

**City of Stewartville  
City Council Regular Meeting Minutes  
Stewartville City Hall  
April 26, 2011**

**I. PLEDGE OF ALLEGIANCE**

**II. RECOGNITION OF GUEST(S) OPEN MIC**

Jerry Finley 311 2<sup>nd</sup> Ave. SW addresses the Council regarding the 4<sup>th</sup> St. SW Sidewalk Project.

- Pool should have been placed on the N side of 4<sup>th</sup> St.
- Sidewalks should have been in place prior to the construction of the pool
- N side of street should have 6' sidewalk
- Cross walk should be painted on the west end
- Listen to property owners

Joe Delaney 210 3<sup>rd</sup> St. SW addressed the Council

- City needs to follow rules
- Rules are to protect citizens
- Protect from fraud and misappropriation of funds
- Makes for a better city and community

Larry Bamlet – 200 4<sup>th</sup> St. SW addressed the Council regarding the 4<sup>th</sup> St. SW Sidewalk Project.

- Would like to see the sidewalks placed on the N side of 4<sup>th</sup> St.

**III. CALL TO ORDER – ROLL CALL** –Mayor King called the meeting to order on April 26, 2011 at 7:00 pm. Present: King, RHanson, Miller-Beach, Stensrud and JHanson. Also Present: City Administrator Schimmel, Finance Director Neubauer, Public Works Director Stevens, Library Director Johnson, City Clerk Roeder and Deputy David Satzke.

**IV. APPROVAL OF AGENDA-** Councilmember JHanson requested that Item L - Township Meeting Request and Item M - City Attorney be placed on the agenda. Motion by RHanson, second by Stensrud to approve the agenda as amended. Unanimously approved.

**V. APPROVAL OF COUNCIL MEETING MINUTES -**

Motion by RHanson, second by Miller-Beach to approve the Regular Meeting minutes of April 12, 2011. Unanimously approved.

Motion by Miller-Beach, second by Stensrud to approve the Joint Meeting on April 11, 2011. Unanimously approved.

**VI. APPROVAL OF ACCOUNTS PAYABLE-** Motion by RHanson , second by JHanson to approve the accounts payable as submitted. Unanimously approved.

**VII. Ordinances/Resolutions**

**A. Purchase of Heartland Express Bus**– Jean Meyer, MN DOT Regional Manager, appeared before Council to update them on the purchase of a new bus. She noted that MnDOT supplies a list of vendors that qualify under the State Cooperative Procurement Process. Two qualified vendors submitted bids and it was being recommended to purchase the bus from Eldorado National. She stated that their bus was heavier, the passenger door is 36'vs 32' and has a Chevy Chassis. She also noted that Eldorado National was the low bidder. She stated that if Council approves the Resolution to purchase the bus, she will proceed with the paper work. She reminded Council that the bus was due to be replaced last year and that

we have had more than normal maintenance costs this year. Councilmember JHanson asked what happens with the old bus. Meyer stated that city has three options:

- Sell it outright and put the funds back into the transit fund
- Use it for parts
- Retain it for a backup bus

JHanson also commented that the maintenance on the bus should be spread around to the different businesses in town.

Motion by Miller-Beach, second by RHanson to approve Resolution 2011-9, A Resolution Authorizing the Purchase of the bus from Eldorado National. Unanimously approved.

### **B. Ordinance Approving the Amendment to Chapter 12, Subdivisions.**

City staff has been working with Don Borcharding, YCA in updating our Subdivision Ordinance. Mr. Borcharding indicated that the ordinance needed to be updated to include language for practices that have already been implemented. The Public Works Dept. also consulted with an area construction company and included many of their suggestions to be included in the ordinance amendment. The Planning & Zoning Commission held a public hearing and is recommending approval.

Motion by RHanson, second by Stensrud to approve Ordinance 2011-1, An Ordinance amending Chapter 12, Subdivisions. Voting in favor: RHanson, Stensrud, JHanson and King. Abstaining: Miller-Beach. Motion Carried.

## **VIII. Presentation/Public Hearing**

**A. Chamber of Commerce – Variance Request** – The City has received an application from the Chamber of Commerce for a variance from Chapter 6 – Section 620 Noise. As you remember, the City Council, based on community feedback, approved moving the dance back to Florence Park at their December 14, 2010.

