

COUNCIL MEETING
JUNE 23, 2009
7:00 P.M.
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CITY OF DAYTON, MINNESOTA
12260 SO. DIAMOND LAKE ROAD
HENNEPIN/WRIGHT COUNTIES

PRESENT: Acting Mayor Scott Hoke, Council members J. Kevin Anderson, Tim McNeil

ABSENT: Mayor Doug Anderson, Council member Phil Forseth

ALSO PRESENT: Administrator Samantha Orduno, Asst. to the Adm. Erin Stwora, Finance Director Julie Linnihan, Public Works Director Rick Hass, Fire Chief Dennis Young, Police Chief Richard Pietrzak, and City Attorney George Hoff

CALL TO ORDER - 7:00 p.m.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Administrator Orduno added to the agenda the following items:

Add: E.1. Resolution 34-2009: Resolution allowing participation in the Minnesota State Patrol HEAT Grant beginning July 1, 2009.

Add Item N: Resolution 33-2009: Amending Res. #8-90, Enabling Res. Establishing an Economic Dev. Authority (EDA)

Council member McNeil requested Item K be considered after Open Forum.

MOTION: Motion made by McNeil, seconded by K. Anderson to approve the agenda as amended.

Ayes: Hoke, K. Anderson, and McNeil

Nays: none

MOTION DECLARED PASSED.

CONSENT AGENDA:

- A. Approval of Council Meeting minutes of June 9, 2009
- B. Payment of Claims – June 23, 2009
- C. Matt Lee Classic Softball Tournament – Temporary 3.2 On-Sale Beer License for July 17, 18, 19, 2009
- D. Resolution #28-2009: Continuing Commission Appointment Terms to July 14, 2009
S.R.#96-2009
- E. Resolution #31-2009: Charter Communications, Inc. Restructuring
- E.1. Resolution 34-2009: Resolution allowing participation in the Minnesota State Patrol HEAT Grant beginning July 1, 2009.

MOTION: Motion made by McNeil, seconded by K. Anderson to approve the consent agenda as amended.

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Ayes: Hoke, K. Anderson, and McNeil
MOTION DECLARED PASSED.

Nays: none

OPEN FORUM: No one was present

PUBLIC HEARING:

ITEM K: Ordinance #2009-11: Amending Dayton City Code Section 505 Regarding Weapons (Police Chief Pietrzak) S.R. #100-2009

The Dayton City Council reviewed Ordinance 2009-11 at the meeting on May 23, 2009. The City Council at that time recommended a Public Hearing.

Chief Pietrzak presented to the Council Ordinance 2009-11. He has received complaints regarding pellets hitting homes during hunting season. The Public Safety Commission has reviewed the ordinance and has presented the ordinance to the Council. Public Safety Commission recommended the repealing current City Code Section 505, and replacing it with the proposed ordinance. Chief Pietrzak explained that surrounding cities require permission to hunt on the lands.

Chief Pietrzak outlined the three basic changes to the weapons ordinance:

- Page 2. 505.02 - 2. A. Prohibited Acts: Item A refers to the discharge of a dangerous weapon without a permit issued by the Chief of Police, with the exception of the landowner.
- 505.02 – 2.B. Discharge or use of a firearm within 1,000 feet of a building occupied by humans or livestock
- 505.02 – 2.C. Discharge or use of an archery bow within 300 feet of a building

Chief Pietrzak mentioned there are also State guidelines in the ordinance that the public must follow: Council member McNeil asked if why the Ordinance would be 1,000 feet and not the state regulated 500 feet. Chief Pietrzak responded that the City ordinance that was put in effect in 1977 stipulated 1,000 feet and Public Safety Commission did not change it.

Acting Mayor Hoke opened the Public Hearing:

1. Doug Baines, 13000 Overlook Road, sent a letter to be entered into the record. (attached to the minutes)
2. Mike Rocheford, 13841 Pineview Lane – he has lived in Dayton and hunted in Dayton. He would like to have his children also have the ability to hunt in Dayton. He mentioned that there is a group of hunters in the area have been hunting coyotes during the winter. The

coyotes have been killing off the younger deer population. He would like to sit on a panel to review the ordinance.

