

CITY OF ST. FRANCIS  
ST FRANCIS MN  
ANOKA COUNTY

CITY COUNCIL MINUTES  
NOVEMBER 5, 2018

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE

The regular City Council meeting was called to order at 6:00 pm by Mayor Steve Feldman.

2. ROLL CALL

Members present: Mayor Steve Feldman, Councilmember Jerry Tveit, Joe Muehlbauer, Robert Bauer, Rich Skordahl

Also present: Assistant City Attorney Dave Schaps, (Barna, Guzy & Steffen), City Engineer Craig Jochum (Hakanson Anderson), City Administrator, Joe Kohlmann, Community Development Director, Kate Thunstrom, Police Chief, Todd Schwieger, Fire Chief, Dave Schmidt, Public Works Director, Paul Teicher, Liquor Store Manager, John Schmidt, Finance Director Darcy Mulvihill & Acct Tech/Deputy Clerk, Lori Streich

3. APPROVAL OF AGENDA

MOTION TO APPROVE TONIGHT'S AGENDA BY BAUER, SECONDED BY TVEIT; ALL IN FAVOR, MOTION PASSES.

4. CONSENT AGENDA - *All matters listed within the Consent Agenda are considered routine items to be enacted upon by one motion by the City Council. Items on the Consent Agenda are reviewed in total by the City Council and may be approved through one motion with no further discussion by the Council. Any item may be removed by any Council Member, staff member or person from the public for separate consideration.*

- A. City Council Minutes – October 15, 2018
- B. City Council Work Session Notes – October 9, 2018
- C. Authorization to Hire Part Time Liquor Store Clerk
- D. Payment of Claims

MOTION TO APPROVE THE CONSENT AGENDA BY MUEHLBAUER, SECONDED BY BAUER; ALL IN FAVOR, MOTION PASSES.

5. MEETING OPEN TO THE PUBLIC  
NOTHING

6. SPECIAL BUSINESS  
NOTHING

7. PUBLIC HEARINGS

- A. Public Hearing: Certifying Assessments for Delinquent Utilities, Miscellaneous Invoices and Administrative Fines: Resolution 2018-38

- Formal Appeal Letters received from:

- a) 5701 Ambassador Blvd. NW - Storm Water Fee
- b) 4100 236<sup>th</sup> Lane NW - Administrative Citation
- c) 23040 Butterfield Drive NW – Administrative Citation
- d) 4000 DeGardner Circle NW - Administrative Citation
- e) 23434 Pederson Drive NW - Administrative Citation
- f) 23292 Ivywood Street NW - Administrative Citation
- g) Others

Mayor Feldman opened the Public Hearing at 6:03 pm.

Joann Neve, 5701 Ambassador Blvd NW, asked for an explanation on the storm water fee.

Feldman responded and said that this is a federal law that came down to the state, and then to the county, and involves cities with a population of at least 5,000 that discharge to an outstanding resource water value system, which we do through the Seelye Brook, and that is an tributary to the Rum River source. The city has tried to get around this but there is no way at this time. It's not about being rural or urban, it goes by parcel.

Tveit explained that the stormwater fee is rainfall or snow run off. The fee is put into a separate account, only to be used for approved expenditures for cleaning out culverts, and all of the things that insure that the storm water is not running directly in to Rum River or Seelye Brook and assuring that our waterways stay clean. A lot of cities will just assess this on the county tax bill, but the City of St. Francis hasn't done that.

Randy Barrows, 23434 Pederson Drive NW, stated that he is the landlord for this property. He has gotten notices from time to time from staff about too many cars on the lot. But he thought this was all taken care of because every time he received a letter, he responded immediately by stopping in to the city office, talking to his renter, and dealing with the issue. He thought everything was in good shape last spring, didn't hear anything all summer long, and then a month ago he received another letter stating that his fee was up to \$5300. He came up right away and talked with staff and they told him about an appeal process. He certainly was not trying to ignore the city. He talks to his renter about the situation and they remove all of the cars, but then they are back again the next week. He's at the end of his rope.

