

Draft Council Minutes

Owatonna City Administration Building

Tuesday, October 18, 2011

7:00 o'clock p.m.

The Owatonna City Council met in regular session on Tuesday, October 18, 2011 at 7:00 p.m. in the Council Chambers of the City Administration Building with Council President Abraham presiding. Present were Council Members Truelson, Burbank, Dotson, Wittrock, Schultz and Svenby; Mayor Kuntz; City Administrator Busse; Assistant City Attorney Furness; Community Development Director Klecker; and Assistant City Clerk Clawson.

Following the Pledge of Allegiance, Council President Abraham welcomed everyone in attendance. Council Member Dotson made a motion to approve the agenda, Council Member Svenby seconded the motion; all members voted aye for approval.

Mayor Kuntz made proclamation for the Week of Sunday, October 30 through Sunday, November 6, 2011 as White Ribbon Against Pornography Week in the city. This is to encourage all citizens to wear or display white ribbons as a sign of their commitment to community standards of decency and their support for enforcement of the laws against obscene materials.

Pastor Kirk Griebel of the Redeemer Lutheran Church addressed council with thanks for supporting White Ribbon Week and offered ribbons and pins allowing everyone an opportunity to speak out on the issue.

Mayor Kuntz made proclamation for the Week of October 24, 2011 as Red Ribbon Week in Owatonna. It is the goal of the city to involve families, schools, businesses, churches, law enforcement agencies and service organizations in all aspects of this campaign and establish an atmosphere that supports awareness, education and on-going initiatives to prevent illegal drug use. There will be an event to kickoff this week at Central Park on October 24th beginning at 5:00 p.m.

Council President Abraham recapped the expenses for the period. Motion was made by Council Member Wittrock, seconded by Council Member Schultz to approve payment of the bills presented totaling \$507,009.61; all members voted aye for approval.

Council President Abraham explained council members review the Consent Agenda Items prior to the meeting for approval in one motion during the meeting. Current Consent Agenda Items include:

Minutes - City Council meeting held October 4, 2011.

Exempt Permit for raffle – Saint Mary's School – Night of Knights, April 21, 2012.

Building Inspection Department Monthly Report – September 2011.

Fire Department Monthly Report – September 2011.

Minutes - Downtown Parking Committee Meeting – October 13, 2011.

Minutes – Planning Commission – October 11, 2011.

Independent Contract Renewal – Operation of Warsinski Chalet.

Council Member Truelson made a motion to approve the Consent Agenda Items, Council Member Svenby seconded this motion; all members voted aye for approval.

City Administrator Busse introduced the application for a Garbage Haulers Permit received from Cashin Disposal, Faribault MN tabled from the previous meeting. The criminal background check on the company owner has been completed and the Insurance Certificate received. Council Member Truelson requested verification of the term of the permit which will be the end of the current year, December 31, 2011. Council Member Dotson made a motion to approve the permit, Council Member Wittrock seconded the motion, all members voted aye for approval.

City Administrator Busse introduced the application received from Jose Herrera for an On-Sale Liquor License with Sunday Sales for the new Plaza Morena Campestre located at 160 26th St NE. The restaurant plans to open in late November. Council Member Svenby made a motion to grant approval of the license which will be issued after receipt of a Certificate of Occupancy issued by the Building Official, Council Member Truelson seconded the motion; all members voted aye for approval.

Community Development Director Klecker introduced Conditional Use Permit No. C-1342, a request by Margie Gardner to operate an adult day care business from the main floor of the Senior Place within an R-1 Single Family Residential District. The Senior Place Board and the Parks and Rec Boards have approved the day care, citing that there is a huge need for this type of service. The main objective of the daycare is to provide a safe and secure environment for adults who require minimal assistance with activities of daily living due to mild physical or cognitive impairments requiring some supervision, as well as to assist functional adults who live alone to increase their socialization while maintaining their independence. The Planning Commission did hold a public hearing with no objections to this request and is recommending approval of this conditional use request. Klecker advised City Attorney Walbran has reviewed the permit request and recommends a receipt of a state issued license, Certificate of Insurance and approval from the City's Fire and Building Inspection Departments. Margie Gardner was present to confirm she is in process of securing the licensing and insurance required advising she needs to secure the site to proceed with these applications. Council Member Dotson made a motion to approve the permit, Council Member Truelson seconded the motion; all members voted aye for approval.

Community Development Director Klecker requested two parking changes as recommended by the Downtown Parking Committee:

- 1) Request from Eaton's Books - Change the eastern two parking spaces on the north side of West Front Street to 2 hour parking and change the 2 hour parking on the south side of west Front Street to 20 hour parking.
- 2) Request from Federated Insurance - Designate the two stall to the west of the cross walk on the north side of East Main Street for a loading Zone.

