

Cloquet Council Chambers  
6:00 P.M. December 20, 2022

#### Roll Call

Councilors Present: Carlson, Lamb, Kolodge, Jaakola, Mayor Maki

Councilors Absent: Wilkinson

Pledge of Allegiance

#### AGENDA

**MOTION:** Councilor Kolodge moved and Councilor Jaakola seconded the motion to approve the December 20, 2022 agenda. The motion carried unanimously (5-0).

#### MINUTES

**MOTION:** Councilor Lamb moved and Councilor Carlson seconded the motion to approve the Regular Meeting minutes of December 6, 2022 as presented. The motion carried unanimously (5-0).

#### PUBLIC COMMENTS

There were none.

#### CONSENT AGENDA

**MOTION:** Councilor Jaakola moved and Councilor Lamb seconded the motion to adopt the Consent Agenda of December 20, 2022 as presented, approving the necessary motions and resolutions. The motion carried unanimously (6-0).

- a. Resolution No. 22-89, Authorizing the Payment of Bills
- b. Approve 2023 City Council Meeting Calendar
- c. Approve Standing Rules of the Council
- d. Resolution No. 22-86, Identifying 2023 Polling Locations
- e. Approve 2023 Official Newspaper Designation
- f. Approve 2023 Business License Renewals
- g. Resolution No. 22-92, Entering into an Agreement with the MN Department of Transportation for MNDOT to Act as the City's Agent in Accepting Federal Highway Administration Funds
- h. Approve 2023 MN Housing MCPP Application
- i. Resolution No. 22-90, Approving the Vacation of the East/West Alley Between 14<sup>th</sup> and 15<sup>th</sup> Streets North of Avenue C

#### PUBLIC HEARINGS

There were none.

#### PRESENTATIONS

Erin Bates, Cloquet Community Education Director presented 2022 financials for the Pinehurst swimming pond, comparing numbers back from 2009. Ms. Bates commented that the number of visits dropped by half since COVID. A survey is currently available for feedback from the community. Also noted was the 85% decrease in water rescues since life jackets are required for swimmers under 12 years of age. Ms. Bates also commented that organized activities seemed to bring people in.

City Administrator Peterson stated he was surprised at the low attendance numbers. A large investment was made into the community for the swimming pond, many staff hours and work to maintain it. The Parks Commission has discussed marketing ideas to attract more users. Council is not being asked for direction, this information is to make Council aware of the activities and also the cost of having this facility.

#### APPOINT ACTING MAYOR

**MOTION:** Councilor Carlson moved and Councilor Lamb seconded the motion to appoint Councilor Wilkinson to the position of Acting Mayor for 2024. The motion carried unanimously (5-0).

## APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS

**MOTION:** Councilor Lamb moved and Councilor Kolodge seconded the motion to approve the appointments and reappointments to the various Boards and Commissions as presented. The motion carried unanimously (6-0).

## AMENDING CHAPTER 3 OF CITY CODE AS IT RELATES TO SPECIAL TAXES

**MOTION:** Councilor Jaakola moved and Councilor Carlson seconded the motion to approve **RESOLUTION NO. 22-85, APPROVING ORDINANCE 503A, AN ORDINANCE AMENDING CHAPTER 3 OF THE CITY CODE AS IT RELATES TO SPECIAL TAXES.** The motion carried unanimously (5-0).

**WHEREAS,** In 2021, First Special Session, Chapter 14, Article 8, Section 4, (“Special Law”) allows the City of Cloquet to pursue a local option sales tax.

**WHEREAS,** on the 20<sup>th</sup> day of July, 2021 the City Council of the City of Cloquet approved this legislation and authorized staff to take necessary action to create a referendum at the next general election for the voters of Cloquet to approve, or not, the additional local option sales tax.

**WHEREAS,** at the November 8, 2022 general election, voters in the City of Cloquet approved referendum question one as it relates to a project and funding for Pine Valley Park, and referendum question two as it relates to a project and funding for the Cloquet Ice Arenas.

