

CITY OF ST. FRANCIS  
ST. FRANCIS, MN

CITY COUNCIL MINUTES

July 7, 2008

6:00 pm

1. **Call to Order:** The regular City Council Meeting was called to order by Mayor Randy Dressen at 6:00 pm at the ISD #15 District Offices.
2. **Roll Call:** Present were Mayor Randy Dressen, Council members LeRoy Schaffer, Steve Kane, Ray Jones, and Tim Brown. Also present was Assistant City Engineer Jared Voge (Bolton & Menk, Inc.), City Attorney Scott Lepak (Barna, Guzy & Steffen), Public Works Director Paul Teicher, Police Chief Jeff Harapat, Fire Chief Ken Pace, Finance Director Gayle Bauman, City Administrator Matt Hysten, and City Clerk Barb Held

Mayor Dressen stated Council member Jones has to leave early because of a mandatory Upper Rum River Management Watershed meeting at 7:00 pm, therefore we will be moving some of the items up on the agenda.

First, item we will move 8c. Attorney: Report to Council. Attorney Scott Lepak stated he was directed by the City Council to review Councilmember LeRoy T. Schaffer's actions and comments initially related to a June 5, 2008 telephone call to Anoka County central communications and later expanded upon in various interviews and communications. Lepak read his findings. Attached is the report, labeled as Exhibit A. Lepak stated now as an individual who is not knowledgeable about the requirements of reasonable suspension or probable cause, Councilmember Schaffer really should not be generally charged with the knowledge what specifically constitutes reasonable suspension or probable cause. That determination ultimately belongs to the Police Department and it belongs to review by the City Attorney office and that would be me. As head of the Legal Department, I am ultimately responsible for making that determination. I am confident that determination would then be presented to me by the Police Department, and if it was as I stated I would personally dismiss that charge. Simply not speaking the language of English is not crime in the City of St. Francis or the State of Minnesota or the United States, it is not probable cause to investigate an individual. In this case, the process because it went to the Police Department because it would have had to go through the City Attorney for review it wasn't going anywhere, so Councilmember Schaffer's rationale is not legally sufficient to investigate individuals. So based on that, the Council can consider whether Councilmember Schaffer's conduct violated the pledge to the Mayor and Councilmembers and or the City's Code of Conduct. I've got the pledge reproduced, I've got the Code of Conduct reproduced. The issues in this area really involve whether there is some consideration for and against taking any action. First consideration is this is a matter of the First Amendment whether an individual is

Councilmember, private citizen, they have first amendment rights. The Council should be extremely cautious in any instance in which there is going to be any focus on an individual's speech, in the content of the speech and what they said. The Council should be very reluctant to engage in that sort of action. Number two, particularly in St. Francis because we are a Chartered City, the citizens ultimately own the right of recall, re-election, this ultimately gets to be a citizens call, not a Council call, that also dictates against Council action and is simply one that is better left for judgment of our citizens. The third issue is that Councilmember Schaffer was acting as a private citizen. In making a determination, Council may consider that even though it wasn't private comments, Councilmember Schaffer is an elected official. He is responsible along with the other Councilmembers and Mayor for making policy decisions. Those policy decisions include the recognition of individuals' civil rights and the fact that you can't discriminate against somebody on the basis of natural origin. Under public services in Minnesota Human Rights Act it is illegal discrimination to focus on someone because of natural origin. We as the City, in the Police Department have a duty to make sure that any public display including our Police Department does not have discrimination in its actions. Councilmember Schaffer ultimately gets to be a policy making individual for that department. In this instance there's some pros, there's some cons, hopefully with this report it is the intent that it be deemed an educational document that there is better understanding of what the responsibilities of all parties are and how the process works and at this point the matter is left to the City Council for its determination. Lepak stated he would be happy to answer any questions. Dressen asked the council for comments.

Councilmember Kane stated it has been increasingly apparent in speaking with citizens in person and in correspondence that the majority of people of the city of St. Francis are a little bit tired of all this controversy, with being on the news and in the paper. With that being said; I think we have to respect their wishes and as the attorney said it is a matter of the citizens to decide and not us and it would be my recommendation to take no action at this time.

Councilmember Jones agreed with Kane in reading Rule #1 of the Pledge it states Council members treat each other, the staff, and the public with respect and dignity.

Councilmember Brown agrees with Kane and Jones.

