



CITY OF NEWPORT
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CITY COUNCIL MEETING MINUTES
January 19, 2023

1. CALL TO ORDER

Mayor Elliott called the City Council Meeting to order at 5:30 p.m. on January 19, 2023.

2. PLEDGE OF ALLEGIANCE

3. OATH OF OFFICE

A. Tom Ingemann

City Administrator Joe Hatch swore Council Member Tom Ingemann into office.

4. ROLL CALL

Present (5): Mayor Laurie Elliott, Council Member Kevin Chapdelaine, Council Member Tom Ingemann, Council Member Marvin Taylor, and Council Member Bill Sumner.

Not Present (0): None.

5. ADOPT AGENDA

Member Sumner motioned to adopt the agenda. Seconded by Member Chapdelaine. Approved 5-0.

6. PUBLIC COMMENTS

No public comments were made.

7. ADOPT CONSENT AGENDA

A. Resolution No 2023-09- Official Depository and Access

B. Council Advisory Boards

C. Kennel License- Boughton

D. Kennel License- Chirpich-Kaldenberg

E. Resolution No 2023-10- Support of Emily Stephens to the South Washington County Watershed District

F. Waiver of Tort Liability Limits

G. List of Bills- \$341,717.33

H. Financial Statement- December 2022

Mayor Elliott requested to remove item B, for the Council Advisory Boards, from the consent agenda.

Member Chapdelaine motioned to adopt the Consent Agenda with the removal of the Council Advisory Boards. Seconded by Member Sumner. Approved 5-0.

Mayor Elliott received a request from Beverly Bartl, who serves on the Library Advisory Committee and the Heritage Preservation Commission. Ms. Bartl has been on those boards for over 30 years and asked to be removed due to personal reasons.

Member Ingemann motioned to approve the appointments to the Council Advisory Boards without Ms. Bartl's name included for those two committees and commissions. Seconded by Member Chapdelaine. Approved 5-0.

8. WASHINGTON COUNTY SHERIFF'S OFFICE REPORT

No formal report

9. FIRE CHIEF'S REPORT

Fire Chief Steve Wiley stated they took possession of a new 2,000-gallon tender last week. This vehicle is used to haul water to areas within the city or to mutual aid partners that don't have hydrants. Mayor Elliott inquired what will happen to the existing tender. Chief Wiley stated it will be put up for auction. Member Sumner inquired the cost of the new tender. Chief Wiley stated \$250,000.

10. ENGINEER'S REPORT

A. Woodbury Interconnect

City Engineer Jon Herdegen stated MSA prepared a scope of services for the planning, design, bidding, and construction for the water system interconnection project with Cottage Grove and Woodbury. This project is funded through the 3M PFAS settlement. MSA is looking for approval on this proposal. Next they will need to submit a grant application from the state for reimbursement on the professional services as well as construction services down the road. Member Sumner inquired if the costs are reimbursable. Engineer Herdegen stated the costs are 100% reimbursable. Mayor Elliott inquired the cost of these interconnects. Engineer Herdegen stated approximately 2.5 to 3 million dollars of funding through the PFAS settlement. Mayor Elliott stated the key point of these two interconnects is that Newport will have two potential water sources. If one community is down for maintenance or not functioning, Newport would still have another available water supply.

Member Chapdelaine motioned to approve the Water System Interconnection Proposal. Seconded by Member Ingemann.

Member Sumner inquired if this will be implemented and used only in an emergency. Engineer Herdegen stated we will be negotiating agreements with the two neighboring communities. Mayor Elliott stated the 3M funding is due to contamination of PFAS chemicals. Currently our wells are good, and this is preemptive work being done in case someday we have PFAS contamination within our system that reaches a level considered unacceptable for health reasons.

Approved 5-0.

Engineer Herdegen stated our lining project has been submitted to the state for review and then plans to bring to the next Council meeting to discuss soliciting bids.

11. SUPERINTENDENT OF PUBLIC WORKS REPORT

A. H&U Pay Request- \$109,103.41

Superintendent of Public Works Matt Yokiell stated he has Pay Request No. 24 to H+U in the amount of \$109,103.41. Most of this is retainage release as once there is substantial completion the individual contractors apply to collect their retainage.