**WHEREAS,** the Special Law is effective upon approval by a majority vote of the City Council and filing a certificate with the Minnesota Secretary of State, all in accordance with Minnesota Statutes, Section 645.021, Subd. 2 and 3; and

**WHEREAS,** the City Council has determined that it is in the best interest of the City and its residents to approve the Special Law;

### **NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF CLOQUET, MINNESOTA:**

1. That the Special Law is hereby approved in all respects.
2. That Ordinance 503A is hereby approved to amend Chapter 3 of the City Code as it relates to Special Taxes.
3. That the City Administrator is authorized and directed to file with the Secretary of State a Certificate of Approval for the Special Law
4. That the City Administrator is authorized and directed to file with the Minnesota Department of Revenue all necessary documents and formal request for the Minnesota Department of Revenue to administer the new tax beginning April 1, 2023.
5. That City staff are authorized and directed to take all actions necessary to implement the Special Law and bring before this Council further proceedings as necessary in order to implement the Special Law.

The City Council of the City of Cloquet hereby ordains:

**Section 1.** That Section 3.4, Special Taxes, be amended by adding the following:

#### **3.4.04 Sales and Use Tax.**

**Subd. 1 Authority.** At the general election held November 8, 2022, the voters of the City of Cloquet approved the imposition of a one-half of one percent sales and use tax to finance the costs of improvements to Pine Valley Park and the Cloquet Ice Arenas as authorized in City Resolution 21-34 approved July 20, 2021.

The Minnesota legislature has, by the laws of Minnesota for 2021, 1<sup>ST</sup> Special Session, chapter 14, article 8, section 4, Special Session, authorized the city to impose an additional sales and use tax within the City to provide revenues to finance the costs of improvements to Pine Valley Park and Cloquet Ice Arenas. The amount of revenue from the tax imposed that may be used to finance the improvements and any associated costs is limited to \$8,150,200.00. The city approved the act in accordance with applicable law.

**Subd. 2 Definitions.** The words, terms and phrases used in this chapter shall have the meaning ascribed to them in Minnesota Statutes § 297A except where the context clearly indicates otherwise. In addition, the following definitions shall apply:

- A. “Act” shall mean the laws of Minnesota for 2021, chapter 14, article 8, section 4, or as may be amended.
- B. “Chapter” shall mean this chapter in its present form and as subsequently codified in the city code.
- C. “City” shall mean the City of Cloquet.
- D. “Commissioner” shall mean the commissioner of revenue for the state acting under the authority of an agreement entered into between the city and the state pursuant to the act, or such other person or entity designated to administer and collect the city's sales and use tax.
- E. “Director” shall mean the Finance Director of the City.
- F. “Retailer Maintaining a Place of Business in the City or any like term” shall mean any retailer having or maintaining within the City, directly or by a subsidiary or an affiliate, an office, place of distribution, sales or sample room or place, warehouse or other place of business, or having any representative, including an affiliate, agent, sales person, canvasser or solicitor operating in the City under the authority of the retailer or its subsidiary, for any purpose, including the repairing, selling delivering, installation, or soliciting of order of the retailer's goods or services, or the leasing of tangible personal property located in the City, whether the place of business or agent, representative, affiliate, sales person, canvasser, or solicitor, is located in the City permanently or temporarily, or whether or not the retailer or subsidiary is authorized to do business within the City.
- G. “Cloquet Sales and Use Tax” shall mean the sales and use tax imposed and collected pursuant to this chapter.

**Subd. 3 Sales and Use Tax.** Except as otherwise provided in this chapter, there is hereby imposed an additional sales and use tax in the amount of one-half of one percent of the gross receipts from the sales at retail, and the storage, use, distribution or consumption of goods or services which are taxable, pursuant to Minnesota Statutes, Chapter 297A and occur within the City. The imposition, administration, collection and enforcement of this tax shall be governed by the provisions of Minnesota Statute Chapters 297A, 270C, and 289A.

**Subd. 4 Separate Statement; Collection from Purchaser, Advertising No Tax, Minimum Uniform Tax Collection Methods.** The Cloquet sales and use tax shall be stated and charged separately from the sales price or charge for service insofar as practical, and should be a debt from the purchaser to the seller recoverable at law in the same manner as other debts. In computing the tax to be collected as a result of any transaction, any amount of tax less than one-half of one cent may be disregarded and amounts of tax one-half cent or more may be considered an additional cent. If the sales price of any sale at retail is ninety-nine cents or less, no tax shall be collected.

