

Council Chambers, Cloquet, Minnesota
7:00 o'clock P.M. April 7, 2015

Regular Meeting.

Roll Call.

Councilors Present: Bjerkness, Kolodge, Langley, Maki, Rock, Wilkinson, and
Mayor Hallback.

Councilors Absent: None.

AGENDA

MOTION: Councilor Kolodge moved and Councilor Maki seconded the motion to approve the April 7, 2015 agenda. The motion carried unanimously (7-0).

MINUTES

MOTION: Councilor Bjerkness moved and Councilor Wilkinson seconded the motion to approve the minutes of the work session and regular meeting of March 17, 2015. The motion carried unanimously (7-0).

CONSENT AGENDA

MOTION: Councilor Bjerkness moved and Councilor Rock seconded the motion to adopt the consent agenda of April 7, 2015 approving the necessary motions and resolutions. The motion carried unanimously (7-0).

- a. Resolution No. 15-27, Authorizing the Payment of Bills and Payroll.

PUBLIC HEARINGS

8th Street and Sahlman Avenue Proposed Improvement

Mayor Hallback announced that now is the time and place for the public hearing on the proposed 2015 improvement of 8th Street from a point 450 feet north of Washington Avenue to Sahlman Avenue and also Sahlman Avenue from 7th Street to 9th Street. City Engineer Prusak provided an overview of the project and issues identified as part of the feasibility study for the proposed project.

The City Council had a variety of questions related to the proposed sidewalk including location, cost, Comprehensive Plan requirements and maintenance. Jana Peterson, Active Transportation Coalition, applauded the idea of the sidewalk and addressed why she felt it was of value to all residents of the City. Rhonda Johnson, 915-8th Street, addressed the fact that the neighborhood is not opposed to sidewalks but does not feel the sidewalk is necessary and provides no connections to broader area sidewalk systems. Les Peterson, 700 Sahlman Avenue, expressed concerns about traffic exiting the Premier Theaters property onto the road. Mr. Prusak indicated he would speak with the property owner regarding stop signs or other design alternatives for the driveway. With no further comments from the public, the hearing was closed.

MOTION: Councilor Kolodge moved and Councilor Rock seconded the motion to adopt **RESOLUTION NO. 15-28, RESOLUTION ORDERING THE IMPROVEMENT AND PREPARATION OF PLANS AND SPECIFICATIONS FOR THE RECONSTRUCTION OF 8TH STREET FROM A POINT 450 FEET NORTH OF WASHINGTON AVENUE TO SAHLMAN AVENUE AND ALSO SAHLMAN AVENUE FROM 7TH STREET TO 9TH STREET** with the amendment to the plan eliminating the sidewalks from the project. The motion carried unanimously (7-0).

WHEREAS, The City has completed an engineering study to reconstruct 8th Street from a point 450 feet north of Washington Avenue to Sahlman Avenue and also Sahlman Avenue from 7th Street to 9th Street; and

WHEREAS, As part of the project the City Engineer has identified a need to replace aging and deteriorated roadway, sanitary sewers and water utilities; and

WHEREAS, A resolution of the Council adopted March 3, 2015, set a date for a Council hearing on the proposed improvement; and

WHEREAS, Ten days mailed notice and two weeks published notice of the hearing was given and the hearing was held thereon on the 7th day of April 2015, at which time all persons desiring to be heard were given an opportunity to be heard.

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

1. Such improvement is necessary, cost effective, and feasible as detailed in the City's feasibility study.
2. The City Engineer is hereby designated as the engineer for this improvement and shall prepare plans and specifications for the making of such improvement.
3. Such improvement is hereby ordered and the City Engineer is hereby authorized to solicit bids for construction.

PRESENTATIONS

There were none.

CLEAN UP DAY OVERVIEW

Community Development Director Butcher provided an overview of the plans for the 2015 Clean Up Day. She identified a variety of changes being implemented for this year. The event is scheduled to be held on June 6 at the Shamrock Landfill. The Council had no identifiable concerns regarding the plans as presented.

APPOINTMENT OF POLICE OFFICERS

MOTION: Councilor Wilkinson moved and Councilor Rock seconded the motion to authorize the probationary appointments of Erika Johnson effective April 13, 2015; Kyle Voltzke effective April 14, 2015; and Laci Silgjord effective April 15, 2015 to the position of Police Officer. All appointments are contingent on the successful completion of a psychological and physical assessment. Appointment dates are staggered in order to establish seniority rankings within the department. The motion carried unanimously (7-0).