Member Sumner motion to approve Pay Request No. 24 in the amount of \$109,103.41 to H+U. Seconded by Member Chapdelaine. Approved 5-0.

Superintendent Yokiell asked that residents help keep the hydrants clear. Public Works will go out and clear hydrants when they can, but they appreciate any help the residents can provide.

Superintendent Yokiell stated four library windows are scheduled to be installed tomorrow.

Member Ingemann inquired if there are punch list items left on the new building. Superintendent Yokiell stated they continue to work on things as they come up. There will be another walk through in June to see what issues need to be resolved.

Member Chapdelaine inquired when the flagpole will be fixed. Superintendent stated they will wait until the weather warms up as they would not warrant the colored concrete in the freezing weather.

12. ADMINISTRATION REPORT

A. Resolution No 2023-11- Mota's Motors CUP

Administrator Hatch stated our City Planner, Nathan Fuerst will give a presentation for a Conditional Use Permit (CUP) for Kube, LLC.

Planner Fuerst stated there was a CUP request for the property at 1545 7th Avenue. The zoning is MX-3, general mixed use. The future land use is mixed commercial and residential. The site area is approximately 5.6 acres. As stated in Sec. 36-241 of the city code, the use of "automotive services and car specialty services (not including body repair or major repair)" requires a CUP. Member Taylor inquired about this specific commercial use decision. Attorney Alissa Harrington stated the decision had to do with what the applicant stated they were originally doing and where it seemed to best fit in the use table. Member Taylor asked a clarifying question as to the difference between the "automotive services and car specialty services" and "vehicle services" in the use table of Section 36-241. Attorney Harrington responded there is ambiguity and therefore we need to rely on the statutes and canons of construction.

Planner Fuerst stated there is a site plan that shows where Moto Motors is located within the building and where the parking would be. Planner Fuerst went over definitions from our city code as well as example definitions from other communities. The applicant stated the tenant space shall be used for, "car specialty services". The shop performs unique customization, modifications, and performance enhancements of current and classic vehicles and occasionally motorcycles but not for, "body or major repair". Planner Fuerst stated the Council needs to determine if the proposed use is in line with that permitted by the zoning code. The decision should be based on zoning code or common definitions, that was provided by the applicant, and what the city learned through public testimony and staff review. The determination should ultimately be worked into the findings of fact that would support a decision on the request.

Staff reviewed the site plan/building alterations, parking/drive areas, traffic, and access. There are no current requests to make any modifications to the façade. When looking at parking and drives, staff noticed there appears to be enough space for parking, but no drive articulated on the site plan. The driveway and parking areas need to be surfaced with asphalt, concrete, or other material that is approved by the city's engineering standards. There are six access points to the site and two access points for this use. There was a public hearing held on November 15th, 2022 where comments were received in written form and in person. There were concerns regarding the accuracy of the narrative relative to land use, compatibility of the land use, traffic impacts, screening, and existing nonconformities on site. Staff suggests denial of the site based on inconsistency with the criteria. The City Council has three options which include approval, approval with conditions, or denial the CUP. If the Council decides to move forward with an approval, staff suggests several proposed conditions included in the staff report. On November 15th, the Planning Commission tabled this CUP request. On December 23rd, the Planning Commission voted unanimous to recommend denial of this CUP to the City Council based on compatibility of the land use, traffic impacts, safety impacts, screening, and existing nonconformities.

Council discussed initial thoughts and questions about this CUP.

Mota Vang, owner of Mota's Motors, addressed the Council. Mr. Vang stated there is a lot of history on this CUP. Before moving into this property, it was a pigsty full of garbage and mud. They spent a month cleaning the property and then went to the city to apply for the CUP but were rejected as incomplete. Mr. Vang tried again, but stated he was continuously rejected. Mr. Vang's business is specialty automotive work. Due to the increase of catalytic converter thefts, Mr. Vang developed a shield to protect the catalytic converters and last year sold over 1800. You cannot make one shield to fit every car and therefore the shields need to be customized for various mounts. The shields range in price from \$400-\$800. Mr. Vang stated for the traffic concerns on 7th Avenue they have instructed their customers to pull in front and park parallel to the building. Mr. Vang or one of his technicians will then drive the vehicle around to the back. Mayor Elliott inquired if they do other work besides catalytic converter shields. Mr. Vang stated they do other minor work such as brake pads.