**Subd. 5 Exemption Certificates.** A fully completed exemption certificate taken from a purchaser to the effect that the property purchased is for resale or that the sale is otherwise exempt from the application of the tax imposed by this chapter will conclusively relieve the retailer from collecting and remitting the tax to the extent the seller is also relieved of liability for the sales and use tax under Minnesota Statutes §297A.665. A person who has obtained from the Commissioner an exemption certificate pursuant to the Minnesota Statute §297A may use such exemption certificate for the purposes of the sales tax imposed by the City.

**Subd. 6 Presumption of Purpose of Sale.** For the purpose of the proper administration and enforcement of §12.03 of this chapter, it shall be presumed that all retail sales for delivery in the City are for storage, use, or other consumption in the City until the contrary is established.

**Subd. 7 Collection of Sales and Use Tax at Time of Sale.**

- A. Any retailer making deliveries within the City, any retailer maintaining a place of business in the City, or any other retailer otherwise doing business within the City, upon making sales of any items described in 3.4.02, Subd. 3

which are not exempted from the sales tax imposed under that section and which are to be delivered or caused to be delivered within the City to the purchaser, shall at the time of making such sales collect the sales and use tax from the purchaser. The tax collected by such retailer shall be remitted to the Commissioner on behalf of the City.

B. Any retailer required to collect the Cloquet sales and use tax and remit such tax to the Commissioner pursuant to this section shall register with the Commissioner and provide such other information as the Commissioner may require.

**Subd. 8 Agent of Retailer.** When in the opinion of the Commissioner it is necessary for the efficient administration of the tax, the Commissioner may regard any salesman, representative, trucker, peddler or canvasser as the agent of the dealer, distributor, supervisor, employer or other person under whom such salesman, representative, trucker, peddler or canvasser operated or from whom the tangible property is being sold is obtained, and may regard the dealer, distributor, supervisor, employer or other person as a retailer for the purposes of this chapter.

**Subd. 9 Effective Date, Transitional Sales.** Except as otherwise provided herein, the Cloquet sales and use tax authorized by this chapter shall apply to sales made on or after April 1, 2023 and shall be in addition to all other taxes now in effect. The Cloquet sales and use tax shall not apply to the following:

A. The gross receipts from the purchase or lease of tangible personal property made under an enforceable contract entered into before April 1, 2023, provided that delivery or possession of items is taken on or before June 1, 2023.

B. The gross receipts from the purchase of taxable services, including utility services, if billing period includes charges for services furnished before and after April 1, 2023. However, the sales and use tax shall apply to all purchases of taxable services, including utility services, if the billing period begins with services furnished on or after April 1, 2023.

C. The gross receipts from the purchase of construction materials used to complete a lump sum or fixed price construction contract that was signed and enforceable before April 1, 2023, and that does not provide for an allocation of future taxes, provided that the construction materials are used exclusively in performing the contract and the materials are delivered before September 1, 2023.

**Subd. 10 Collection and Enforcement.** The Cloquet sales and use tax imposed by the City pursuant to this chapter shall be subject to the same interests, penalties, and other rules as are applicable to the State general sales tax imposed by Minnesota Statutes Chapter 289A and 297A. The Cloquet sales and use tax imposed by the City pursuant to this chapter may be collected by the State on behalf of the City as provided by an appropriate agreement with the Minnesota Commissioner or Revenue. The Cloquet sales and use tax imposed by the City pursuant to the chapter shall expire either upon a determination by the Cloquet City Council that sufficient funds have been received from the taxes to finance improvements and to prepay or retire at maturity the principle, interest, and premium due on any bonds, including refunding bonds, issued by the City of Cloquet; or, a maximum collection of \$8,150,200.00 of the sales and use tax collected pursuant to this Chapter. Any funds remaining after completion of improvements and retirement or redemption of the bonds may be placed in the General Fund of the City of Cloquet.