The Chamber is seeking the variance to allow for bands on July 3<sup>rd</sup> from 6 pm to 12:30 am on July 4<sup>th</sup> as part of the 2011 Old Fashion 4<sup>th</sup> of July.

The Sawtooth Bluegrass Band will be performing from 6:00-8:00 and Time Machine will be performing from 8:30 – 12:30.

The Dance Committee sent out letters to all Lakeshore Drive residents and invited them to a meeting. Positive feedback has been given by a strong majority of the residents. Bill & Lou Tasler have objected to the dance being conducted at Florence Park and have hired Attorney Jay Lindgren, Dorsey & Whitney, LLP., to represent them for additional information. (see attached letter).

Also included is a mapping that has been prepared by the committee, public works and Deputy Satzke.

The Chamber is also seeking approval of the Outdoor Event Application that would include approval for the Arts in the Park event, Parade and Fire Works.

Joel Packer, representing the Chamber/Dance Committee appeared before Council. Packer stated that based on community feedback and declining numbers, the Chamber was requesting that the dance be moved back to Florence Park. He stated that the Chamber does not believe that the noise from the bands, parade or fireworks will cause any unreasonable

annoyance, disturbance or injury to the residents that precludes their enjoyment of their property. He stated that we have been working with the Sheriff's Dept. and have invited the Lakeshore Residents to a meeting.

Bill Tasler – 306 Lakeshore Dr. appeared before Council . He stated that only the Lakeshore Dr. residents were asked to attend the March meeting and not others in the immediate area of the Park. He stated that when ask questions of the Committee Chair she answered with "I don't know". He feels that she is using her position as the City Clerk to influence the Council. He asked if the Chamber has hired an attorney. Chamber President, Connie Grisim stated no. He asked if the City Council has received letters from his attorney. The Mayor stated that yes they have received the letters. Tasler stated that the ordinance was written to protect citizens and should not be changed when someone wants an event. He stated that the dance affects their lives and well-being. He stated that in the past, the Chamber offered them a hotel and wanted Council to know that this was an insult. Tasler stated that we were sending the wrong message to our young people. He stated that those attending the dance drank too much alcohol and consequences happened such as rape. He asked what the liabilities to the City were? He stated it's wrong to have to hire an attorney to protect their rights and asked that the Council deny the variance. He stated that the dance should be held at Bear Cave Park. Lou Tasler presented Council with a petition. She stated that Florence Park has to many trees where people can hide and drink. She stated that people urinate and beat up their wives and doesn't want this on her street.

Joel Packer responded that we are all volunteers who work hard on this event. He stated that if the dance was moved to another location, there would still be a need for a variance from the noise ordinance.

Kami Rogers, Chamber President reminded Council that the Chamber is a volunteer organization and depends upon the dance to not only supplement the Chamber office budget but to provide funding so for the fireworks/ parade/Arts in the Park and Miss Stewartville.

Tasler stated that it was unfortunate that the Chamber seems to be losing money but they have ran it from 2004 to present at the downtown location and feels it can stay there. He stated that the parade and fireworks were wonderful and there was no better place to hold those events than Florence Park. He stated that the Chamber should find other ways to raise money and that the park should not be used as a beer garden.

Packer asked the Council to remember that this is about the noise ordinance. He stated that with every organization, volunteers are needed and thanked Cheryl Roeder for stepping up to the plate to Chair the dance committee.

Councilmember RHanson stated that the dance has been held at the park for many years and asked if we could post a deputy at Tasler's property.

Councilmember JHanson stated that there are many different ways to look at this. She told Council that she had talked to Chris Stafford, the City's Insurance Agent and she said he stated that he didn't think Florence Park was a great place to have it and that maybe downtown was a better place. She asked that Council look at this from the perspective of a homeowner – would they want it in front of their home. She asked Packer if the neighbor's smoke bothers him or if cars parked in front of his house bothered him. She commented that the Fun Run starts at 6 am and asked what kind of shape the park would be in. She stated that this is not a family function and that the other events are. She stated that she feels it's the economy that keeps people away. JHanson asked if we have looked at other options

such as Bear Cave. She stated that in a 2005 letter from Attorney Guzinski, he talked about the noise ordinance and that the city may be sued on a nuisance theory. She noted that she agrees with Joe Delany who questions why we are always in a legal situation. She stated that she felt it was inappropriate for the city attorney to give advice to the Chamber and questioned why we were using Attorney George Hoff, noting that Council did not approve this action. RHanson called for Point of Order, stating that we can't discuss a legal issues. JHanson replied that we were not discussing them and asked why it was necessary to spend \$3,000 on this issue and this is an example as to why she felt city government was dysfunctional.

