

Councilpersons:
First Ward: Gallenberger, Gibson
Second Ward: Schmidt, Hiers
Third Ward: Meurer, Bricher

Mayor: John Meisch
City Attny: Peter Ekstrand
City Adm: David Schmidt
City Clerk: Susan Schamaun

Date: October 05, 2010

PROCEEDINGS OF THE CITY COUNCIL

The regular meeting of the City Council of the City of Wabasha was held on Tuesday, October 5, 2010 and was called to order at 7:00 pm by Mayor John Meisch.

Roll call found Councilpersons Gallenberger, Gibson, Schmidt, Hiers, Bricher, Meurer, and Mayor Meisch present.

Mayor Meisch called for citizen petitions, hearing none he moved to the next item on the agenda.

Mayor Meisch added under General Business item 5.5 Rental Proposal for 142 2nd Street West

Councilpersons Gibson and Meurer moved to approve the following consent agenda: Adopted Unanimously.

Approved the September 7, 2010 Regular Council minutes and September 14, 2010 Special Meeting minutes.

Approved the following warrants as presented:

Mayors	General Fund	1,723.63
Legal	"	3,587.78
Fire Dept.	"	1,156.25
Police	"	879.20
Ambulance	"	6,968.20
Park	"	1,792.35
Pool	"	3,141.88
Streets	"	4,998.22
Planning & Zoning	"	306.47
Emergency Management	"	7.05
Athletic Field Dugout Bills	Pd. for by Donations	2,392.75
Beautification Fund		505.94
Street Improvement Fund		9,001.26
Total		36,460.98

4.1 Public Hearing – Ordinance Amending Section 705 – Animal Ordinance to allow Chickens

At 7:02 Mayor Meisch opened the public hearing to consider amending City Ordinance Section 705: Animal Ordinance to allow Chickens. There were 7 people in the audience. Council members were provided with a copy of the proposed ordinance changes that were drafted by the Planning Commission.

Council Member Meurer stated that he had a few citizens approach with concerns about roosters; however the ordinance does not allow roosters. Council Member Hiers stated that she had a citizen with concerns about the total number of chickens in town could be. Other Council discussions included the number of chickens allowed, the need for a complaint process, smell, other animals, lot size, the need to keep grass in chicken runs, having a CUP for more than 3 chickens.

City Planner Molly Patterson Lundgren was present and stated that she worked with the Planning Commission to draft the proposed changes and they were compiled from ordinances from several other cities including Rochester, Roseville, St. Paul and Minneapolis. Council members asked about enforcement issues, Molly stated that she had not gotten any feedback from other cities on enforcement issues.

Mayor Meisch asked if there were any public comments, hearing none the public hearing was closed at 7:34.

Council members Hiers and Bricher moved to send the matter back to the Planning Commission to get further information on setting up criteria for a CUP, clarification on minimum lot size per chicken, and setback from streets. Adopted Unanimously.

5.1 Variance Appeal – David Wodele

David Wodele submitted a letter of appeal for a variance that was denied by the Wabasha Board of Adjustment at their September 1, 2010 meeting. Mr. Wodele requested a variances for side setback, lot size and lot width

for his property located at 1102 Church Avenue. Council members were provided with copies of the Letter of Appeal; BOA minutes and MN State Statute handouts; variance application; staff memo; and notice sent to adjacent property owners.

Mr. Wodele was in attendance and addressed the council. He stated that he was just trying to help two local businessmen purchase property which they would not be able to do otherwise. He would like to split the property between the current two buildings so that he can sell the property to the two new business owners, however he does not meet ordinance requirements. He has talked to adjacent property owners and they are not against what he is trying to do. Mr. Wodele also stated that he understands that one of the variance requirements is that it must pose an undue hardship and that it does not pose a hardship for him as it is now.

Council member Gallenberger stated that the council can only uphold the law and that Mr. Wodele's Letter of Appeal does not state anything that changes the Board of Adjustments decision.

Mayor Meisch requested clarification on the definition of undue hardship. City Attorney Peter Ekstrand stated that the law states that a variance can be granted if the applicant can show undue hardship. The Supreme Court ruled that undue hardship means that a municipality does not have the authority to grant a variance unless the applicant can show that his property cannot be put to a reasonable use without the variance. He also stated that if the council does grant the variance, any taxpayer has the right to appeal it to the district court.

Council member Gibson asked what the outcome would be if the city were to grant the variance and someone were to appeal. City Attorney Peter Ekstrand stated that the city would need go to court, pay attorney fees and if the city losses they would have to pay court costs. It would cost the person \$250.00 filing fee and they would need to file within 60 days.

Other council discussion included zoning issues and legal issues if the variance were granted.

