental ordinance. Mayor Mihalik said we do not have a third party to inspect and he thinks it is premature. Mr. Moran said that the Cities that he works with some rental ordinance in place and those cities have adopted the state building code first and they basically use that ordinance to piggy back off of building code and it is not so much fire code issues but is more of a blight safety mechanism. Mayor Mihalik said renters already have protection; they have the renter protection act in Minnesota. If they have a complaint about the property they are renting they have recourse to go to. Discussion held by Council regarding the State Building Code and the rental ordinance. Motion by Mihalik, seconded by Vail to discontinue conversations regarding Ordinance No. 116, the residential rental property. Unanimous vote. Motion carried. Mr. Wollin requested that we keep the ordinance on file for future reference.

**C. 2016 Fee Schedule Approval.** Motion by Vail, seconded by McIntyre to accept the 2016 Fee Schedule. Unanimous vote. Motion carried.

**D. Work Session for State Building Code and Water Rates.** Mayor Mihalik said during the work session for the State Building Code he would like to discuss the questions and concerns brought up by the Citizens at the public hearing. Mayor Mihalik set the work session for the State Building Code and Water Rates for 5:00 p.m. on February 23, 2016 and request the Planning and Zoning Commission meet at 7:30 p.m. in the event they have a meeting.

**6. Citizen Time** (Comments, Information from those present) – No one addressed Council.

**7. New Business**

**A. Certification of Appreciation – Kim Baerg.** Mayor Mihalik advised that Kim Baerg approached him last year and asked about the paint the town grant and if the City would be interested. Ms. Baerg applied for the grant and the City was approved. Ms. Baerg did a phenomenal job with her and her team at the Lions Park. Mayor Mihalik said he wanted to get a chance to publicly say thank you, she did a phenomenal job and he appreciates her willingness to do it and the City's appreciation. Mayor Mihalik presented Ms. Baerg with a letter of appreciation from the City of Waterville. Ms. Baerg thanked the City for allowing her to proceed with the project. Ms. Baerg said she thinks it would be fun to do more projects throughout the town.

**B. Bid Solicitation for South Tetonka Bay Drive.** Mayor Mihalik advised that this is a continuation of a discussion we had months ago. We did advise residents that we would consider going out to bid in January. Mayor Mihalik said if this is something that we want to pursue we need to find out what this is going to cost we don't know what the impact is going to be. Mayor Mihalik said we can give direction to Mr. Femrite to have the specs drawn up for us to review next month. Discussion regarding the type of specifications Mr. Femrite should draw up such as the complete build versus an overlay. Mr. Femrite said we have all the base work done and we need to sweeten the aggregate and add the bituminous on top of that. Mr. Femrite said he believes we were looking at between the 3 and 3 ½ inches. This would be typical of the bituminous on North Shore Drive. Discussion held regarding depth of the bituminous. Mr. Femrite will review the layout and bring the engineer's estimates for a couple of options at the next Council meeting and we can go out for bids in February and potentially award a bid in March. Motion by Mihalik, seconded by McIntyre to give direction to Bolton & Menk to draw up the specifications for a bid for South Tetonka Bay Drive. Unanimous vote. Motion carried.

**C. Insurance Dividend.**

**1. Dividend Refund.** Mayor Mihalik said that this is an insurance refund of \$15,141.

**2. Resolution 2016R-001 Designating Funds to be used for Safety Expenses and Equipment.** The insurance refund should be designated for safety expenses and equipment. Motion by Wollin, seconded by Vail to adopt Resolution 2016R-001 designating funds for safety expenses and equipment. Unanimous vote. Motion carried.

**D. Grabtec Grapple Purchase Approval.** Mayor Mihalik advised that during a loss control visit it was identified that we do need a grapple. Motion by McIntyre, seconded by Mihalik to purchase the Grabtec Grapple in the amount of \$5,500. The funds would come from the designated fund for safety expenses and equipment. Unanimous vote. Motion carried.

**E. Fire Department Report.** Motion by Mihalik, seconded by Vail to accept the Fire Department Report. Unanimous vote. Motion carried.

**F. Approval of Fire Department Officers.**

- 1. Fire Chief – Chris Meskan**
- 2. 2<sup>nd</sup> Assistant Chief – Patrick Anderson**
- 3. 2<sup>nd</sup> Captain – Dennis Androli**
- 4. Secretary – Ryan Knish**
- 5. Training Coordinator – Matt Duhme**
- 6. SCBA Coordinator – Dick Tolzman**

Motion by Wollin, seconded by Vail to approve the fire department officers. Unanimous vote. Motion carried.