VIDEO PRODUCTION TECHNICIAN APPOINTMENT

MOTION: Councilor Kolodge moved and Councilor Maki seconded the motion to authorize the one year probationary appointment of Tristan Louhela to the part-time Video Production Technician position effective 4/8/15. The motion carried unanimously (7-0).

EVENT COORDINATOR SERVICES AGREEMENT

MOTION: Councilor Maki moved and Councilor Kolodge seconded the motion to authorize staff to enter into an agreement with the Cloquet Chamber of Commerce related to Event Coordinator services. The motion carried unanimously (7-0).

CHAPTER 8 CODE AMENDMENT - DOGS RUNNING AT LARGE

MOTION: Councilor Bjerkness moved and Councilor Wilkinson seconded the motion to adopt **ORDINANCE NO. 441A, AN ORDINANCE TO AMEND CHAPTER 8 OF THE CITY CODE AS IT RELATES TO DOGS RUNNING AT LARGE.** The motion carried unanimously (7-0).

The City Council of the City of Cloquet does hereby ordain as follows:

Section 1. That Section 8.2.06, Running at Large Prohibited, be amended to delete the first sentence and add the following:

8.2.06 Running at Large Prohibited. ~~No owner or keeper of any dog or cat shall permit the animal to run at large within the urban corporate limits of the City.~~ No owner or keeper of any

dog shall negligently or intentionally permit the animal to run at large, as that term is defined in Subd. 10 of Section 8.1.01, within the urban corporate limits of the City of Cloquet, as set forth below. Given the potentially serious public health and safety concerns, it is the City's intent that with respect to the application of this section that the standard of negligence to be applied in considering a violation will be that of ordinary negligence as is required in a civil action.

Section 2. Effective Date. This ordinance shall take effect and be in force from and after its passage and publication in accordance with law.

CITY CODE AMENDMENT SECTION 6.5 - TOBACCO COMPLIANCE CHECKS

MOTION: Councilor Bjerkness moved and Councilor Kolodge seconded the motion to adopt **ORDINANCE NO. 442A, AN ORDINANCE AMENDING SECTION 6.5 OF THE CITY CODE RELATED TO TOBACCO COMPLIANCE CHECKS.** The motion carried unanimously (7-0).

The City Council of the City of Cloquet does hereby ordain as follows:

Section 1. That Sections 6.5.09 through 6.5.14 of the City Code be deleted in its entirety and replaced with the following:

6.5.09. Compliance Checks and Inspections. All licensed premises shall be open to inspection by City Police or other authorized city officials during regular business hours. From time to time, but at least twice per year, the City shall conduct compliance checks by engaging minors to enter the licensed premises to attempt to purchase tobacco, tobacco products, or tobacco related devices. No minor used in compliance checks shall attempt to use a false identification or theatrical makeup which misrepresents the minor's age. All minors lawfully engaged in a compliance check shall answer all questions about the minor's age truthfully when asked by the licensee and shall produce any identification which he or she is asked to produce. The minor or minors shall be accompanied by City Police or authorized city officials to the location of the compliance check.

6.5.10. Responsibility. All licensees under this section shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products or tobacco related devices on the licensed premise, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this section, state or federal law, or other applicable law or regulation.

6.5.11. Violations and Penalties.

Subd. 1. Citations for Violations. Upon discovery of a violation of this section or pursuant to a compliance check, the clerk or employee shall be issued a citation by City Police and the licensee shall be notified of the citation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

Subd. 2. Administrative Penalty by Licensee.

A. Upon determination of a violation of a compliance check or an illegal sale hereunder, the licensee will be liable for an administrative penalty as follows:

Violation	Administrative Fee	License Suspension
First Violation	\$100	none
Second Violation within a 24 month period	\$200 and	10 day
Third Violation within a 24 month period	\$500 and	90 day
Fourth Violation within a 24 month period	\$1000 and	up to 1 year
Fifth and Subsequent Violation within a 24 month period	\$1000 and	permanent revocation

B. No administrative penalty may be imposed until the licensee has been sent written notice by certified mail of the violation to the address listed on the license. Any administrative penalty suffered by licensee is in addition and separate from any administrative penalty imposed upon employee.

Subd. 3. Administrative Penalty by Clerk/Employee.

