

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL OF THE CITY OF NORTH BRANCH IN THE COUNTY OF CHISAGO AND IN THE STATE OF MINNESOTA

REGULAR SESSION

April 14, 2015

CALL TO ORDER: The North Branch City Council met in regular session and Mayor Hagen-Kennedy called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE:

ROLL CALL: Councilmembers present were Kathy Blomquist, Theresa Furman, Kirsten Hagen-Kennedy, Joyce Borchardt, and Robert Canada. Staff members present were City Administrator Konrad, Public Works Director Williams, GIS Specialist Sondrol and City Attorney Helmers.

PUBLIC COMMENT:

Peter Schaps, said he would like to correct the record of how to spell his name. It was written this week by the paper that Peter Schaps declared something. He simply asked a question of "who do you folks think you are?" He then said he has the right to hold elected officials accountable for their actions and their votes. Mr. Schaps said that due to downgrades in bond ratings he feels that a greater degree of transparency would be a good idea to him. Mr. Schaps said that he has experience in bond sales and noted that investors expect to see a return on their investment. Munibonds are expected to perform as promised and, if they do not, the City can expect to pay higher costs for bonding in the future.

Cindy Erickson, would like to discuss Item 12E on the Agenda regarding censure for Blomquist and Hagen-Kennedy. Ms. Erickson said that the Mayor title was given to Hagen-Kennedy by the voters and she never suggested or said she was representing anyone other than herself. Ms. Erickson said that neither Blomquist nor Hagen-Kennedy said they were representing the City. At that point Senator Nienow pointed out and clarified for the Committee that the full Council had asked for the legislation. Ms. Erickson said that she does not feel that the action proposed to censure tonight is appropriate. No laws were broken, nothing illegal was done and the only thing she sees is one Councilmember who is having a temper tantrum because she did not get her way. There is no legal opinion stating that this is appropriate nor the way to govern the City. Ms. Erickson asked the Councilmembers to stop grandstanding and start working together and govern the City for the sake of the residents.

David Karcher said he does not live in North Branch but he owns a business and two non-homesteaded homes in North Branch. Mr. Karcher said that there was discussion on teambuilding last week and he was surprised about farming it out and spending money because leadership creates teamwork and can be done in house. Mr. Karcher said that there was a vote that was three to two and it surprises him that someone would go and undermine what the Council had voted. Mr. Karcher would like to have

City Council Minutes

April 14, 2015

Page 2

the divided politics kept out of the decision making and it is time to work on this together because the City is darn near bankrupt. Mr. Karcher said that it is all about leadership and that is usually where the breakdown occurs. Mr. Karcher suggested the negative comments about folks need to stop as they are inappropriate. Mr. Karcher said that Bob Barrett works hard and does not deserve the unjustified comments. Mr. Karcher suggested apologizing for the mistakes and move forward and work on a common vision for the City for the future. Mr. Karcher proposed a motion and a change in the format of the meetings that anytime there is a motion before the Council and ask for three pros and three cons from the public to find out what the people want. Mr. Karcher would like to have the ability to talk during the meetings.

Tessa Hill state that she was one of the 60% that voted for Mayor Hagen-Kenned. She asked to reconsider actions for censure and that you understand the meaning of civil liberties and that includes the Mayor and Blomquist's opinions.

Dennis Johnson said that because one person didn't like the outcome of the Committee vote this one person is intimidating with a motion to censure with the hope that their minority viewpoint will be silenced. Mr. Johnson said that this has the potential to cost more in legal fees for the City and he wants the Council to get back to work and stop this.

Paula McCabe said she is an attorney representing Mayor Kirsten Hagen-Kennedy and Councilmember Blomquist regarding the attempt to censure. Ms. McCabe said that several documents have been provided, an email alert, and communication with the City Attorney regarding this proceeding. Ms. McCabe read the quote from Senator Nienow who had said that they were not there on behalf of the City. The Minnesota Constitution and the United States Constitution protect this type of free speech. Prohibition or censure of an elected official's right of free speech would be illegal and would subject this community to legal action and legal fees incurred. Ms. McCabe indicated there is no legal or factual basis to justify a motion to censure Councilmember Blomquist or Mayor Hagen-Kennedy.