**G. Training Request**

**1. Clinton Peach – Water/Wastewater Operator Conference – Total cost \$934.06**

- 2. Teresa Hill MCFOA Conference – Total cost \$743.64**

Motion by Vail, seconded by Mihalik to approve the training request of Clinton Peach and Teresa Hill. Unanimous vote. Motion carried.

**H. Insurance Liability Waiver and Volunteer Coverage.** Motion by Mihalik, seconded by Wollin to approve the insurance liability waiver and volunteer coverage. Unanimous vote. Motion carried.

**I. Planning and Zoning Report.** Motion by Mihalik, seconded by McIntyre to approve the Planning and Zoning Report as provided. Unanimous vote. Motion carried.

**J. EDA Report.** Motion by Vail, seconded by McIntyre to approve the EDA Report as provided. Unanimous vote. Motion carried.

**K. March Meeting Date Change due to March 1 caucuses.** Motion by Mihalik, seconded by McIntyre to change the March meeting date from March 1<sup>st</sup> to March 3, 2016 at 7:00 p.m. Unanimous vote. Motion carried.

**L. Special Meeting to Canvas votes (Between November 11 and November 18).** Mayor Mihalik recommended Tuesday November 15, 2016 at 6:00 p.m. to hold the special meeting to canvas the votes.

**M. Letter of Resignation – Jessica Born.** Mayor Mihalik advised that a letter of resignation was received from Jessica Born. Mayor Mihalik said that Jessica Born is a phenomenal officer and it is unfortunate that we are going to be losing her. He would like to thank her for what she has done for the City. Motion by McIntyre, seconded by Vail to accept the resignation of Jessica Born. Unanimous vote. Motion carried.

**N. Police Civil Service Commission Request.** Mayor Mihalik said the Police Civil Service Commission is requesting hiring three part-time officers. We have the two officers Jessica Born and Dan Peach who have resigned. We need to fill both of those positions. The Commission is also looking to hire an additional part-time officer to assist with the turn over that they have with part-time officers. Motion by Wollin, seconded by McIntyre to approve the request of the Police Civil Service Commission to hire three part-time officers. Unanimous vote. Motion carried.

**O. South Central Service Cooperative Solid Waste Processing Contract.** Mayor Mihalik advised that we need to do a new contract with South Central Service Cooperative. Mayor Mihalik recommended that they provide a draft contract and have it reviewed by Jason Moran. Motion by Mihalik, seconded by Vail to have South Central Service Cooperative provide a contract and for Jason Moran to review that. Unanimous vote. Motion carried.

**P. Ballot Question to abolish the Police Civil Service Commission.** Mayor Mihalik said he would like to have a discussion regarding the Police Civil Service Commission and the potential of abolishing the Police Civil Service Commission. The reason this is coming up is over the last year we formed a HR committee which has handled all of our HR needs for the City. We have tried our best to consolidate these into one central area whether it is fire, streets, administrative policies, combing those and getting those centralized. We have done a great job in doing that and this committee has done a superb job. Right now the Police Civil Service Commission primarily handles complaints, disciplinary action and hiring. They do a good job but the question is do we need that extra layer of government when we have a HR committee who can handle that and have everything centralized in one area. Abolishing the Police Civil Service Commission is not something that we can do as a Council it is something that has to be done by the majority of the registered voters so it would have to go on the ballot if

this is something in the voters having a say so in. Mr. Moran said the Council can abolish it by vote of the Council. The vote has to be unanimous. Otherwise it is a petition engagement, 25% of the voters' petition and then it is placed on the ballot. Discussion held regarding the abolishment of the Police Civil Service Commission. Mayor Mihalik requested that Ms. Hill put on the agenda for next month the Police Civil Service Commission.

**Q. Permission to advertise sale of rocks.** Ms. Vail advised that the Park Board would like to sell the rocks that they had acquired from the watermain project. Ms. Vail requested that she and Ms. Hill set the price for the rocks. Ms. Vail said that they would probably sell the rocks in the spring and she would like the funds from the rocks to be put back into the Parks budget. The rocks were obtained for the grant and were to be a huge portion of the in-kind monies. Motion by Mihalik, seconded by McIntyre giving permission to Ms. Vail to work with Ms. Hill regarding what those rocks would cost and the timeline to get those sold. Unanimous vote. Motion carried.