Jeff Wallis, residing at 1325 Butler in South St. Paul, addressed the Council. Mr. Wallis is one of the property owners of Kube, LLC. Mr. Wallis stated when they purchased the property about two years ago, they agreed to a deed restriction that they would not be in the garbage hauling business. In fall of 2020 they expressed to the city their plans for the property that included detached townhomes. Mr. Vang then approached him as there was a previous mechanic shop within the building and had a lot of the things in place that Mr. Vang wanted. Mr. Wallis stated they got the property inspected and he helped guide Mr. Vang for the CUP. Mr. Wallis stated a potential concern he heard regarding the CUP was that if he applied for it, the CUP would stay with him forever. Mayor Elliott clarified that a CUP stays with the property if the conditions that were agreed upon continue to be followed. Mr. Wallis stated there are some findings he does not agree with. Mr. Wallis stated no one is backing onto 7th Avenue and he has never seen an accident. They have adequate room for parking and can stripe the parking area if that is required. The storm pond in the back corner is meant to service their five-acre property. The building is a legal non-conforming building that they want to improve and are working on the plans. They have removed over 50 dumpsters of trash and recycled 80,000 pounds of plastic, which will be gone by April 1st. Mayor Elliott inquired what happened to the townhome plan. Mr. Wallis stated they still have the townhome plan. They always planned to keep the building on 7th Avenue as a sound buffer from the railroad and plan to build the townhomes behind that building.

Council discussed there are many layers and challenges to this CUP. Mayor Elliott does not have any concerns with the work this business does, but has concerns with the location. Member Sumner will continue to support finding a way to help this business.

Del Helmer, residing at 8040 Lake Jane Trail in Lake Elmo, addressed the Council. Mr. Helmer is a partner with Kube, LLC. Mr. Helmer stated he used to be a consultant for litigation and his expertise is in sound mitigation. He stated early in the process before they closed on the property, they had a plan to take the building down and instead have a sound barrier, but were told they could not do that. Mr. Helmer explained that is why they needed to change plans and keep the building as a sound barrier. Mr. Helmer expressed his frustration with the city and how the city handled things improperly which costed them time and money. Administrator Hatch stated he met with Mr. Wallis and had a productive conversation. Administrator Hatch stated it is important that the city provides a rationale in writing and can meet with anyone for a deeper conversation so they know what is allowed and what can be done in this community.

Member Ingemann motioned to adopt Resolution No. 2023-11, denying the Conditional Use Permit for Kube LLC, based on the findings as discussed. Seconded by Member Chapdelaine. Approved 4-1 (Sumner).

13. MAYOR AND COUNCIL REPORTS

Mayor Elliott stated she attended a 3M settlement meeting yesterday. They talked about the phase one funding for water treatment plants and private well water filtering systems. The majority of the conversation was on priority two funding. They will be working with two different subgroups to discuss the competitive RFP process. Both public/private organizations and individuals can apply for potential funding of \$20 million dollars. Mayor Elliott met with County Commissioner Karla Bigham to discuss the bonding projects coming up that are being funded through the county. One is a study along Bailey Road and the other is an extension of the trail just North of City Hall.

Member Chapdelaine stated that Judy Wood passed away. She had been on City Council, the Planning Commission, and ran for Mayor at least once. She was very passionate and a voice for the community.

Member Sumner stated he is looking into the concerns of radon in residential homes. There are test kits available through Washington County.

14. ADJOURNMENT

Member Chapdelaine motioned to adjourn the City Council Meeting. Seconded by Member Sumner. Approved 5-0.

The City Council Meeting was adjourned at 7:57 p.m. on January 19, 2023.

Respectfully Submitted:
Jill Thiesfeld,
Administrative Assistant II

Signed: _____
Laurie Elliott, Mayor