A. The clerk or employee specifically involved in a compliance check violation or determined to have violated this section will be personally liable to pay an administrative fee. Upon determination of a violation of a compliance check or an illegal sale hereunder, the clerk/employee will be liable for an administrative penalty as follows:

Violation	Administrative Fee
First Violation	\$50.00
Second Violation within a 24 month period	\$100.00
Third and Subsequent Violation within a 24 month period	\$200.00

- B. No administrative penalty may be imposed until the clerk or employee has been sent written notice by certified mail of the violation. Any administrative penalty imposed upon employee is separate from and in addition to any administrative penalty imposed upon licensee.

Subd. 4. Payment of Administrative Fees.

- A. All administrative fees imposed by this section are deemed payable within sixty (60) days of the date of mailing of the written notice of violation or no later than thirty (30) days after the mailing of the written decision of an appeal determining that a violation has occurred.
- B. All such administrative fees imposed pursuant to this section will be payable to the City Administrator, City Hall, 1307 Cloquet Avenue, Cloquet MN 55720. The administrative penalties may be modified from time to time by the City Council.
- C. Failure by the licensee to pay any administrative fee imposed against the licensee within the time limit set herein will result in a license suspension until the date of payment.
- D. Failure by clerk/employee to pay any administrative fee imposed within the time limit set herein shall, at the option of the City Administrator, be either through a collection agency or legal proceedings in accordance with the City’s Collection Policy.

Subd. 5. Right to a Hearing.

- A. No administrative penalty may be imposed until the violator has been afforded an opportunity for a hearing before a hearing officer to contest the fact that a violation has occurred. Requests for a hearing must be submitted in writing to the Chief of Police, 508 Cloquet Avenue, Cloquet MN 55720, within twenty (20) days of the date of mailing of the written notice of violation.
- B. Upon receipt of written notice, the City shall have ten (10) business days to set the time and place for the hearing. Written notice of the hearing time and place shall be mailed or delivered to the accused violator at least ten (10) business days prior to the hearing.
- C. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty.
- D. A decision shall be issued by the hearing officer within ten (10) business days. If the hearing officer determines that a violation of this section did occur, that decision, along with the hearing officer’s reasons for finding a violation and the penalty to be imposed under 6.5.11 of this section, shall be recorded in writing, a copy of which shall be provided to the City and the accused violator by in person delivery or mail as soon as practicable. Likewise, if the hearing officer finds that no violation occurred or finds grounds for reducing or not imposing any penalty, those findings shall be recorded and a copy provided to the City and the acquitted accused violator by in person delivery or mail as soon as practicable.
- E. Suspension or revocation shall not occur until written notice by the hearing officer has been served on the licensee by certified mail to the address listed on the license and a copy of such notice provided to the City.

Subd. 6. Hearing Officer. For purposes of this section, the hearing officer shall be designated in writing by the City Administrator. The hearing officer is authorized to hear and determine any controversy relating to the violation. This process is intended to replace any existing administrative procedures previously established by ordinance with regard to violations enumerated herein.

Subd. 7. Right to Obtain a Transcript. If a hearing is requested, the hearing will not be recorded and will only be transcribed if all financial arrangements are made in advance with a certified court reporter by the person requesting the hearing. Furthermore, any person requesting that the hearing be transcribed agrees to provide the City with a copy of the transcript at no cost to the City.

Subd. 8. License Suspension or Revocation Without a Hearing. Any license issued pursuant to this Section may be suspended or revoked for violation of any provision of this Section or as detailed in 6.5.11 Subd. 2. Suspension or revocation shall not occur until written notice has been served on the licensee by certified mail to the address listed on the license.

Subd. 9. Other Penalties. The administrative fees and license suspension consequences set forth in this section are not intended to replace or limit any other juvenile, criminal, administrative or civil sanctions or consequences that may be imposed by state or federal law for the same activity.

6.5.12. Other Illegal Acts. Unless otherwise provided, the following acts shall be a violation of this section.

Subd. 1. Illegal Possession. It shall be a violation of this section for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check on behalf of the City.

Subd. 2. Illegal Use. It shall be a violation of this section of any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco related device. All minors suspected of violating this provision of this section, will be referred to juvenile court for prosecution by the Carlton County Attorney consistent with existing agreements and then existing juvenile court rules and procedures.

Subd. 3. Illegal Procurement. It shall be a violation of this section for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco related device from any person or merchant, and it shall be a violation of this section for any person to purchase or otherwise obtain such items on behalf of a minor. It shall also be a violation of this section for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco related device to any minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device. This subdivision shall not apply to minors who purchase or attempt to purchase tobacco, tobacco product, or tobacco related devices while under the direct supervision of a responsible adult for enforcement purposes or for training and education for enforcement purposes.