Feldman said the frustration is that this goes through a process. The city has tried to work with Barrows, but when no attention is given to the problem we are forced to do something about it. Feldman said that the responsible party is the landlord and in his opinions, he should get rid of this renter because he is costing him money.

Thunstrom said that for the two years that they have been dealing with these cars, it is their understanding that it's been the same tenant.

Skordahl said the cover letter shows seven citations starting July of 2017 with infractions ranging from multiple cars to a potential business, which would require an IUP. There's also roofing done on a building without a building permit. A lot of things going on at this property. He knows Barrows is in a difficult situation as a landlord, and the fee continues to increase. What keeps that citation meter ticking?

Thunstrom explained that within the city code, when somebody receives a citation, they have 10 days at the time of issuance. However, within those payment of penalties, there is a line that states where payment of penalty without correction of the violation the city may issue subsequent administrative citations, initial criminal proceedings or initiate other proceedings and remedies. The payment of the penalty and the correction both have to happen. Thunstrom said the \$5300 is an accumulation of all of the fees. On the bottom of each letter, there's a deadline listed, as well as the fees.

Barrows said that every time he received a letter he would come up to the city. Every city has different ordinances which makes it a bit challenging to keep up with. When he bought the property there was an 8x8 shed outside. He was told that St. Francis doesn't like those so he had it taken down. That is a unique position that this city holds. Menards, Home Depot, etc. sells them, and he lives in Ramsey where all of his neighbors have them. But he complied with the rules of St. Francis.

Bauer said that he doesn't like the timelines of the offenses, but this property is a mess. He struggles with giving lenience with the citations once the process is going forward. He hopes that if this citation moves forward, Barrows can use this as a stepping stone to get some of this money recouped from his renter through legal matters.

Muehlbauer said that for Barrows to say that he thinks it's taken care of, but then he continued receiving letters every 30 days doesn't make sense. How does he think it's ok and that everything is resolved when he continued to receive five more letters in the next four months?

Barrows answered that because every letter he received, he would come right up to the city, meet with staff and they would thank him and tell him that they appreciated the help, but never once told him that he still owed. If he would have known he would have paid them and been done with it.

City Attorney Schaps confirmed that staff cannot take away the fines, only council can do that.

Feldman said that he thinks the renter is running a business, but he can't prove it. When you get a good renter, life is good. When you get a bad renter it's bad. Hopefully Barrows can do something in court with this.

Tveit said the last line in every letter states that if penalties are unpaid, they will be assessed to the property taxes. He understands that sometimes dealing with tenants is difficult, but that's what you sign up for when you become a landlord. Tveit has a property close to him that is just horrible. The city will come out, he cleans it up for one day, towing cars out onto the road so that they are not on his property, and as soon as the city inspector leaves, he hooks up a chain and pulls all of the cars back onto the property. There is something on this administration that's for reoccurring issues as well. Just because it's taken care of for one day and then as soon as the inspector leaves, it goes right back to being messed up again, that's not right.

What concerns him is that the first offense is \$100, second offense is \$200, so that's the first \$100, plus \$200, equaling \$300. The third offense is \$500 which is really \$800, forth offense is \$1,000. Every time you get another offense, you still owe the prior balance. This is exactly why we have the administrative enforcement in effect. The other option that the city would have is to hire someone to go around and enforce this at a cost of \$100,000 with benefits and everything. Council opted not to do that because there's only 5% of our city that has these issues.

Tveit agrees with Feldman that it ultimately stops with the landlord and the way our process works is that the owner of the property on record at Anoka County would receive a letter, and an additional letter is also sent to the address located within St. Francis. So your tenants have also received this letter and knew exactly what they were doing and what they were in violation as well. The city has tried to communicate in good faith. He has a hard time being lenient. We are up to the fifth offense and this has been going on for several years.

Feldman said that this situation has gotten out of hand and cannot go on any longer. One thing that this council agreed to when they got into office was accountability. Without accountability, things run a muck, and that's what has happened here. These notifications and citations were forewarning way ahead of time. It was up to Barrows and his responsibility to tell this renter to get out of his property, but that's up to him.