Clair Mrotek stated that he was disappointed that it was felt that all people do at the dance is drink beer and leave. He stated that it was untrue and that we have lots of food stands. He also questioned why we were able to obtain insurance if our agent was against the location. He stated that it seems that no matter what goes on someone is picking on someone – he noted that it was wrong and needs to stop. He asked for a show of hands of the people in the audience who have volunteered. He stated that he has sat on the dance committee for many, many years without any problems. He reminded that the community may not have a parade or fireworks if not for the volunteers. He asked Council to get the blinders off and work together so we may go forward as a community.

JHanson stated that she understood what Mrotek was saying and thanked the volunteers. She noted that if someone has another opinion it doesn't mean they don't appreciate volunteers.

Jim Kuisle stated that the Chamber has come off as sponsoring a drunken brawl at the park and stated that this was not the way it was set up. He stated that lots of volunteers were working so that this is a nice event and that some things need to be gotten past.

Mayor King closed the public hearing.

Motion by Miller-Beach, second by Stensrud to table the variance request and Outdoor Event application until the May 10<sup>th</sup> meeting. Unanimously approved.

**B. Outdoor Events Application – Words Players Theatre-** Rose Korabek, appeared before Council seeking permission to bring Shakespeare's Much Ado About Nothing to Stewartville. She stated that she would like to use Florence Park on Tuesday, June 21<sup>st</sup> from 6 to 10 pm. She told Council that they will bring in two wagon sets and place them at the top of the grass by the pavilion side of the path. They will be bringing additional benches for spectators. She anticipates that 150-200 people would attend. She noted that they will sell pre-packaged concessions and drinks. The Words Players Theatre has existed for 10 years and this play is put on by high school and college age kids.

Motion RHanson, second by JHanson to approve the Outdoor Event application as submitted. Unanimously approved.

**C. WWTF – Phase II-** Tom Madden, YCA, appeared before Council to give an update on the Phase II project. Madden stated that the plans & specs were being completed and that once the contractor is determined they will sit down and work with the City Council to see what best fits our needs. Neubauer stated that on April 15, 2011 we received the formal Proposal for Professional Services from YCA for an amount to not exceed \$48,500. It was noted that the City is on the State's 2012 Intended Use Funds list.

**D. Schwickert' s Civic Center Contract** – Due to the age and condition of the Civic Center roofing, staff is recommending that we enter into contract with Schwickert' s. The fee is \$235 for an annual visual inspection. If repairs are needed and approved to be completed by the County the annual fee will be waived. We have requested that an additional line be added to the Agreement that states that if repairs are over \$10,000 the City has the right to solicit bids according to the City's Purchasing Policy.

Motion by RHanson, second by Miller-Beach to enter into a Roof Maintenance Agreement with Schwickert' s as presented. Voting in favor: RHanson, Miller-Beach, Stensrud and King. Voting against: JHanson. Motion carried.

**E. Heartland Bus Contract Amendment** – Neubauer stated that she has been working with Jean Meyer, District Transit Mgr for MnDOT, regarding steps to be taken in order to provide free rides to the Farmer's Market. It was agreed that since we have hours with limited ridership, especially during the summer months, we should try to rearrange service hours. The proposed Wednesday hours would change to 9am to 7:30pm and Friday's from 9 am to 3:30pm from May 25<sup>th</sup> to September 28<sup>th</sup>.

Motion by JHanson, second by Stensrud to amend the hours as requested. Unanimously approved.

**F. Olmsted County Traffic Signal** – The Traffic Signal project is a joint project sharing the costs with the State of MN – 50%, Olmsted County -25% and the City -25%. The City has paid upfront costs for design and right of way, which were \$237,271.65. The State has paid \$118,635 and Olmsted County has been billed for \$59,317.92. The County has requested that we execute an "Agreement for Design and Right of Way Associated with the Signal Installation at Trunk Hwy 63, CSAH 6 and CR106" for their records. Upon receiving the executed agreement the County will issue us the reimbursement check of \$59,317.92

Motion by RHanson, second by Stensrud to approve the agreement as submitted. Unanimously approved.