Council members Schmidt and Meurer moved to approve the variance with the contingency that if someone appeals the city will not contest. The motion did not pass with the following vote: Ayes: Schmidt, Meurer Nays: Gibson, Hiers, Bricher, and Gallenberger Abstain: Mayor Meisch

5.2 Street Project Survey Work

The Street Commission is requesting the council approve moving forward with engineering work for the 2011 street project, because due to timing of bidding it is necessary to complete the survey and engineering work now. Council members were provided with a project schedule.

Bill Anderson from Yaggy Colby addressed the commission and stated that the survey work for the 2011 street project needs to be completed and provided an estimate of \$30,000.

City Administrator stated that he had contacted local survey company Johnson Scofield and that they had given an estimate of \$24,000.

Mr. Anderson stated that they have worked with Johnson Scofield previously and it would not be a problem to have them do the survey and engineering part of the project.

Council members Gallenberger and Schmidt moved to authorize Johnson and Scofield to do the street survey and engineering work for the 2011 Street Project but not to exceed \$24,000. Adopted by the following vote: Ayes: Schmidt, Hiers, Bricher, Meurer, Gallenberger, Gibson, Mayor Meisch

5.3 Resolution for Assessment of Unpaid Utility Charges

The Utilities Commission is requesting the council's approval to assess unpaid charges to taxes. Staff has made several attempts to collect the fees; at the end of each year unpaid fees are assessed to taxes.

Council members Meurer and Bricher offered the following resolution and moved for its adoption. Adopted unanimously.

RESOLUTION # 769

RESOLUTION FOR ASSESSMENT OF UNPAID UTILITY CHARGES

WHEREAS, pursuant to proper notice duly given as required by law, the Utilities Commission has met, heard, and passed upon all objections to the proposed for unpaid charges for utilities; and

WHEREAS, the amounts of bad debt have been minimized through diligent collection efforts by staff.

NOW THEREFORE, BE IT RESOLVED:

1. Such proposed assessment for unpaid charges, a copy of which is hereby attached as Exhibit 1 and made a part hereof, is hereby accepted and shall constitute the assessments against the lands named herein.

2. Such assessment shall be payable over a period of one year on or before the first Monday in January.
3. The owner of the property so assessed may, at any time prior to certification of the assessment to the County Auditor, pay the whole of the assessment on such property, to the City Clerk/ Treasurer.
4. The clerk shall forthwith transmit a certified copy of this assessment role to the County Auditor to be extended on the proper tax lists of the county and such Assessments shall be collected and paid over in the same manner as property taxes.

Assessment Listing	Parcel Description	Parcel #	Service	Amount
Name	Address		Water/Sewer charges	
CAROL ARNSTON	706 5 TH GRANT BLVD.		WATER METER/PTS.	501.68
WILLIAM PRATLEY	712 5 TH GRANT BLVD.		WATER METER/PTS.	501.68

Mayor John M. Meisch

Patty Heraty, Administrative Assistant (Witness)

5.4 Change November Council Meeting

Due to the November election, it is necessary to change the council meeting date. After discussion Council members Hiers and Meurer moved to re-schedule the November council meeting to Tuesday, November 9th at 7pm. Adopted Unanimously.

5.5 Proposed Rental of 142 2nd Street West

Mayor Meisch brought forward for discussion a proposal by Alan and Betsy Wharton to rent 142 2nd Street West for their Canvas Shop. The proposal is to rent the building for \$350.00 for the first 6 months and \$450.00 thereafter. The Wharton's will pay the first 6 months rent up front; they are also requesting to make some improvement/alterations to the interior of the buildings such as painting, improved lighting. Council discussed the proposed rental terms. After all discussion, Council members Bricher and Schmidt moved to rent 142 2nd Street West to Alan and Betsy Wharton based on the proposed terms as discussed and signed lease agreement. Adopted unanimously.

6.1 Springer Appraisal Associates Letter

At the September 7th council meeting, council moved to acquire an economic analysis of affected properties for assessment purposed for 2011 street improvements. Staff was directed to contact Springer Appraisal Associates for a quote.

Council Members Gallenberger and Meurer moved to approve the Springer Appraisal and Associates quote for consultation services to prepare an analysis of affected properties for assessment purposes for 2011 street improvements at the hourly rate of 175.00 per hour. Adopted unanimously.

Mayor Meisch announced and thanked the following for donations to the Athletic Field Dugout fund:

- Valley Tile - \$50.00
- Kellogg Fire Dept Relief Association - \$322.00

Round Table Discussion

Council Member Bricher requested clarification on who would give Springer Appraisal direction on what streets to appraise. It was stated that he would need to be in touch with Bill Anderson from Yaggy Colby for a list of streets.

Council Member Schmidt reminded citizens to pay their real estate taxes.

Having no other business, Councilpersons Meurer and Gallenberger moved to adjourn at 8:34 pm. Adopted unanimously.

Patty Heraty, Administrative Assistant