Pavel Vlasjuk, 23292 Ivywood Street NW said that he has nine kids. Almost all of the kids have cars, so that's why there are so many on their property. All of the cars have current tabs. Having nine kids creates a lot of stuff like bicycles, etc. One of his sons has 4 wheelers that he takes apart and works on.

Feldman said this has been going on for some time. Vlasjuk lives in the city and has neighbors that are responsible for their properties, and he needs to be responsible with his. The pictures are showing not only the cars in the driveway, but all of the trash in the back yard as well. St. Francis has policies, and when a resident gets fined, they need to come to the city. The city doesn't want to fine people. The city's laws are not being followed.

Bauer said he grew up with a lot of kids in his family and a lot of cars. The only cars in the pictures that he has a problem with are the ones that aren't moving. It looks like an eye sore. He also has a problem with the trash behind the house. Vlasjuk needs to keep the snow plowed around the legal cars and clean the trash out. Bauer said that he does have a problem waiving the fines. The cleanup doesn't have to be done in one day but if the inspector comes out and inspects, there has to be progress shown. If he would have done that, these fines wouldn't have built up.

Muehlbauer said that the fine schedule he is seeing shows March 7<sup>th</sup> and the next one on March 14<sup>th</sup>. That isn't quite 10 days.

Thunstrom answered that the code reads "up to 10 days".

Muehlbauer continued by saying that he has kids also, but a lot of it comes down to how you handle it. He doesn't see that as an excuse. He does see that Vlasjuk has a 3 car garage that possibly some of this could be stored in. It comes down to being a good neighbor.

Tveit said he's not concerned about the cars. As long as they are operable, registered and parked correctly. If you have enough room to park them there that's not an issue. That's not what Vlasjuk is being cited for, but with that being said, he does have some vehicles parked where they aren't supposed to be. There is a lot of stuff and it does have to be kept in an orderly fashion. If it was inside a shed or a fenced in area that would block the site of it all, that would be a different story. Renting a storage unit if you don't want to get rid of it is another option. Some of the pictures he saw it looks really messy, and you have neighbors. Tveit is glad to hear that it's all cleaned up now. You won't get fined anymore going forward as long as you keep it clean. Hopefully you can put this behind you.

Skordahl said that as he looks through the pictures, he sees that the story started back in 2012. He's not in the mood to send the message to residents that they can let their yards get like this, treat their neighbors like this, and rack up the fines. As Mayor Feldman mentioned, council is trying to govern for the whole city. It's a shame that your son puts you in this position. There has to be some method for council to try to encourage people to not let this happen.

Vlasjuk said that he wants a clean yard too but his son isn't cooperating. He can't even have a bonfire in his backyard. He's done a lot of work on his property.

Feldman said that it's nice that he's keeping up with his property now. This has gone on far too long. His advice is to talk to his son. If we let you off and it happens again we look like fools. Accountability has to be involved here.

Raymond Jones, 23725 Nacre Street is here to appeal the storm water fee. This council is unfortunate that it has gotten into this situation. There are communities around us that never went this way. Jones questioned why St. Francis went with this method. Jones said that he has 36 acres. This year, we have had over 2 ½" of rain. One week it rained all week, every day and didn't stop. Where did that water go? Right into the ground. It didn't run off. This program is for a city park or where you have paved streets, gutters, no concrete, no blacktop. All he has is soil that takes the water. He wants to know why he is paying this fee. This fee leads to the residential area, not the rural area. He would like council to change this program. It hurts him to see people having to pay it. He would also like to know what they would be doing with the money.

Jones said that he saw an ad in the Anoka Union stating that the public could come to the council meeting on the 5<sup>th</sup>, but it was in the paper on the 28<sup>th</sup>. Why wasn't that information put in the fall newsletter? More people would have gotten it.

Feldman said this is a federal law that came down from the state, the county and then to the city. Jones would need to talk to the right legislature's office. He could even get a petition together with all the people that he said he's been talking to, and Feldman would be more than happy to send it out to the legislation level. He can't say whether that will do anything or not, but it's worth a try. Feldman doesn't like it any more than Jones does, but the City of St. Francis falls in to the population of at least 5,000, that offers that discharge from the outstanding resource value water. We do that through the Seelye Brook tributary off of the Rum River. Our surrounding cities do not do that. He has not heard of any other cities or states that are able to exempt agricultural property. This council's hands are tied. Feldman doesn't understand why people think that the Council is just out to fine people to make more money. That's not at all how it works here.