**Subd. 11 Tax Clearance; Issuance of Licenses.** The City may not issue or renew a license for the conduct of trade or business in the City if the Commissioner notifies the City that the applicant for such license owes delinquent Cloquet sales and use taxes as provided in this chapter, or penalties or interest due on such taxes. For the purposes of this section, the following terms have the following meanings:

A. Cloquet sales and use taxes include sales and use tax as provided in this chapter including all penalties and interest due on said sales and use taxes.

B. Delinquent taxes do not include a tax liability if:

1. In administrative or court action which contests the amount or validity of the liability has been filed or served;
2. The appeal period to contest tax liability has not expired; or

3. The applicant has entered into a payment agreement and is current with the payments.

C. Applicant shall mean an individual if the license is issued to or in the name of an individual or the corporation, partnership or other entity if the license is issued to or in the name of a corporation, partnership or other entity.

D. A copy of the notice of delinquent taxes given to the City shall also be sent to the applicant taxpayer. In the case of renewal of a license, if the applicant requests a hearing in writing, within thirty (30) days of the receipt of the notice of delinquent taxes, then a contested case hearing shall be held by the Commissioner under the same procedures as provided in Minnesota Statutes, Section 270C.72 for the State sales and use tax imposed under Minnesota Statutes, Chapter 297A, provided that if a hearing must be held on the State sales and use tax, hearings may be combined.

**Subd. 12 Termination of Taxes.** The taxes imposed expire at the earlier of (1) 10 years, or (2) when the city council determines that the amount of revenues received from the taxes to finance the improvements first equal or exceeds \$8,150,200.00, plus additional amounts needed to pay the costs related to issuance of bonds, including interest on the bonds. Any funds remaining after completion of the project and retirement or redemption of the bonds may be placed in the general fund of the city. The taxes imposed may expire at an earlier time if the city so determines by ordinance.

#### **APPROVING 2023 FEE SCHEDULE**

**MOTION:** Councilor Kolodge moved and Councilor Carlson seconded the motion to adopt **RESOLUTION NO. 22-91, ESTABLISHING THE CITY FEES AND CHARGES FOR 2023.** The motion carried unanimously (5-0).

#### **AWARDING 2022 AMI SYSTEM IMPROVEMENTS**

**MOTION:** Councilor Lamb moved and Councilor Jaakola seconded the motion to approve **RESOLUTION NO. 22-93, AWARDING 2022 WATER METER REPLACEMENT ADVANCE METERING INFRASTRUCTURE (AMI) SYSTEM IMPROVEMENTS.** The motion carried unanimously (5-0).

#### **RUBBER TIRE BACKHOE PURCHASE**

**MOTION:** Councilor Kolodge moved and Councilor Carlson seconded the motion to authorize the purchase of a 2023 John Deere 310SL HL Rubber Tire Backhoe from the McCoy Equipment in the total amount of \$90,507 with trade. The motion carried unanimously (5-0).

#### **PELICAN SWEEPER PURCHASE**

**MOTION:** Councilor Lamb moved and Councilor Jaakola seconded the purchase of a 2023 Elgin NP street sweeper from MacQueen Equipment in the total amount of \$215,357 with trade. The motion carried unanimously (5-0).

#### **COUNCIL COMMENTS, ANNOUNCEMENTS, AND UPDATES**

Councilor Kolodge thanked Public Works for their long hours after this recent snow storm.

Mayor Maki, heading into 2023, thank you for your time and effort and is looking forward to 2023.

Councilor Lamb wished a Merry Christmas and Happy New Year.

#### **CLOSED SESSION**

Mayor Maki announced that the City Council will adjourn into a closed meeting as permitted under M.S. 13D.05, Subd. 1(d) and 3(a) for the purpose of discussing the City Administrator's performance evaluation.

**MOTION:** Councilor Lamb moved and Councilor Kolodge seconded the motion to close the regular meeting. The motion carried unanimously (5-0). The time is 6:35 p.m.

**MOTION:** Councilor Lamb moved and Councilor Kolodge seconded the motion to reopen the regular meeting. The motion carried unanimously (5-0). The time is 7:45 p.m.

**ADJOURNMENT**

On a motion duly carried by a unanimous yea vote of all members present on roll call, the Council adjourned.

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Tim Peterson, City Administrator