**R. Animals and Fowl-keeping, housing and confinement – Jason Moran.** Mr. Moran advised Council that there have been a number of complaints in the City the past couple of years concerning some residents housing animals. Under our current ordinances he thinks that the majority of issues can be taken care of. There are some other issues that can't be taken care of. Mr. Moran said he has been in communication with the Police Chief and Mr. Moran has drafted an ordinance that would cover wild animals and other animals. Mr. Moran said the City can do an ordinance prohibiting the keeping of certain animals that should possibly not be kept in town like wolves, coyotes, dingoes and jackals. This ordinance goes to that issue and also goes to agricultural animals like cattle, horses, mules, sheep, goats, swine, ponies, ducks, geese so on and so forth. Some of those issues can be addressed under the nuisance ordinance. This ordinance seeks to restrict what type of animals can be kept in town. Mr. Moran said the issue is does the City want to pass this type of ordinance or do you want to make it a conditional use. Discussion held regarding passing the ordinance or making it a conditional use issue. Mayor Mihalik said he would like to give direction to Planning and Zoning to have an ordinance drafted with consideration of what type of acres would be necessary to house undomesticated animals and what other conditions they would want to consider to make sure that we don't depreciate the value of neighboring properties but still allow people to have the freedom to have that type of animal or pet. Mayor Mihalik said that Ms. Hill can give direction to Planning and Zoning to have an ordinance drafted giving a conditional use to have non-domesticated animals to present to Council.

**S. Wapasha Construction Pay Estimate #5.** Motion by Vail, seconded by McIntyre to approve Pay Request No. 5 from Wapasha Construction Co for \$265,432.85. Unanimous vote. Motion carried.

**8. Engineer's Report.** Mr. Femrite gave an update on the wastewater treatment plant. Mr. Femrite advised that the pay estimate indicates about 10% of the project is now completed. They have been working on the aeration basin, the chlorine contact basement and the pre-treatment building, pouring concrete dealing with snow, dealing with mud. They are progressing. The issues that have come up have all been addressed. From all indications they are on the schedule that they want to be. Everything is progressing nicely on the wastewater treatment plant. There has been no movement on the Kamp Dels lift station. They will not be setting that panel until spring. The rain gardens at the water tower, that project is essentially complete. We do have a little bit of bituminous work in the spring and a little bit of final clean-up. All of the costs have

all been realized and we are working with Ms. Hill to get that reimbursement through the LCCMR grant.

**9. Attorney's Report.** Mr. Moran had nothing to share other than what he had already discussed.

**10. Administrator's Report.** Ms. Hill had nothing to report.

**11. Council Discussion.**

**A.** Mr. Wollin questioned the snow removal on the last snow storm. He said he thought it took kind of a really long time to get the streets cleaned was there a reason for that? Was it just that big of a snow? Ms. Hill said it was that big of a snow and you have to understand you have new personnel too. There is a learning curve that goes along with that. You are not having the same people do the same routes and the same things that they have in the past. Ms. Vail said plus it was still snowing the next day. Ms. Hill said it was a two day snow event. Mayor Mihalik said part of the question always is do you start plowing while it is still snowing or do you wait until it stops. Of course we want to watch what we are spending and how we are spending, all of those factors. Ms. Hill said also the availability of trucks to truck it out. Mr. McIntyre said when you get 11 inches at once it piles up pretty quick. Mayor Mihalik said and as Ms. Hill mentioned the trucks to pull it out because every City is calling on the same people.

**B.** Ms. Vail said she would like to thank the Waterville Area Fisheries Department. We had a large cottonwood in Lake Tetonka just north of the City Beach out about 100 yards and they brought it to shore and the City took care of the rest of it. It was a hazard that she felt for this winter so she just wants to thank them on that. They were very willing to come in and take care of that.