Skordahl said that if Jones contacted someone from the federal government, they probably said to go back to their city because the requirement is for the city to comply.

Tveit said that he works in the water and wastewater field for a living. He also has been to school for this. Although Mr. Jones has farmland, it doesn't mean you don't have storm water run-off. In fact, studies have shown that farmland is actually one of the highest polluters out there. That's why they are requiring more buffered areas like drain tile that would run through a farmer's field. What that does is that it directly conveys that water from the farmers field after it's picked up phosphorus, weed killers, etc. right into a water source. It could be pond water, or river water or creek, but a water source is a water source. There's surface water and ground water, and that rain water goes to one of those two sources. Agricultural land doesn't mean that there's no contaminants on that land that need to be controlled, mitigated or alleviated and managed where they go. That's what this MS4 is. In Stearns County along the Mississippi River, it's notoriously high in phosphate levels and that's all agricultural. There's not a lot of buildings there, but it has one of the highest pollutant levels for that stretch.

Feldman said that the Council's hands are tied by law. Jones can get a petition together and Feldman will pass it on to the right people. Names mean something and one person is not enough. Jones is punishing five people for something they have no control over.

Tveit said there's no fair way but that everyone that owns a parcel pays the same amount. If it were put on the general levy there would be some people that would get charged more and some would get charged less depending on the value of their property. Some of these arguments are not new arguments, and Jones is familiar with them. Tveit thinks it's unfair for Jones to come up and say some of the things that he's saying now when it was what Jones had advocated in the past.

Public Hearing closed at 7:33 pm.

Skordahl asked about the residents that didn't come in for the public hearing. They took the time to appeal, and he thinks they should at least discuss what they had to say.

4100 236<sup>th</sup> Lane NW, Feldman explained that a letter was sent to the city from the property owner about a deck that was built in 2017. The property owner said it was his first house and he didn't know he needed a permit. Feldman said that if you don't know, contact the city. The permits are still at City Hall and haven't been picked up for the last six months. He started the deck without his permits. He also brought an evaluation in for the deck at \$3500 and the Building Official downgraded it to \$2400. The property owner sent Feldman a letter and stated he would enclose \$50. There was no check the envelope with this letter. The letter stated that this was the owner's first home and he was not intentionally non-compliant. The Building Official came to his home and informed him that he needed to submit a building plan and permit. He said that he submitted a building plan and permit application, and wrote a check to the City of St. Francis. The City did not receive this. A few months later he heard from the city again stating that the documents that he sent were not received. They were either lost or the property owner said he may have wrote in the wrong address by mistake. He then submitted another permit application and building plan through the city website but still has not paid the permit fee. The letter continues on to talk about some of the situations taking place in his household. At the end of the letter it states that \$50 was enclosed, which it was not.

Feldman continued by saying that if the property owner would have come forward when this was at \$100 it would have never gotten to this point. Had he called first to see if he needed a permit, it would have never gotten to this point. He doesn't understand how anyone can think that they don't need to pull a permit for a structural building that can endanger someone's life. Ignorance is not an excuse.

Tveit said if you look at your checkbook and see a check hasn't been cashed you would follow up on that. Since he requested an appeal, why are they not here today? He's of the opinion that if it's not important enough for him to show up and plead his case, then the only information council has to go by is from the cities perspective. From the cities perspective, Tveit stands by our administrative process.

23040 Butterfield Drive NW, total fines due are \$10,000.

Thunstrom said they were unable to verify when they went out last week and got pictures if the deck was removed with the process they have for code enforcement. If it has been removed, they haven't notified the city. However, there is an unsafe structure that has been tagged by the Building Official and it does affect meter readings.

Tveit said that it's frustrating that they are not here. This is fairly straight forward. If you have an unsafe structure, all it would take is for the meter reader to have the deck fall on them. This could be extremely costly to the city and Tveit thinks this is important to take care of.