Klecker advised there will be a minimal cost for new signs which the street crew will place. Council Member Truelson made a motion to approve these changes, Council Member Burbank seconded the motion; all members present voted aye for approval.

Community Development Director Klecker introduced the First Reading of Proposed Ordinance 10-11, the revised FEMA Floodplain Management Ordinance and Floodplain Maps. FEMA has been in the process of updating the flood plain maps for Owatonna and Steele County. Draft of the updated flood plain maps was distributed by FEMA late in 2009 and in April 2010, a local officials meeting and community open house on the maps were held. The major flooding event of September 2010 provided an opportunity to review the proposed map's accuracy and for the most part the flood event corresponded to the 1% incidence (or 100 year) as indicated on these new maps. As part of the process of reviewing the maps the city forwarded to FEMA concerns regarding specific area of the city, requesting that they review these areas prior to the issuance of the final maps. FEMA has completed their review and have now issued the final maps for adoption; the new maps become effective on December 2, 2011. As part of the process of map adoption the city also have a FEMA approved ordinance in place. Staff is recommending approval of the flood plain ordinance as presented for public hearing. The ordinance appears to meet the requirements of the State and FEMA. Not adopting the new ordinance and the referenced maps will result in the city's removal from the National Flood Insurance program. The proposed language changes actually lessen certain requirements in

several instances. The existing requirement to track in perpetuity the value of improvements to a structure in a flood plain has particularly been burdensome for property owners. The proposed mapping appears to be accurate based on actual flooding experience with the exception of the Sherwood Heights area; during the 2010 flood event none of the houses in this area were impacted by flooding. Staff has forwarded to FEMA consultants the flood impact study completed as part of the Rypka stormwater pond work as well as the LIDAR contours. The new maps do not reflect any changes in the boundaries and there are four houses that extend into the flood zone.

Staff is proposing to include the new ordinance as a freestanding part of the city's zoning ordinance. Changes recommended are:

- Adopting and referencing the new flood plain maps.
- The inclusion of the General Flood Plain Zone which is a flood zone in which the floodway/flood fringe is not defined. Any individual development in the "GFP" zone would require an engineering study to determine floodway/flood fringe line. Once the line is determined respective regulations would apply.
- The requirement of a conditional use permit for fencing constructed in the designated floodway.
- Changes to and addition of several definitions.
- The tightening up of language regarding the granting of flood plain related variances and the issuance of flood plain permits.
- There are also sections of the current ordinance that are now considered optional by FEMA and the DNR. Staff is proposing the following:
 - 1) Eliminate the requirement of a conditional use permit to place fill in the flood fringe in excess of 1,000 cu. Yards – instead permit this upon issuance of an administrative flood plain permit;
 - 2) Eliminate the requirement that all principal structures constructed in the flood fringe have a vehicular access not more than two feet below the regulatory flood elevation;
 - 3) Eliminate the existing provision that requires the city to track in perpetuity the value of all physical improvements (both repair and non-repair related done to a property located in a flood plain and cap those improvements at 50% of the market value of the structure – instead use the ordinance's default language that limits the tracking of such improvements to any 365 day period. A structure damaged to an extent that the cost of repairs equals or exceeds 50% of its market value could not rebuild as it is currently. However, as proposed, any improvements done to the property prior to a year before the damage occurred would not be counted towards that 50% of the value as is now required.

The ordinance language includes adoption of the new flood plain maps dated December 2, 2011. There are about 34 structures impacted by the new maps; primarily houses that existed in 1981 but were not included in those maps but are now indicated as being in a regulated flood zone. Staff has notified these property owners of this public hearing and there has been discussion with many of them regarding the proposed changes since the issuance of the draft maps in late 2009. The following is a summary of the areas affected by the new maps and the results of the FEMA review process requested by the city.

- 1) Maple Highlands. FEMA has redrawn the floodplain boundaries in this area based on the LIDAR maps. This is a largely undeveloped area and no houses were impacted by the flood maps. The redrawn flood boundaries now reflect actual conditions in the field. This is important in that the area will experience residential development sometime in the future and fill and house elevation will now be more accurate.

