



CITY OF NEWPORT  
2060 1<sup>ST</sup> Avenue  
Newport, MN 55055  
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**CITY COUNCIL MEETING MINUTES**  
**January 5, 2023**

**1. CALL TO ORDER**

Mayor Elliott called the City Council Meeting to order at 5:30 p.m. on January 5, 2023.

**2. PLEDGE OF ALLEGIANCE**

**3. OATH OF OFFICE**

**A. Tom Ingemann**

Council Member Elect Tom Ingemann was not present.

**B. Bill Sumner**

City Administrator Joe Hatch swore Council Member Bill Sumner into office.

**4. ROLL CALL**

Present (4): Mayor Laurie Elliott, Council Member Kevin Chapdelaine, Council Member Marvin Taylor, and Council Member Bill Sumner.

Not Present (1): Council Member Elect Tom Ingemann.

**5. ADOPT AGENDA**

Member Chapdelaine motioned to adopt the agenda. Seconded by Member Sumner. Approved 4-0.

**6. PUBLIC COMMENTS**

Washington County Commissioner Karla Bigham congratulated Member Sumner. Commissioner Bigham stated she is available and can help with the partnership between Newport and Washington County. Mayor Elliott inquired what the county has coming in the next 12-24 months. Commissioner Bigham discussed priorities and upcoming projects.

## 7. ADOPT CONSENT AGENDA

- A. Minutes- December 1, 2022 Regular Council
- B. Minutes- December 1, 2022 Council Workshop
- C. Resolution No 2023-01- Official Depository
- D. Resolution No 2023-02- Safety Deposit Box
- E. Resolution No 2023-03- Official Newspaper
- F. Resolution No 2023-04- 2023 Fee Schedule
- G. Resolution No 2023-05- 2023 Utility Rates
- H. Resolution No 2023-06- Gambling Application St. Paul Park-Newport Lion's Club
- I. Resolution No 2023-08- Accepting Donations
- J. Council and Citizen Appointments
- K. Kennel License- Buetow
- L. List of Bills- \$3,050,007.84
- M. Financial Statement- November 2022

A resident requested removal of Resolution No. 2023-05- 2023 Utility Rates.

Member Sumner motioned to adopt the Consent Agenda with the removal of Resolution No. 2023-05- 2023 Utility Rates. Seconded by Member Chapdelaine. Approved 4-0.

Pauline Schottmuller, residing at 97 10<sup>th</sup> Street, requested an explanation why the utility rates continue to rise and what projects the city is anticipating. Mayor Elliott stated our utility study rate was done by Ehlers who assumed a 6% rate increase. The city is impacted by fees from the Met Council. The city uses the fees for road construction projects, which can be expensive. The city has plans for an I/I project and water work on 21<sup>st</sup> Street next summer. City Engineer Jon Herdegen stated it will cost \$300,000-\$350,000 to replace the water main on 21<sup>st</sup> street between 1<sup>st</sup> Avenue and 7<sup>th</sup> Avenue.

Member Chapdelaine motioned to adopt Resolution No. 2023-05 – for the 2023 Utility Rates. Seconded by Member Sumner. Approved 4-0.

## 8. WASHINGTON COUNTY SHERIFF'S OFFICE REPORT

Washington County Sheriff's Deputy Sergeant Bill Harrell complimented Public Works Superintendent Matt Yokiell and his staff for their great work plowing the roads. Mayor Elliott inquired if there were any accidents in town. Sergeant Harrell stated we did not have any accidents in town and there was also nothing of consequence on the highway. Mayor Elliott thanked the residents for driving careful.

## 9. FIRE CHIEF'S REPORT

Fire Chief Steve Wiley stated the Fire Department responded to twenty fire calls in December where three of those calls were structure fires in surrounding communities. They took a total of 186 calls in 2022. The three most common incident types were motor vehicle accidents, structure fires, and medical assists. Last year they responded to 28 mutual aid calls, where 20 of those calls were structure fires. Chief Wiley reminded residents to check their hydrants and shovel a 3-foot area around the hydrant.

Mayor Elliott inquired if Chief Wiley could discuss carbon monoxide (CO) alarms. Chief Wiley stated there are various brands, such as Nighthawk, that make plug in versions of CO detectors. Chief Wiley stated one CO call in town had a CO reading of almost 120 PPM, which could be fatal. Chief Wiley reminded folks to test batteries and check the dates on their CO detectors, as most are good for 5-7 years depending on the manufacturer.

Member Sumner inquired how the fire department would handle a high-wind event fire in the bluffs. Chief Wiley stated it would depend on if it was a structure or brush fire. Chief Wiley stated they have portable units they can use to fight a brush fire. The DNR has a crew that is on call during the high-risk season. Member Sumner inquired what level sets off a CO detector. Chief Wiley stated around 30 PPM.

## **10. ENGINEER'S REPORT**

Engineer Herdegen did not have a formal report. Mayor Elliott inquired the status of the lateral lining project. Engineer Herdegen stated they have plans ready to send into PCA for their review and are hoping to solicit bids in February.