3. Chris Levang, 14011 Pineview Lane, has received a copy of the ordinance and reviewed it. He has questions about the permitting and expressed concerns that the Police Department is doing the job that the DNR doing. He expressed concerns about the broad definition of what is a weapon. He thought there should be a distinction between the weapons and discharge of the weapons. He mentioned the selling of weapons and that is redundant with the state law. He mentioned the casing of the weapons and the need for clarification. He would like it noted that the permits would be free, and the expiration the permit. This is not in the ordinance. He would be against the ordinance.
4. Marlys Dehn, 12921 Fernbrook Lane – She stated that she has had lived in Dayton for 63 years. She has deer hunters on the property and hasn't had any problem with the hunters. She has rules that the hunters need to adhere to. She expressed disappointment that the City would require a permit to have hunters on her property. She is opposed to the Ordinance.
5. Leo Dehn, 17270 125th Ave. - he mentioned that he has a problem with the ducks and geese, and would not like to limit the hunting on the lakes. He is not for getting the permit, but maybe if the acreages are small they should have a permit, but on the larger acreage there would not be a need for a permit.
6. Keith Schermer, 13140 Oakview Lane - had a question about the hunts in Three Rivers Park. The hunts in the Park are regulated by the Park District. There is exclusion for archery ranges. The ordinance would not apply in Three Rivers Parks. He expressed concerns that most of the concerns are regarding Diamond Lake.
7. Jeff Eggen, has lived here for 24 years and he felt that there is one issue and that is regarding hunting on the lake. He thought there should be signs on the lake, and a map at the landing, and leave things as they are.
8. Steve Yager, 11100 West French Lake Road, thought that common sense should prevail. He asked how it was going to be administered, and enforced. He said that people that hunt on his land have asked for permission, and if they are hunting without permission he would be confronting them.
9. Scott Saloneck, 15520 So. Diamond Lake Road thought it should be his choice, if he would want to hunt on his property. He would not want to go to the city for permission, and he thought the City should let people take care of their own property.

10. Tom Dennstedt, 15850 So. Diamond Lake Road is against getting a permit to hunt his own land.
11. Buck Blesi is a hunter and manages his hunters every morning they go out to hunt. He reviews the area allowed to hunt in and does a lot of bow hunting. He hunts a lot of coyotes. He is against the permit process.
12. Dennis Boman, 13929 121st Street, and wondered about skeet shooting. Attorney George Hoff stated that the State had more restriction than what is in the ordinance. Mr. Boman expressed his thoughts that the park hunting is more dangerous than the other type of hunting. Council member K. Anderson spoke that the Council is concerned about the safety of the residents. Mr. Boman has concerns about the other animals in the park. He stated that there is a cougar, wolves, and coyotes in the park.

Acting Mayor Hoke closed the Public Hearing.

Council member K. Anderson expressed that the Council was available to hear comments from the public and the ultimate concern is the safety of the public.

Council member McNeil expressed a few clarifying questions and expressed a desire to postpone the vote on Ordinance 2009-11 until there was a full Council available for the vote.

Questions from Council member McNeil:

- Authority over the Three Rivers Park, and the possibility of exempting Three Rivers Park from the ordinance, because of the rules that Three Rivers has in place.
- The purpose of the ordinance is not to take anything away from the residents, but to monitor the hunting as it moves forward.
- He expressed his surprise that slingshots were a deadly weapon, and would recommend removing them from the ordinance.
- Clarify if it only applies to hunting, or skeet shooting also; the proposed ordinance under Section of Prohibited Acts and should only apply to hunting.
- There are concerns about the permitting, and how available it would be for the hunters.

Council member Hoke would support sending back to Public Safety commission to define the dangerous weapons definition.

- Council member Hoke thought in his opinion that air guns should be removed.
- Hoke expressed that since you need written permission to hunt within x many feet of a building it should correspond with the State law limit of 500 feet.
- Hoke thought that 300 feet for a bow was too far

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CenterPoint presented to the City of Dayton a check in the amount of \$1,400 to be used toward the purchase of defibrillators. This represents about 50% of the cost of the equipment.

Mr. Vandebroom has been a Dayton resident for the past 30 years. Through the grant program CenterPoint Energy shows support for the local communities.

MOTION: Motion made by McNeil, seconded by K. Anderson to accept the grant from CenterPoint Energy and use the matching funds from Capitol Outlay Fund for the purchase of the defibrillators.

Ayes: Hoke, McNeil, and K. Anderson Nays: NONE Motion declared passed

ITEM I: Presentation of the 2008 Financial Audit – Matt Meyer, KDV S.R. #99-2009

Finance Director Linnihan explained that the City of Dayton is required to prepare and submit the results of an annual audit by June 30th of each year. The City has contracted with the firm of Kern, DeWenter, Viere, LTD (KDV) for the years 2006, 2007 and 2008. The 2008 audit has been issued an unqualified opinion on the information that is presented, including the basic financial statements and supplementary financial information. As stated in the Independent Auditor's Report, the financial statements present fairly the financial position of the governmental activities, in conformance with U.S. generally accepted accounting principles (GAAP).

The City presents financial information in several formats on the governmental funds, both major and non-major as well as the proprietary funds (water and sewer). These statements include the Statement of Net Assets, Statement of Activities and Statement of Revenues, Expenditures and Changes in Fund Balances. The information on the budget to actual comparisons is provided for the general fund only.

Matt Meyer, partner with KDV reviewed the 2008 Audit with the Council. The Council members received two reports from KDV; Audited Financial Statements, and the Management Letter.

Mr. Meyer pointed out the Independent Auditor's Report. The report shows the audit test of the information related to the City of Dayton's expenses and revenues. The management letter detailed two compliance issues. One issue was the Administrative Penalties, and the other was the authorized Interfund Loans to Tax Increment Financing Districts which requires a Council process of resolution. The General Fund revenues were 2.4 million, expenditures were 2.5 million. There were budgeted transfers in of 70 thousand, (which did not occur) and budgeted increase in fund balance of about \$20,897.