Feldman said in looking at the pictures, you can see all of the tires in the yard. Mosquito Control will take tires free of charge, and the City has a wonderful recycling program. There are neighbors around these people and council owes a responsibility to them. If you are concerned you might want to show up.

Bauer was unclear on how the fines accumulated to the \$10,000 mark. It takes a resident to fix these before they climb to greater heights. If they aren't going to do anything at all, then raising these fines to \$40,000 or \$50,000 isn't going to do anything. An administrative citation is trying to get them to act, but he struggles with getting to \$10,000. That's going to go onto the property and will we ever see it?

Thunstrom answered that once each fine is addressed, it gets removed from the letter. That fine would be an accumulation of all of the various violations and citations sent.

Tveit said that it sounds like Bauer is asking at what point do we stop the administrative process and do an abatement.

Thunstrom said they have discussed this as a department. To what point they would start sending the letters certified, so that it is clarified that this is real. They are holding that responsibility of signing it. There is a point that they reach out to BGS. Abatement is not cheap. There is that fine line as to how far do we push with the letter in hoping that they respond before they jump to abatement. She does agree that there has to be that point.

Feldman asked at what dollar amount do they start noticing it?

Bauer said that at some point, like the \$500 range the letter needs to be certified and signed for. That way the city is aware that they have seen it. He's not advocating to dismiss this.

Skordahl said the dollar amount seems astronomical but all of this is in the homeowner's control. Being a homeowner comes with responsibility.

4000 DeGardner Circle NW

Thunstrom said that this one took a couple citations. They did clean it up. Reading their letter, she thinks that it's that misunderstanding that if they clean it up the citation goes away. That's not the case.

Feldman said that just like the police department, once you receive a ticket, you have to pay it. You can go to court and plea your case. How important can it be to them if they are not showing up tonight.

Muehlbauer said he doesn't understand why there are so many misunderstandings.

Feldman asked Thunstrom if it was possible to send a letter to let people know that even though the citation was corrected, they are still liable for the citation?

Thunstrom said this letter is written by the city and the language can be reviewed at any time and be sent off to BGS for review to make sure we are still on point.

Tveit said this is pretty clear. It makes him happy to see the problem has been mitigated.

Skordahl said that this one needs to stand.

Bauer agrees and appreciates that it was cleared up.

MOTION TO ADOPT RESOLUTION 2018-38, CERTIFYING ASSESSMENTS FOR DELINQUENT UTILITIES, MISCELLANEOUS INVOICES AND ADMINISTRATIVE FINES BY TVEIT, SECONDED BY BAUER; ALL IN FAVOR, MOTION PASSES.

8. OLD BUSINESS  
NOTHING

9. NEW BUSINESS

- A. Ordinance 243, Second Series – Approving the Sale of City owned Real Estate (Second Reading)
- B. Ordinance 244, Second Series – Amending Fee Schedule (First Reading)
- C. Set Special Meeting to Canvass Election Results

Ordinance 243, Second Series – Approving the Sale of City owned Real Estate (Second Reading)

No discussion by Council.

MOTION TO APPROVE ORDINANCE 243, SECOND SERIES – APPROVING THE SALE OF CITY OWNED REAL ESTATE (SECOND READING) BY TVEIT, SECONDED BY MUEHLBAUER; ALL IN FAVOR, MOTION PASSES.

ROLL CALL                      AYES: TVEIT, MUEHLBAUER, SKORDAHL, BAUER, FELDMAN  
NAYES: NONE

Ordinance 244, Second Series – Amending Fee Schedule (First Reading)

Thunstrom said that the agenda report in their packet reflects the changes and fees related to the building department and land use specifically. What they have found is that if they use Metro West for site visits, some of our individual permit fees or flat fees were not covering that expense. So to cover their expense and the cities expense, those fees have been increased to \$120. These would be actual expenses needed to use Metro West and staff in order to cover that cost. Even though Metro West is used as a permit inspector, there's still administrative staff time for the acceptance, scheduling, processing, and data. They bumped up the ones that are zoning that either didn't have a fee or was too low, trying to make those level at \$50, and those that they need to capture and increase due to using Metro West up to \$120.