## **11. SUPERINTENDENT OF PUBLIC WORKS REPORT**

Superintendent of Public Works Matt Yokiell stated they have been busy plowing streets. The city has already received 45.5 inches of snow and the average snowfall in a full season is 51.2 inches. Public Works needs to push the snow back to keep the catch basins open which will put additional snow on the sidewalks. Superintendent Yokiell inquired how Council would address this issue as it is not fair to expect residents to shovel that much snow. Mayor Elliott inquired what our legal obligations are and if we have flexibility. City Attorney Alissa Harrington stated section 18-3 of the Newport City Code states that snow and ice needs to be removed from the sidewalks within 12 hours. The penalty is a public nuisance, but the standard used is whether the action has been reasonable or unreasonable. As Superintendent Yokiell pointed out, it is unreasonable to expect someone to move 6-12 feet of snow within 12 hours. Secondly, there is discretion for the city on how to enforce. Minnesota Statute 466.03 Subdivision 4 grants immunity for cities for the sidewalks that do not abut public parking lots or buildings. Member Sumner inquired where these sidewalks are located. Superintendent Yokiell stated most sidewalks are in Bailey Meadows. Public Works needs to push the snow back to a decent width to get fire trucks, garbage trucks, and the plow trucks through.

Member Sumner inquired how the Public Works crew is holding up. Superintendent Yokiell stated their crew is small therefore everyone gets called with each storm. They typically start at 4:00 a.m. during a storm event and plow until they are done. If they are short staffed, it makes for a longer day. The more cars off the streets, the faster and more efficient they can be plowing the streets. Superintendent Yokiell stated the Sheriff has done an excellent job of putting warnings out early in the season as they do not like to tow vehicles. Mayor Elliott thanked the entire Public Works staff for their hard work.

Superintendent Yokiell stated the library restoration project is stalled due to back-ordered glazing for the windows. The flooding of the ice rink was also delayed this year due to the Public Works busy plowing roads and asked residents to be patient.

## **12. ADMINISTRATION REPORT**

### **A. Resolution No 2023-07- Keller Fence CUP**

City Planner Nathan Fuerst stated the city received a Conditional Use Permit (CUP) request from Keller Fence. The subject property is located on 7<sup>th</sup> Avenue. There are four parcels the applicant is proposing to combine and redevelop. The existing buildings and materials would be removed as part of this project. The zoning is B-2 General Business, and the future land use is mixed commercial and residential. The site is approximately three and a half acres in size and a site plan was included with this request. There will be office space, warehouse space, and outdoor storage that is screened from view. The use that is being proposed is building materials and services. Staff reviewed the design/site plan for building materials, lighting, parking/loading, landscaping, screening, and site access. Engineer Herdegen stated the site will be connected to the city's public storm sewer. Planner Fuerst stated the Planning Commission held a public hearing on November 15<sup>th</sup>. Comments were received both in writing and in person at the hearing. The nature of the comments and the concerns were related primarily to traffic impacts, fleet vehicles, screening, lighting, and design compatibility. Resolution 2004-55 limits the gross vehicle weights to 10,000 pounds on 7<sup>th</sup> Avenue between 2<sup>nd</sup> Street and the Glen Road interchange. In 2004, the council clarified that deliveries such as furniture and moving vans were acceptable. The applicant stated they have ten F450's, two cab overs, are open to routing trucks to the south, and typically received deliveries one day per week.

Staff proposed several findings that would support an approval of the project as the concerns can be mitigated through conditions for approval. On November 15th, the Planning Commission voted unanimously to table the review until staff could address their questions. On December 13<sup>th</sup>, it was brought back to the Planning Commission where they voted 3-2 to recommend denial of the CUP due to concerns with health and safety impacts as well as concerns for traffic. The Council can choose to approve, approve with conditions, deny, or table. Planner Fuerst stated there are 24 proposed conditions included in the staff report for the Council to consider should they choose to approve this CUP.

Mayor Elliott stated if the Council does not address the CUP request, the CUP would be automatically approved even with a denial recommendation from the Planning Commission. Mayor Elliott inquired why the hours of operation are 7:00 a.m. to 7:00 p.m. when the city limited Absolute Towing's hours from 8:00 a.m. to 8:00 p.m. Planner Fuerst stated this could be changed to be consistent with Absolute Towing. Typically, the hours should be consistent with the city's construction requirements.

Member Chapdelaine stated the 10,000-pound weight restriction in Resolution 2004-55 was due to the residential neighborhood. Member Chapdelaine inquired if Council would need to drop Resolution 2004-55 to approve the CUP, and how the city can enforce some of the proposed conditions. Attorney Harrington explained the conditions need to be reasonable. If the conditions are reasonable, there is a reasonable likelihood they will be followed.

Member Taylor inquired what types of alarms are on the fleet and delivery vehicles, and if there is fencing that could potentially reduce the site noise. Attorney Harrington stated you can set conditions for sound reduction or sound buffering and mitigation options for screening.