Subd. 4. Use of False Identification. It shall be a violation of this section for any minor to attempt to disguise their true age by the use of a false form of identification, whether the identification is that of another person or one in which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

6.5.13. Exceptions and Defenses. Nothing in this section shall prevent the providing of tobacco, tobacco product, or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this section for a person to have reasonably relied on proof of age as described by state law.

6.5.14. Judicial Review. Any person who maintains he is aggrieved by a decision pursuant to 6.5.03, 6.5.11 or 6.5.12 herein may have the decision reviewed in the district court consistent with Minn. Stat. §462.361.

Section 2. Effective Date. This ordinance shall take effect and be in force from and after its passage and publication in accordance with law.

MOTION: Councilor Kolodge moved and Councilor Wilkinson seconded the motion to adopt **RESOLUTION NO. 15-29, RESOLUTION AUTHORIZING PUBLICATION OF A SUMMARY OF ORDINANCE NO. 442A, AN ORDINANCE AMENDING SECTION 6.5 OF THE CITY CODE RELATED TO TOBACCO COMPLIANCE CHECKS.** The motion carried unanimously (7-0).

WHEREAS, The City Council of the City of Cloquet has duly adopted Ordinance No. 442A, An Ordinance Amending Section 6.5 of the City Code Related to Tobacco Compliance Checks; and

WHEREAS, Minnesota Statutes 412.191 requires that ordinances shall be published at least once in the official newspaper; and

WHEREAS, The City Council has determined that the cost of publishing an entire section of the code as proposed to be adopted by the City Council would be extremely expensive given the number of pages to be published; and

WHEREAS, Minnesota Statutes 412.191, Subd. 4, authorizes a municipality to publish only the title and a summary of lengthy ordinances or ordinances which contain charts or maps if the City Council determines that such publications would clearly inform the public of the intent and effect of the ordinance; and

WHEREAS, It is the intent of the City Council to act in accordance with all local, state, and federal laws, to inform the public of changes in municipal laws, and to remain responsible financially with public funds.

NOW, THEREFORE, BE IT RESOLVED, THAT THE CITY COUNCIL OF THE CITY OF CLOQUET, MINNESOTA, Hereby authorizes the publication of a summary of Ordinance No. 442A; and

BE IT FURTHER RESOLVED, That a copy of Ordinance No. 442A shall be available for public viewing online at www.ci.cloquet.mn.us, at City Hall and at the Cloquet Public Library for a period of not less than thirty (30) days from the date of publication; and

BE IT FINALLY RESOLVED, That the summary published in the official newspaper shall be in the following form:

SUMMARY DESCRIPTION

NOTICE OF SUMMARY
PUBLICATION OF ORDINANCES

On April 7, 2015, at its regular meeting, the Cloquet City Council adopted Ordinance No. 442A, a three page ordinance which amends Section 6.5 of the City Code. The purpose of this Section is to regulate the distribution of tobacco products in a manner which will help to prevent young people from starting to smoke. The specific amendments clarify the City's process and requirements to conduct compliance checks of all tobacco license holders.

The specific title of the ordinance is "**AN ORDINANCE AMENDING SECTION 6.5 OF THE CITY CODE RELATED TO TOBACCO COMPLIANCE CHECKS.**" The full ordinance is available to the public for inspection online at www.ci.cloquet.mn.us, or during regular office hours at the Cloquet Public Library or at Cloquet City Hall.

CITY OF CLOQUET

By: Dave Hallback
Its Mayor

ATTEST:

Brian Fritsinger
Its City Administrator

**HIGHWAY 33 CORRIDOR STUDY AND ACCESS MANAGEMENT PLAN
CONSULTANT SERVICES**

MOTION: Councilor Maki moved and Councilor Wilkinson seconded the motion to accept the proposal by Short Elliott & Hendrickson, Inc., dated March 31, 2015 to provide professional transportation planning services to assist with the completion of the South Trunk Highway 33 Corridor Study and Access Management Plan. The motion carried unanimously (7-0).

**SET PUBLIC HEARING DATE ON PROPOSED IMPROVEMENT OF WEST
TAYLOR AVENUE**

MOTION: Councilor Kolodge moved and Councilor Rock seconded the motion to adopt **RESOLUTION NO. 15-30, RESOLUTION SETTING PUBLIC HEARING DATE ON THE PROPOSED IMPROVEMENT OF WEST TAYLOR AVENUE FROM SOUTH OAK STREET, WEST APPROXIMATELY 1,300 FEET AND THE CONNECTION OF SOUTH LAUREL STREET TO WEST TAYLOR AVENUE.** The motion carried unanimously (7-0).