Mayor Dressen stated I would concur with the attorney comments as well that this is a matter left to the voters of the city of St. Francis, they will determine any result and impact this has on the City. Let's move forward and agree with Councilmember Jones let's treat each other with respect. Lepak said that concludes my review.

**Move 6a. Ordinance 122, Second Series: Amending Chapter 10, Sec. 10.50 Regarding Interim Permits and Abandonment and Expiration of Conditional and Interim Use Permits (1<sup>st</sup> Reading):** This ordinance being proposed would allow for Interim Use Permits and address abandoned Conditional /Interim Use Permits. **MOTION BY KANE SECOND BROWN TO APPROVE THE FIRST READING OF ORDINANCE 122, SECOND SERIES AMENDING CHAPTER 10, SECTION 10.50 REGARDING INTERIM PERMITS AND ABANDONMENT**

AND EXPIRATION OF CONDITIONAL AND INTERIM USE PERMITS. Schaffer asked for an example of a conditional use permit. Hylen explained the reason for a conditional use permit. Aye: Brown, Jones, Kane, Schaffer, Dressen and Schaffer. Motion carried 5-0.

Dressen asked if Jones had anything he would like to address before he is excused. Jones would like to see the City get an Ordinance regarding leasing property. Yes, one more thing regarding the water tower base and vault why spend the money now, make a mound and have a civic organization plant flowers over it.

**3. Adopt Agenda:** MOTION BY KANE SECOND BROWN TO ADOPT THE JULY 7, 2008 CITY COUNCIL AGENDA WITH THE CHANGES MADE. MOTION CARRIED 4-0.

**4. Consent Agenda:** MOTION BY KANE SECOND BROWN TO APPROVE THE JULY 7, 2008, CITY COUNCIL CONSENT AGENDA A-N:

- a. Approve the City Council Minutes – June 16, 2008.
- b. Receive and File the June 8, 2008 Fire Department Minutes.
- c. Receive and File the May 21, 2008 Planning Commission Minutes.
- d. Accept the Performance Review of Part Time Liquor Store Employee Jodi Engren and move her to the one-year status.
- e. Accept the Performance Review of Police Officers Brandon Stemme and move to Step 5 and Dan Allen and move to Step 2 after completing his six-month review.
- f. Accept the Performance Review of Public Works Operator Denis Backsen and move him to Step 4 on Grade 8.
- g. Accept the Performance Review of City Clerk Barb Held and move her to Step 5 on Grade 14.
- h. Accept the Letter of Resignation/Retirement of Fire Fighter Steve Merrifield.
- i. Approve the Final Pay Request for Well No.4 for \$4,234.73 to E. H. Renner and Sons.
- j. Approve Pay Estimate #10 for the Water Treatment Plant in the amount to \$952,768.00 to Staab Construction.
- k. Approve pay Estimate #4 for the 235<sup>th</sup> Avenue Improvement project in the amount of \$40,857.00 to Dirt-Pro Equipment.
- l. Approve the City Administrator to attend the IMCA Annual Conference in Richmond, VA from September 21-24, 2008.
- m. Approve the building permit application for Dawn and Melvin Gjertvig, which is an addition to their home at 2433-229<sup>th</sup> due to the fact their home is currently in the moratorium area.
- n. Approve the Payment of Claims for \$177,417.58. Motion carried 4-0.

**5. Petitions, Requests, Applications:**

**a. Public Hearing on the Proposed City Charter Amendments:** Mayor Dressen opened the Public Hearing at 6:22 pm. Dressen asked if there was any public comment on the proposed changes to the City Charter. Schaffer questioned the word qualified in Section 2.02. Dressen closed the public hearing at 6:26 pm. Lepak reported this will be brought to the next city council meeting as a first reading as an ordinance. Also will respond on the qualified terminology.

**b. State Senator Rick Olseen and State Representative Rob Eastlund:** They reported they have been attending local cities, school board meetings, and counties meetings to give an update of the session. The good part is we would like to report that St. Francis would be receiving an increase in the Local Government Aid. Some of the areas addressed were transportation, property tax cap, and good veteran's package and addressed other issues. Dressen asked, please keep Highway 47 on your mind. To see if we can get it improved from St. Francis south to Anoka.