**G. Olmsted County Equipment Contract-** Olmsted County has submitted the annual contract for equipment/labor during the year for maintenance such as blading of city streets and snow plowing, etc. It was noted that the rates have increased slightly from last year. This year they have also added the following language "plus a fuel surcharge if applicable".

Motion by Stensrud, second by Miller-Beach to approve the contract as submitted. Unanimously approved.

**H. 2011 Budget Amendment/Part-Time Summer Help-** The 2011 Budget includes a line item for a cleaner of buildings (new position) in the amount of \$10,096, which hasn't been filled.

The Finance Committee has reviewed a request to transfer some of these funds into part-time summer help. The request is to add another seasonal part-time employee for 40 hrs/wk for 14 weeks and to add an additional 8 hrs/we for 14 weeks for one of the two mowers. The estimated cost for this request is \$7,500. It was noted that the Personnel Committee reviewed the request earlier that day and were asking for more time to consider the request.

Motion by RHanson, second by Stensrud to table the requests until the May 10, 2011 meeting. Voting in favor RHanson, Stensrud, Miller-Beach & JHanson. Voting against: King. Unanimously approved.

**I. Sidewalk – 4<sup>th</sup> St. & 3<sup>rd</sup> Ave. SW Update-** Miller-Beach reported on the 4<sup>th</sup> St. SW sidewalk, noting that the residents were open to sidewalks. She stated that the crosswalk located on the north side of the street raised some concerns. She also noted that some aprons dipped and would cause a concern with safety. She stated that she would prefer sidewalks on both sides of the street. JHanson stated that she originally felt it should be placed on the south side but since watching traffic she has realized it's very hazardous. She also noted that if sidewalks were put in on the south side there wouldn't be a lot of room for residents to park their cars in the driveway, noting that she preferred a larger sidewalk and no boulevard. Stensrud stated that he preferred a 2' grass boulevard with a 4' sidewalk, which would provide for a grass barrier between pedestrians and vehicles. RHanson stated that the north side already has a sidewalk and with the pool on the south side suggested adding the south sidewalk with a crosswalk either on the east or west end.

Motion by JHanson, second by RHanson to place a 4' sidewalk with 2' boulevard on the south side. Voting in favor: RHanson and Miller-Beach. Voting against: King, Stensrud and JHanson. Motion failed.

Motion by Stensrud, second by Miller-Beach to place a 4' sidewalk with 2' boulevard on both sides. Voting in favor: Stensrud, Miller-Beach and King. Voting against: RHanson and JHanson. Motion carried.

**Pool Sidewalk** Miller-Beach stated that they met with Dr. Thompson and neighbors regarding a sidewalk connecting 3<sup>rd</sup> Ave. SW to the pool building. She noted that everyone in attendance was in favor but some were concerned with possible drainage issues. Miller-Beach felt that these were separate issues and hoped that a decision could be made on the sidewalk as it was a safety concern. JHanson would like to solve what she felt was a drainage issue before starting another project. JHanson asked that the layout of the alley apron not change.

Motion by RHanson, second by Miller-Beach to approve the sidewalk, which would include the layout of the alley apron not changing. Discussion was held regarding the motion. RHanson stated that he was not in favor of moving forward if there are still problems with potential legal action. Mayor King asked for a vote. Voting in favor: Miller-Beach, Stensrud, King and JHanson. Voting against RHanson. Motion carried.

**K. CPPW Grant Approval-** Mayor King announced that the City has been awarded \$50,000 for the construction of a path from the pool to 6<sup>th</sup> St. SW. Mayor King and the Council thanked City Clerk Roeder for her work on the grant application. JHanson asked if lighting was included. Roeder stated that the lighting was an additional \$25,000 and the grant had a maximum of \$50,000.

**L. Township Meeting Request** – Council will submit the dates of Wednesday May 25<sup>th</sup> or June 1<sup>st</sup> and requested that they set the date that would work for all township boards.

**M. City Attorney** – JHanson reminded Council that Joe Guzinski was approved as City Attorney in January and that she wasn't aware that they approved an alternate attorney. She stated that she didn't realize there was a conflict of interest with Guzinski and Summerfest.