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Assistant to Adm. Stwora presented Resolution 29-2009 to the Council. Kurt Wresh of USA Inflatables submitted an application for a Conditional Use Permit Amendment to allow a business to operate in an I-1, Industrial district within a residential/agricultural area at 12450 Fernbrook Lane North, which is located at the intersection of Fernbrook Lane North and 125th Avenue North.

The building is located in a residential/agricultural area and requires a Conditional Use Permit Amendment at the time of change in ownership or use of the building, based on the existing Conditional Use Permit on the property.

The business rents, delivers, and stores inflatable play equipment. The business will not have regular visits by customers and will only occupy the warehouse portion of the building. During winter months, the applicant will have 2-3 employees and as many as 12 in the summer months.

Council member McNeil asked if the outside storage would not be visible from the public right-of-way. Mr. Wresh mentioned a 50 x 30 foot section of the property they would like to use for storage. This section is an unimproved surface. They are leasing the property, but the property is for sale. They were in Champlin on Highway 169 prior to moving to Dayton, and didn't receive any complaints.

Council member McNeil mentioned that the city is pro-business. The Planning Commission had discussion regarding the number of outside storage units. Attorney Hoff suggested a diagram of the 30 x 50 area and attach the drawing to Resolution 29-2009, and also the limitation on the number of vehicles allowed on the property. The vehicles would need to be currently licensed.

MOTION: Motion was made by McNeil, seconded by K. Anderson to direct it back to staff to make amendments, and to present it at the council meeting on July 14th Consent Agenda.

Ayes: Hoke, K. Anderson, and McNeil
MOTION DECLARED PASSED.

Nays: none

ITEM M: Consideration of Resolution #32-2009: Approving the 2010-2014 C.I.P./Equip. Certificate Debt Options (Administrator Orduno) S.R.#102&103-2009

The City implemented a five-year Capital Improvement Plan three years ago with the goal of detailing in one document the five-year equipment and project needs of the City. Each year, the CIP is reviewed, revised and approved prior to the first draft of the municipal budget as it provides the framework for the annual capital budget that is incorporated into relevant department budgets.

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Staff is suggesting in the 2009 purchase equipment from the remaining funds from the 2006 equipment certificates.

Administrator Orduno mentioned that we need a plan for the equipment needs. Council member McNeil wanted to know if the CIP should wait until after the budget work session. The CIP is a working tool, and would be adjusted each year.

This is a plan based on revenue estimates and projects that are needed. The CIP forms the frameworks for the capital purchased included in each years budget. The purchase of a street sweeper needs to be moved from 2010 to 2011.

MOTION: Motion was made by McNeil, seconded by K. Anderson to approve Resolution 32-2009 approving 2010-2014 Capital Improvement Plan.

Ayes: Hoke, K. Anderson, and McNeil
MOTION DECLARED PASSED

Nays: none

Equipment Certificates Debt Service Options: Finance Director Julie Linnihan:

The City has recently discussed the issuance of equipment certificates during 2009 for multi-department equipment needs. Typically the debt service structure of these certificates is based the maturity on the life of the equipment that is planned to be purchased. The City also has the option to issue certificates for a 10 year period, in the event that equipment purchased has a longer life span and the cost of the equipment is to be spread to the residents and businesses that will receive the benefit of the purchase. This will result in higher interest costs for the life of the debt and as such.

ITEM N: Resolution 33-2009: Amending Res. 8-1990 Enabling Resolution Establishing an Economic Development Authority

S.R. # 1-2009 EDA

The City of Dayton established an Economic Development Authority in 1990 with the passage of Resolution No. 8-90. The Economic Development Authority is charged with preservation of existing jobs, creation of jobs, enhancing the City's tax base, and promoting the general welfare of the people of the City.

Per State Statute 469.001 to 469.047 cities have the ability to specifically levy for economic development and housing and redevelopment activities to aide economic growth with the passage of an enabling resolution.

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This resolution will provide authority to levy that meets both State and County requirements.

MOTION: Motion was made by McNeil, seconded by K. Anderson to approve Resolution #33-2009 Amending Res. 8-1990 Enabling Resolution Establishing an Economic Development Authority that meets both State and County Requirements.

Ayes: Hoke, K. Anderson, McNeil Nays: None Motion declared passed

REPORT OF OFFICERS

Council Update: Council member McNeil mentioned that Dayton Heritage Day to be held on August 15, 2009 and Al Dehn will be the Grand Marshall. He mentioned that there was discussion at the committee meetings regarding a dance on Friday night. He would like a resolution from the Council to declare Al Dehn Day on August 15, 2009.

Administrator: Administrator Orduno reminded the Council of the 2010 Budget work session for Tuesday, June 29th.

Assistant to the City Administrator: Stwora mentioned the final approval of the Comp Plan at the Met Council would be early September.

Public Works: Director Hass mentioned that the MN Health Department has been testing the Well #2.

ADJOURNMENT:

MOTION: Motion was made by McNeil, seconded by K. Anderson to adjourn.

Ayes: Hoke, K. Anderson, and McNeil Nays: none
MOTION DECLARED PASSED

APPROVED July 14, 2009 ATTEST: _____