Member Sumner stated this proposed site is next to the railroad that operates 24/7 and produces a significant amount of noise and vibration from the trains. Member Sumner believes most concerns expressed have been addressed with reasonable conditions.

Mayor Elliott stated when looking at the criteria that needs to be met for a CUP, it says the city needs to evaluate traffic based on driveway locations, existing and proposed capacity of adjacent roads, and sidewalk and trail connections and asked if Planner Fuerst could talk through his evaluation on this criteria. Planner Fuerst stated they look at what transportation options are available in this area. Mayor Elliott inquired what the city's obligation is from a safety perspective since we do not have sidewalks. Attorney Harrington stated when looking at a quasi-judicial decision, we are looking at what is currently there and what is already in place versus a legislative change.

Mayor Elliott would like to clarify condition number 17 to include no parking on 4<sup>th</sup> Street and 5<sup>th</sup> Street or changed it to no parking on any city street. Mayor Elliott discussed adding additional criteria such as no subleasing on the site without a meeting with city staff, and utilities/taxes must be paid. Attorney Harrington stated we would need to make sure these conditions were specifically tied to concerns with the criteria.

Tim Dyrhaug, owner of Keller Fence, addressed the Council. Mr. Dyrhaug stated this business has been in his family for 36 years and he has owned it for the past 9 years. Mr. Dyrhaug stated there are similar businesses along 7<sup>th</sup> and he believes this will be a big improvement to what is currently on those parcels. He understands the emotion about the traffic. Their drivers are trained and thankfully have not had any accidents to date. Any redevelopment of this property would bring more traffic. Their equipment and materials will be stored behind their fencing. Their crews start at 7:00 a.m. and are typically done at 3:30 p.m. They are a seasonal business and have reduced traffic in the winter.

Member Taylor inquired what kind of alarms his fleet vehicles have. Mr. Dyrhaug stated they have tonal alarms but have no opposition to the alarms Planner Fuerst discussed. Member Taylor inquired about using fencing to mitigate sound. Mr. Dyrhaug stated they want to screen their storage and are open to various fencing options. Member Sumner inquired the cost of the building. Mr. Dyrhaug stated over two-million dollars.

Mayor Elliott invited members of the public who feel like the Council is missing something or have not asked the right questions to approach the podium.

Mark McKenzie, residing at 999 7<sup>th</sup> Avenue, addressed the Council. Mr. McKenzie discussed concerns with noise and traffic on 7<sup>th</sup> Avenue and believes it will be hard to enforce. Mr. McKenzie stated that attendance at the Planning Commission was important to understanding the concerns of the residents and Planning Commission members. Mr. McKenzie stated the side lane on 7<sup>th</sup> has been used as a path for both walking and bike riding. Mr. McKenzie expressed concerns about Keller Fence enlarging their business. He believes if the state builds a bike trail in this corridor it may not be consistent with this CUP. Planner Fuerst stated if the business wanted to expand or intensify their use, they would have to go through the CUP amendment process.

Ms. Schottmuller addressed the Council. Ms. Schottmuller agrees that a development over two million dollars would be an improvement. Ms. Schottmuller stated that Resolution's intent was that 7<sup>th</sup> Avenue would not become a truck corridor. Ms. Schottmuller stated a business with outdoor storage should be in an industrial area.

Mayor Elliott stated at the Planning Commission meeting, there was an audience member that spoke in favor of this business and was concerned with a different business going in this location. At that meeting Planner Fuerst provided a list of businesses that would not require a CUP.

Member Chapdelaine stated he is not in favor due to traffic concerns and the resolution he voted for in 2004. Attorney Harrington stated traffic concerns can be used for denial as it is one of the issues looked at however the question becomes whether it can be appropriately mitigated.

Mayor Elliott stated Council requested three changes to the conditions for approval to the CUP regarding fence screening, no subleasing without meeting city staff, and no parking from this business on city streets.

Member Sumner motioned to adopt Resolution 2023-07 approving the Keller Fence Conditional Use Permit with conditions of approval, 1-24, as proposed by staff, and amended by the City Council. Seconded by Member Taylor. Approved 3-1 (Chapdelaine).

### **13. MAYOR AND COUNCIL REPORTS**

Mayor Elliott stated she has good news on the congressional directed funding request she put in last May. It passed through several hurdles and was finally approved by congress. This funding of \$350,000 is for flood mitigation and recreational components that will bring a new type of access to the Mississippi River.

Member Sumner stated he attended the swearing in of the county officers at the County Courthouse in Stillwater.

#### 14. ADJOURNMENT

Member Chapdelaine motioned to adjourn the City Council Meeting. Seconded by Member Sumner. Approved 4-0.

The City Council Meeting was adjourned at 8:18 p.m. on January 5, 2023.

Respectfully Submitted:  
Jill Thiesfeld,  
Administrative Assistant II

Signed: \_\_\_\_\_  
Laurie Elliott, Mayor