- 2) Creekside and adjacent area along Maple Creek down to 26th St NE. Staff forwarded to the FEMA consultants the most recent “LIDAR” topographic mapping which reflected changes in contours and ground elevations that have occurred as a result of residential development. Consultants had used 2000 contours which are pre-development contours. The preliminary flood maps appeared to have included about four houses in the 1% flood zone. Based on the LIDAR mapping these houses have been removed from the regulated floodplain zone. While there are no houses included in the 1% flood zone there are about 17 houses in the non-regulated .2% (500 year) flood zone.
- 3) Cherry St. across from the Brooktree entrance and Spring Place NE. While the new maps place this area in the 1% flood zone, the 1981 maps did not. However, last year’s flood event indicates that this area is subject to flooding. Staff did forward the LIDAR mapping for this area but there were no changes made to flood boundaries as a result of the review. There are three houses in this area that are now included in the new 1% flood zone.
- 4) Maple Drive area and specific houses on Cherry St. and Aspen Highland Place. This area for the most part was not included in the 1% floodplain on the 1981 maps. The new maps place about 20 houses in the 1% flood zone. The 2010 flood event indicates that this area is subject to flooding and it should be noted that flooding in this area extended into the .5% floodplain district and many of the houses reporting damage are in that unregulated flood zone. The city did forward the LIDAR maps but there appear to be no revisions to the final maps.
- 5) Sherwood Heights (generally the lots on the east side of Robin Hood Lane). A portion of this area was included in the General Flood Zone. This particular zone while common in the unincorporated areas of Steele County is not included in the current Owatonna ordinance and maps. This zone does not designate flood fringe and floodway districts. Any property owner wishing to construct within this general zone would be responsible to determine the floodway boundary by hiring a qualified professional (presumably an engineer) to do so and all regulations for flood fringe and floodway would then apply. During the 2010 flood event none of the houses in this area were impacted by flooding. Staff forwarded to FEMA consultants the flood impact study completed as part of the Rypka stormwater pond work as well as the LIDAR contours. The new maps do not reflect any changes in the boundaries and there are four houses that extend into the flood zone.
- 6) Riverwood and Lemond Road from Riverwood through Morehouse Manor property. The new maps still reflect the 1981 floodplain boundaries. This area has been extensively filled and developed in compliance with the floodplain ordinance. Staff forwarded to the consultants the LIDAR contours that indicate the post fill contours but there were no changes made to the map. The city did receive an updated list of all properties in Owatonna that have gone through a map modification process referred to as a LOMA or LOMAR. This combined with the city’s floodplain records give us an accurate record of the status of properties that have been constructed in compliance with flood regulations but are still shown as being in a regulated flood zone.

As mentioned above, individual property owners do have the option to go through a Letter of Map Amendment/Revision (LOMA/LOMAR) procedure where individual structures or properties are surveyed by a registered land surveyor to determine actual elevations at the site or around a specific structure. If these indicate that the house/site is above the “1% incident” flood elevation, the property owner can go through a process to remove the house from flood insurance and certain regulatory requirements.

The Planning Commission is recommending adoption of the proposed Floodplain Management Ordinance with the recommendation that the city continue to pursue a Letter of Map Revision done by FEMA to get the four Sherwood Heights houses out of the floodplain. Council discussed the need to move forward with the adoption of the ordinance to be in compliance with the FEMA deadline dates.

John Hosfield, Hosfield and Associates, 415 W North Street introduced himself as a licensed surveyor and currently serves as the Steele County Surveyor. He explained he was on the committee to prepare the LIDAR and believes there are a few modifications needed. A Letter of Map Revision (LOMR) is granted by FEMA and that he as a surveyor can issue a Letter of Map Amendment (LOMA) but he needs a valid map to make the request. He has received an email from Suzanne Jiwani, the liaison at the DNR office which indicates FEMA has started the LOMR process for the Sherwood Heights Area. He is in agreement with Klecker that the ordinance needs to be approved so hundreds of homeowners currently involved with the national flood insurance program would not be jeopardized.

Council Member Truelson made a motion to approve the first reading of the ordinance revision and new flood maps provided the LOMR be completed and council be updated on the progress of this, Council Member Schultz seconded the motion; with a roll call vote all members voted aye for approval.

Community Development Director Klecker presented Resolution No. 57-11 for approval of the preliminary and final plat of Eden Valley Development Fifth Addition. This is a 7.56 acre tract of PUD zoned property owned by TSB Janesville, LLC and located north of Highway 14, east of Austin Road and south of El Dorado Street. The property owners are requesting modification of the footprint plan of the multi-family portion of the plat to accommodate a different building design. The current plan has two story 6-plexes; however the new footprint would accommodate one story 6-plexes. The Planning Commission has recommended approval of the combined preliminary and final plat provided easements are provided as required by City Engineering and OPU, title opinion is received and approved by the City Attorney, and CSAH 6 is renamed Austin Road on the plat. Council Member Dotson made a motion to approve Resolution 57-11 approving the plat as recommended by the Planning Commission, Council Member Svenby seconded the motion; all members voted aye for approval.