**c. County Market: Site Plan Review, PUD Amendment and Variance Request:** County Market applied for a PUD Amendment, Variance, and Site and Building Plan review to allow for an expansion of the main building and the car wash. The original site plan and approval allowed for the expansion of the main building. The applicant states the car wash is creating a traffic flow problem within the development and would like a second bay added to the structure. The addition would result in the car wash being 16 feet from the County Road 81 right-of-way. Planned Unit Developments have a perimeter setback of 35 feet in the underlying General Commercial Zoning District. The Planning Commission recommending denying the variance request due to there not being a hardship on the site. At the Planning Commission meeting, the applicant offered to shorten the expansion by two feet to further limit the impact of the expansion on the trail and to allow for more space for the vegetative buffer. Nate Sparks, planner for NAC stated in his memo, if the City Council finds that there is a justification for granting the variance, an approval of the request is warranted with conditions, including the reduction of the building by two feet, as discussed at the Planning Commission meeting. The following are the conditions would be place if approved; 1) All comments by the City Engineer shall be satisfied. 2) The windows on the south elevation shall be restricted from having window signage. 3) The landscaping plan shall be revised to document the replacement of any trees lost to the expansion and to fully screen and buffer the building. The additional juniper trees being provided must be a minimum of 4 feet tall. 4) The expansion area shall be shortened by two feet. 5) A full site plan showing the expansion of the car wash and the main building shall be provided for final review. Kane said he sat in on the meeting in the absence of council member Brown. The planning commission made their decision on the memo that was presented to the commission. More information was given to the planning commission the evening of the meeting. Kane said County Market has done a lot of good for St. Francis. Schaffer said he agreed, they has been very concerned with people. Schaffer said the hardship wouldn't go with County Market. Brown and Dressen agrees MOTION BY BROWN SECOND KANE TO ADOPT RESOLUTION 2008-21 APPROVING A VARIANCE REQUEST, PUD AMENDMENT & SITE AND BUILDING PLAN REVIEW FOR COUNTY MARKET AT 23122 ST. FRANCIS BLVD. Motion carried 4-0.

**d. St. Francis Area Chamber of Commerce:** No one in attendance to address the city council.

6. **Ordinances & Resolution:** None

7. **Meeting Open to the Public:** No one signed up before the meeting.

8. **Reports of Consultants & Staff Members:**

**a. Engineer:** No report.

**b. Attorney:** No report.

**c. Staff: Fire Dept:** No report.

**Public Works: Water Tower Site Improvement & Old Water Tower Base Vault:**

The other improvement is the removal of the old water tower base and vault. Teicher said he talked to Council member Jones regarding his concerns. Staab Construction did provide a cost of \$12,965 for the removal of both which could be handled as a change order as they are working in town on the water treatment plant. If council agrees to remove the old tower base and vault, a change order would be prepared and submitted at a later date. Dressen said he would like to have more time to revisit this and bring to next city council meeting.

There are two potential improvements at the old water tower site. One is adding the final wear course on the pavement under the water tower and making improvements to the grass area. The estimated costs of the two improvements are \$12,239.50. There is a contractor in town that would be able to do the work. Council felt it has MOTION BY BROWN SAID KANE TO APPROVE THE RE-VEGETATION AND BITUMINOUS/CONCRETE WORK BY THE WATER TOWER SITE.

Schaffer said it is added expense we do not need now. Motion carried 3-1. Schaffer voting nay.

**Liquor Store:** No report.

**Police Dept:** No report.

**City Administrator Report: Authorization to Hire Part Time Employee:** Staff is in the process of interviewing for the Part Time office support clerk and part time accounting clerk positions. Hylen is requesting authorization to hire these employees with later ratification by the Council on these two positions to keep this process moving. MOTION BY BROWN SECOND KANE TO AUTHORIZE THE CITY ADMINISTRATOR TO MAKE AN OFFER SO THEY CAN GIVE THEIR TWO WEEK NOTICE THESE TWO PART TIME POSITIONS WITH A LATER RATIFICATION BY THE CITY COUNCIL. Motion carried 4-0.

**Work Week Office Hours:** Hylen said he has been reading and hearing about discussions of length of the workweek. Hylen would like the council to think about four day work weeks and whether that is something, they would consider.

9. **Reports from Council Members:** Schaffer contacted a couple businesses.

10. **Report from Mayor:** Volunteered at the mini triathlon this past weekend.

11. **Old Business:** Kane questioned the path along Pederson Drive. I thought that was going to be put in this year.

Where are we at for Habitat for Humanities? Hylen said they are in contact with Kate Thunstrom of Anoka County and this is moving forward.

12. **New Business:** None

13.     **Adjournment:** The Regular City Council meeting adjourned at 7:12 pm.

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Barbara I. Held, City Clerk