RHanson replied that if our City Attorney advises us to use an alternate attorney we needed to follow his advice.

Motion by RHanson, second by JHanson to move forward with a Request for Proposal for a City Attorney. Voting in favor: RHanson, JHanson and Stensrud. Voting against: Miller-Beach and King. Motion carried.

JHanson would like to continue with Guzinski on the Summerfest issue. Miller-Beach stated that she relies on the Committees to do their work. RHanson stated he is aware of the reasons why City Administrator Schimmel sought the advice from an alternate attorney. He reminded Council that legal matters such as this should not be discussed in open session.

Motion by JHanson to move into a closed session at the May 10<sup>th</sup> meeting.

JHanson stated that no one Councilmember has administrative authority. Stensrud stated that the Council gave the City Administrator authority to make these types of decision and that Council needs to stop micro managing and trust Schimmel' s expertise. JHanson stated that she disagrees. RHanson called for Point of Order.

Mayor King asked for a 2<sup>nd</sup> to the motion on the table to move into closed session at the May 10<sup>th</sup> meeting. After asking for a 2<sup>nd</sup> to the motion two more times, the motion died for a lack of 2<sup>nd</sup> .

## **X. MAYOR, STAFF AND CONSULTANTS REPORTS**

### **A. Mayor – King commented on the following:**

- Sympathy to the families of: Ray Evans, Mary Olson Nienow, Ernest Klomps, Leona Ellingworth, Gerald Kraetsch and Judith Struif
- Swimming Lesson sign ups at City Hall on April 28<sup>th</sup> & May 12<sup>th</sup> from 5-7.
- Sign Up for your Community Garden Plot
- City Wide Garage Sales – Friday & Saturday May 6&7

### **B. Administrator– Schimmel reported:**

- Outdoor Warning Sirens Activation will be held every Wednesday at 10:00 thru October 1<sup>st</sup>.

### **C. Finance Director – Reported on the 1<sup>st</sup> Quarter Financial Reports. Neubauer reviewed the revenues/expenses and cash balances as of March 31, 2011.**

### **D. Public Works Director –Reported:**

- Fire Hydrants flushing is completed
- Tree dump in open
- Getting quotes for Well # 3 Maintenance

### **E. Library Director - Reported on Library activities. She informed the Council the bathroom remodeling project will begin on May 21<sup>st</sup>. The Library will be closed from May 21 – May 30<sup>th</sup>. It was noted that the funds would be taken out of the Brin Trust Fund.**

- F. Fire Chief - Wolf thanked the Mayor for attending the SE MN Firefighter Assoc. dinner. He noted that 85% of the department has finished the State certification.

## **XI. COMMITTEE, COMMISSIONS AND BOARD REPORTS**

- Care Center- No report
- Chamber of Commerce – No report
- City Beautification/Mn Design Team
  - Minutes of April 6 & 14
  - Update on Main Street flower pots.
  - MnDOT Grant – Main Street needs to work together on application
  - RHanson stated that the Committee needs to be approved by the Council.

Motion by Stensrud, second by Miller-Beach to form a Beautification Committee consisting of two Councilmembers, two staff members and five members at large. Unanimously approved.

Jerry Neubauer asked why we using a business from Rushford for our flowers when we have volunteers who are willing to do this. Miller-Beach responded that the committee wanted the hanging baskets and the pots to match and Rushford will work with them on how to maintain the flowers to get the best results.

- EDA/HRA
  - Minutes of April 20<sup>th</sup>
  - Proposed TIF Development Project Ideas – Schimmel asked Council to send their priorities back to him within the next few days.
- Emergency Operations Task Force – No report
- Finance- No report
- Heartland Express- No report
- Library- No report
- Park Board- No report
- Personnel- No report
- Public Safety/Safety Committee – Minutes of March 29<sup>th</sup>. Deputy Satzke informed Council that alcohol checks were done county wide with one Stewartville failure.
- Planning & Zoning – No report
- Public Works- No report
- RAEDI- No report
- ROCOG- No report
- SCCC/STEW19 –No report

## **XII. COMMUNICATIONS**

- A. Peoples Service Update
- B. Peoples Cooperative Services Annual Report

**XIII. ADJOURN** – Motion by Miller-Beach, second by RHanson to adjourn. Unanimously approved.

Respectfully submitted,

Cheryl Roeder, City Clerk

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