**C.** Ms. Vail said another thing the Park Board would like to proceed with or discuss with the Police probably, is because of the thin ice we have. It is a very unusual year. The beach gets used a lot once it is ice fishing season. As you know we always have the two signs that no parking between the signs that we have for the summer time. That is usually where they go throughout the winter to get out onto the lake. She would like to discuss with Chief Manning if we should barricade those at this time because she is always afraid of somebody from a different town who is not familiar that we have a river going through our lake which is flowing very quickly right now. It is very dangerous out there. Is this something that we should proceed with, just get opinions from everybody and Jason also. Mayor Mihalik said Lake Tetonka specifically froze in three different sections this year, almost three different weeks. You are going to have natural fault lines in the lake and with how high the water is and as Ms. Vail mentioned the flow. He doesn't know how thick the ice is but he can only assume that ice this year is much more dangerous than it normally would be and it is also evident by the lack of ice fishermen in the lake. They obviously know the water issues as well. Mayor Mihalik said he doesn't know whether we barricade it or whether warning signs that we can put up. Ms. Vail said she is not for shutting off the beach parking lot but just where our normal access. The beach area is usually where we would block that off. There have been some people out there in front of the beach fishing, they will just walk out not very far probably by where the ropes were in the summer time. It is just the driving where she has seen through the years people from out of town are just not familiar with the lake. Ms. Vail asked Mr. Moran if he had any thoughts on that. Mr. Moran said if we have caution, thin ice signs something like that he would put them out. Ms. Vail said where they drive through how should we mark that? She does not know if we have any of those

at this time. In the meantime do we put tape up, that might not last in the wind down there. Mr. Moran said he does not think he would throw up any barricades or anything but if we have some signs that we can put up. Mayor Mihalik said his concern about putting up the barricades is once you take them down you are almost saying it is safe. Mr. Moran said and you have to maintain the barricades. If someone knocks a barricade down and ten minutes later somebody else comes around the barricade then our liability increases. Ms. Vail said in some ways it would be good to put that up every year and just keep it consistent, caution thin ice. Mayor Mihalik said he would be in favor of getting some thin ice signs sooner than later at any type of access point we have onto the lake. Ms. Vail said she would recommend the boat landing too. Mayor Mihalik said is it possible the DNR or Sheriff's office would have thin ice signs that we can utilize. Mr. McIntyre said the Sheriff should have them, they are responsible for the waterway. Ms. Vail said until we would get ours she would want to leave it open that we could order ours if they did not have those. She would want to be very consistent with that. Maybe they would have some that we could use until ours are here. Ms. Vail said where would you recommend placing them where our current signs are near the beach road or right as you pull into the beach. Mr. Moran said wherever you think there is an issue. Ms. Vail said we would continue to do that year after year and make that consistent. Mayor Mihalik said he does not want to deter visitors from coming into the City or any type of extra business we might get in the winter time so he thinks signs is probably the best and safest thing to do. Mayor Mihalik said he did post on the City Face book page a warning of potential thin ice, again he said potential on area lakes and ponds so it is not just our lakes. Mayor Mihalik said it might make sense on www site to also put a similar or copy of that. What is on our face book page is also taken from the City of Faribault they had the very same warning so other cities are also concerned about the very same thing. Mayor Mihalik said obviously we can't make a motion during Council discussion but we can give Ms. Hill direction to put up the thin ice signs. Ms. Vail said thank you.

**D.** Mr. McIntyre said our last meeting we had a lawn mowing assessments and found out that we have a limit in there that if the grass is more than 12 inches high it needs to be cut. Mr. McIntyre said he thinks it needs to be revisited and lowered. 12 inches is like setting up a hayfield. Mayor Mihalik said the nuisance committee has already taken that into consideration and is taking a look at the nuisance ordinance in whole as to what changes we need to make to be more reasonable. Mr. Moran said he can tell you that in Waseca it is six inches, in Madison Lake it is six inches, Elysian it is six inches, Le Center is six inches. Mayor Mihalik said the nuisance committee is taking it under advisement. Mr. McIntyre said okay.

**12. Approval of Disbursements.** Motion by Wollin seconded by Vail to approve the disbursements in the amount of \$580,578.87. Unanimous vote. Motion carried.

**13. Impress Cash Fund.** Motion by McIntyre, seconded by Wollin to reimburse the Impress Cash Fund in the amount of \$116.61. Unanimous vote. Motion carried.

**14. Adjourn.** Motion by Mihalik, seconded by Vail to adjourn. Unanimous vote. Motion carried. Meeting adjourned 7:50 p.m.

---

Stephen Mihalik, Mayor

---

Teresa Hill, Administrator/Clerk