Kohlmann said that he and Thunstrom met for quite some time on this and calculated what projects the city brings in the most revenue from and where the Building Official's time should be dedicated to. It's easier to have Metro West handle the smaller projects. By having our Building Official take on the larger projects, our city captures more revenue.

Kohlmann said that it was just brought to his attention that the old water and sewer rates, prior to reduction are listed in the fee schedule. As part of the motion we will put in the updated water and sewer rates.

MOTION TO ADOPT ORDINANCE 244, SECOND SERIES-AMENDING FEE SCHEDULE (FIRST READING) WITH THE NOTED AND UPDATED WATER AND SEWER RATES BY FELDMAN, SECONDED BY MUEHLBAUER; ALL IN FAVOR, MOTION PASSES.

ROLL CALL                      AYES: TVEIT, MUEHLBAUER, SKORDAHL, BAUER, FELDMAN  
NAYES: NONE

SET SPECIAL MEETING TO CANVASS ELECTION RESULTS

November 14<sup>th</sup> at 5:30 at City Hall.



10. MEETING OPEN TO THE PUBLIC  
NOTHING

11. REPORTS

A. Councilmember Reports -

Nov 6 Election Day – Polls open from 7 am to 8 pm

Nov 19 City Council Meeting @ St. Francis Area Schools District Office 6 pm

Nov 21 Planning Comm. Mtg @ St. Francis Area Schools District Office-CANCELLED

Nov 22-23 City Offices Closed – Thanksgiving Day Holiday

COUNCILMEMBER REPORTS

Muehlbauer said that he attended the Anoka County Fire Protection Council Meeting with Mayor Feldman. He also attended two EDA meetings this month. He talked to Administrator Kohlmann in regards to the sound system and they will have to find time in the next week or so to go on a field trip and pick something up.

Feldman said this needs to get taken care of because it does reflect our meetings. This has been an ongoing problem. We just need to solve this problem once and for all.

Tveit said that November 6<sup>th</sup> is Election Day and he hopes everyone gets out to vote. He commends the candidates for putting themselves out there and campaigning. Looking in the audience and watching the current council, he wonders why would anyone want to willingly step into this job. Hats off to the candidates. We will find out the results tomorrow. Those that win, Congratulations. Those that don't win, there are a lot of other opportunities in the city. Don't stop being active.

Tveit continued by saying to please drive safe. It's getting darker earlier. In addition, the wildlife is starting to move. There are a lot of deer/car collisions being posted online.

Bauer said he's not a big supporter of the storm water assessment fee. It's a necessary evil. He hates to see residents get charged extra. It's not rated based on how much storm water you have soaking into each lot. If you are a resident, and you are driving on St. Francis roads, that's what this assessment is paying for. Maybe there's a better way to pay it in the future. This is how we do it now. It's mandated down from the federal government.

Skordahl said to make sure and get out and vote tomorrow. He thanked Liz Fairbanks for putting together a "Meet the Candidate" meeting.

Feldman reiterated what Councilmember Bauer said that there is nothing the Council can do about the \$60 storm water fee. You have to look at the bigger picture. Those funds are in a dedicated account and will only be taken out for storm water related activities.

Feldman thanked the candidates that have been out and about. He just completed four months of walking the city. He also mentioned that when you fill out your ballot for voting, you can fill out as much of the ballot as you want. But the most important part of that ballot is the city candidates. He gets frustrated when people don't vote, but then complain later. The city level affects your life. Polls are open 7:00 am – 8:00 pm at the district offices.

Feldman said that he attended the Fire Protection Council Meeting. They will be having a budget meeting on the 25<sup>th</sup> and he will be there for that as well.

Tveit asked if they could get an update on the snowmobile parking area at one of the upcoming council meetings.

Feldman asked how many residents are currently signed up for the Nixle program. Chief Schwieger said that the number of people signed up for Nixle is right around 700.

12. ADJOURNMENT

Mayor Steve Feldman adjourned the regular City Council meeting at 8:27 pm

Respectfully Submitted by:

  
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Lori Streich  
Acct Tech/Deputy Clerk