WHEREAS, A petition has been received requesting the paving of West Taylor Avenue running west of South Oak Street; and

WHEREAS, A City Engineer has prepared a preliminary report on the proposed improvement as well as the connection of other existing dead end streets and utilities in the area; and

WHEREAS, It is anticipated that benefitted properties will be assessed for a portion of the project costs, pursuant to Minnesota Statutes, Chapter 429.

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

1. That the Council will consider the improvement of West Taylor Avenue from South Oak Street, continued west approximately 1,300 feet, as well as the connection of other dead end streets and utilities in the area and the assessment of abutting properties for a portion of the cost, pursuant to Minnesota Statutes, Chapter 429. The total improvement is estimated to cost \$130,000.
2. A hearing shall be held on May 5, 2015, in the City Council Chambers at 7:00 p.m.
3. The City Administrator shall give mailed and published notice of such hearing and improvement as required by law.

ADOPTING FINAL ASSESSMENT FOR 429 - 22ND STREET

MOTION: Councilor Maki moved and Councilor Langley seconded the motion to adopt **RESOLUTION NO. 15-31, ADOPTING THE FINAL ASSESSMENT FOR 429 – 22ND STREET ASSOCIATED WITH THE 2014 IMPROVEMENT OF 22ND STREET AS ORIGINALLY PROPOSED AT THE MARCH 3, 2015 ASSESSMENT PUBLIC HEARING.** The motion carried unanimously (7-0).

WHEREAS, The Cloquet City Council on March 18, 2014, held a hearing to consider the improvement of these sections of 22nd Street and Selmsier Avenue; and

WHEREAS, Said improvement was subsequently ordered and completed and the City has prepared a proposed assessment roll, which is available in the office of the City Administrator for public inspection; and

WHEREAS, Due notice was given that said special assessments would be considered by the City Council at its meeting to be held on March 3, 2015, and at said meeting and time all parties interested would be given an opportunity to be heard; and

WHEREAS, The deferral of special assessments are allowed for certain seniors and disabled homeowners, in accordance with MN Statutes Section 435.193 and Chapter 12 of the City Code; and

WHEREAS, A partial Application For Deferment of Special Assessment was presented by Delores Calverly, the owner of 429 – 22nd Street; and

WHEREAS, To date the applicant has not provided all documents required for her deferment application to be considered.

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

1. Such assessment, for Parcel 06-265-0260 shall remain as originally proposed at the March 3, 2015 public hearing in the amount of \$4,484.48 and shall constitute the special assessment against the lands named therein, and each tract of land therein is hereby found to be benefitted by the improvement in the amount of the assessment levied against it.

2. Said assessments shall be payable in equal annual installments extending over a period of ten (10) years and shall bear interest at a rate of eight percent (8%) per annum from April 3, 2015. Property owners may prepay the entire assessment, or any portion of it, to the City of Cloquet without interest prior to April 3, 2015. Any principal not paid by November 30th of each year, will be certified along with accrued interest to the Carlton County Auditor for collection with the Real Estate Taxes payable over the period stated above.
3. If at some time in the future the owner of the property provides the required documents, the Application For Deferment of said Special Assessment can be considered at that time.

AUTHORIZE SOLICITATION OF BIDS FOR 2015 PARK IMPROVEMENTS

MOTION: Councilor Wilkinson moved and Councilor Bjerkness seconded the motion to adopt **RESOLUTION NO. 15-32, RESOLUTION APPROVING THE SOLICITATION OF BIDS FOR 2015 PARK IMPROVEMENTS AT PINEHURST AND SUNNYSIDE PARKS.** The motion carried unanimously (7-0).

WHEREAS, The City has identified the completion of Pinehurst Park improvements as a priority following the recent swimming pond reconstruction; and

WHEREAS, The existing athletic courts in Pinehurst and Sunnyside Parks are in poor condition and warrant complete replacement; and

WHEREAS, A public input process was previously undertaken by the Park Commission in order to best determine the scope of said improvements; and

WHEREAS, On May 20, 2014, the City Council awarded a contract to SEH Inc. to complete design plans and specifications for identified improvements at Pinehurst Park and Sunnyside Parks; and

WHEREAS, The City now wishes to proceed with these improvements.

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

1. Such plans and specifications are hereby approved.
2. The City Engineer is hereby authorized to advertise and solicit bids for such improvements.

PUBLIC COMMENTS

There were none.

COUNCIL COMMENTS/UPDATES

There were none.

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

Brian Fritsinger, City Administrator