City Administrator Busse presented Resolution No. 58-11 for authorization to execute the Minnesota Department of Transportation Grant Agreement for Airport maintenance and operation. The agreement for State Aid covers the State Fiscal years of 2012 and 2013 for the maintenance and operation of the Owatonna Degner Regional Airport. The funding participation provides reimbursement for eligible expenses such as pavement repairs, mowing, equipment repair costs and utilities not to exceed an amount calculated by an airport infrastructure formula. The MnDOT Office of Aeronautics will reimburse the City of Owatonna 2/3 of the direct, actual maintenance and operation costs of the airport, not to exceed an annual base amount of \$43,873 for each year. Council Member Wittrock made a motion to approve Resolution 58-11, Council Member Dotson seconded the motion; all members voted aye for approval.

Community Director Klecker presented Resolution 59-11 setting a public hearing date for the JOBZ designation for a manufacturing operation at 2355 Lemond Road. Klecker advised an application for JOBZ designation is being prepared and will be forwarded to the state DEED office. There are two steps in the approval process; the transfer of JOZ acreage from property that is currently designated JOBZ eligible to the property at 2355 Lemond Road, and approval of the JOBZ designation and Business Subsidy Agreement. The transfer of the JOBZ designation also needs county and school district approval and staff is pursuing that. This action does not approve the JOBZ but is only authorizing a public hearing be set. Council Member Svenby made a motion to approve Resolution 59-11, setting a public hearing for Tuesday, November 1, 2011, to consider a proposal to approve a JOBZ Business Subsidies Agreement for a proposed manufacturing company locating at 2355 Lemond Road, Council Member Schultz seconded the motion; all members voted aye for approval.

City Administrator Busse presented the 800 MHZ User Agreement with Steele County. The agreement defines the duties and responsibilities of both the county and the city for the new 800 MHZ radio system. Highlights of the agreement include:

- 1) Conformance to the policies and protocols established by the Federal Communications Commission, State of Minnesota, Statewide Radio Board, Southeast Regional Radio Board, Steele County and Joint Dispatch Center.
- 2) The City will assume the costs of purchase of city mobile, portable, and control stations radios and for maintenance, repairs and replacements due to wear and tear or accidental damage.
- 3) The City will pay for annual maintenance and software licensing costs of city owned equipment.
- 4) The County will assume responsibility for all infrastructure maintenance on the towers. (MnDOT Lemond tower and 26th Street tower and the microwave link between the MnDOT Lemond tower and 26th Street tower).
- 5) County will assume licensing costs for VHF system.
- 6) The County will provide necessary programming for fleet map changes.
- 7) County is responsible for providing the radio code plug programming and system key files.
- 8) Any system fees will be negotiated between the City and County. A twelve month notice is required before any fee is charged.

The agreement shall continue through December 31, 2014 following execution by the city and the county and will automatically extend for an additional one year term. The agreement may be canceled with or without cause by either party upon one year's written notice. The initial radio purchase included initialization and programming costs and also provides a three-year warranty for normal maintenance items.

Council Member Truelson made a motion to approve the 800 MHZ user Agreement with Steele County, Council Member Dotson seconded the motion; all members voted aye for approval.

City Administrator Busse presented request for the addition of another Personal Trainer at the West Hills Tennis & Fitness Center. Busse explained the current Personal Trainer has limited hours due to her full-time job so there is a need to add another trainer. James Hensrud will be offered a Personal Trainer Independent Contractor Agreement in effect until December 31, 2012. Council Member Svenby made a motion to approve the contract, Council Member Truelson seconded the motion; all members voted aye for approval.

During Public Comment Marlene Nelson, 1726 Mosher Ave commented on the shortage of affordable housing within the city and encouraged use of the former hospital to meet this housing need. She suggested council look to the Twin Cities where an individual renovated a former hospital which had sat empty for thirty-one years into twenty-five housing units. If rent and utilities could be kept low, it would be ideal to offer this site as an affordable housing option. Marlene also gave thanks to Council Member Dotson for his comments at the recent session for the 2012 Proposed Budget for the Parks and Recreation Department, saying more trails should be low on the priority list in comparison to roads, we need more work on the city's roads.

During Council Comment, Council Member Wittrock asked about correspondence received from a constituent regarding foot traffic on 18th Street. City Administrator Busse responded City Engineer Jeff Johnson reviewed the letter and didn't feel the area warranted a traffic light but plans to mark a crosswalk in the area. Council Member Svenby encouraged everyone to view the art creations made by students in the high school's Options Program which were constructed from debris found during the Straight River cleanup; these pieces are currently on display in the Art Center and will be placed along the trail between Kaplan Woods and Moorehouse Park. Council Member Abraham said he has received inquiry about the damaged traffic

signal on the corner of 18th St and South Cedar Ave; the light was damaged in a vehicle accident and parts are on back order but should be repaired soon.

With no additional comments, at 7:59 p.m. Council Member Truelson made a motion to adjourn the meeting, Council Member Svenby seconded the motion; all members present voted aye for approval.

Dated: October 28, 2011

Respectfully submitted,
Jeanette Clawson, Assistant City Clerk