Joni Call asked if something is brought forward against another person on the Council by a Councilmember and there are legal proceedings involved how does that affect the City and who pays the cost of those things.

Ms. McCabe said that unless the City Council acts upon the motion there is no responsibility for bringing it forward.

Tom Vale said that he does not have an opinion on the board or commission but he does have an opinion on censure. He listened to the testimony five times today to see how he felt about it and understood it. Mr. Vale said that at no time did he feel that either one of them were speaking for the Council or City. Mr. Vale said he applauds them for their opinion and the courage to speak before the Committee and to censure would be inappropriate.

City Council Minutes

April 14, 2015

Page 3

Cindy Geim said that this is a game because someone didn't like what another Councilmember was doing. She then said that it is time to work together as a team and if you cannot work together should leave.

Mack Guptel said that they have been in North Branch for 11 years. Mr. Guptel said that he fell in love with his neighborhood and the community and there is a lot of potential and a lot of work to do. He said that this is a wonderful place to live. He said his water bill is high and so is everyone else's and he does not think that there should be only three people on the Water and Light Commission so that we can get to the bottom of why the bill is so high. He said that this country is founded on the right to free speech. Mr. Guptel asked to deny the request or deny at the very least because there is risk to the Community in approving this.

Laurie Warner, 40589 Golden Avenue, said that as a resident and citizen advocate she often comes before the Council to speak on matters. She also attends City Council meetings regularly. During public comment she can assert her right to free speech and to express her opinion. Everyone has the right to freedom of speech under the First Amendment. Censorship is the suppression of ideas and information that others find objectionable or dangerous. Ms. Warner said that censorship is the denial of freedom of speech and freedom of press. Ms. Warner said that if one Councilmember is allowed to remove elected members from Council Committees takes away their rights. Ms. Warner quoted Benjamin Franklin and said that she does not want those that were elected to lead North Branch into the future silenced.

Kevin Grote presented a donation to the City for \$20,000 from the Fire Relief Association. Mr. Grote said that he would like to ask that \$2,500 go toward public works to purchase park benches.

Mr. Schaps said that in a cursory search of the internet he found four cities that have all done censure for one of their elected officials. Mr. Schaps quoted from the City of Mankato's policies on testifying before committees.

CONSENT AGENDA:

- Claims - \$188,269.91
- Resolution No. 027-04-14-15 - Temporary Liquor License and Gambling – St. Gregory the Great Catholic Church
- Resolution No. 026-04-14-15 – Temporary Liquor License – North Branch Municipal Liquor
- Resolution 025-04-14-15 – Temporary Liquor License, Gambling, and Street Dance Permit – American Legion MidSummer Days
- Public Works Union Memorandum of Understanding
- Minutes – March 5, 2015 Work Session
- Minutes – March 10, 2015 Regular Session
- Liquor Store Clerk – Accept Resignation of M. Johnson and Resolution No. 028-04-14-15 – Authorizing Hiring of S. Kocurek
- Resolution No. 029-04-14-15 – Lead Wastewater Hire – J. Stingl

Motion by Furman, seconded by Canada, to approve the Consent Agenda as presented. All voted AYE. Motion carried.

6. Councilmember Borchardt – Censure of Mayor and Councilmember Blomquist
Mayor Hagen-Kennedy handed the gavel over to Acting Mayor Furman.

Borchardt said that she does believe in the right of freedom of speech, a cherished American individual right. However, that individual right does not extend onto bodies or entities of others. This is dealing with the body of Council as a whole.

Motion by Borchardt, seconded by Canada, to censure Mayor Kirsten Hagen-Kennedy for failure to disclose that she was representing herself and not the City of North Branch in her testimony before the Senate Committee.

Tom Vale, 384th Court, said he spoke to this earlier and he is tremendously disappointed in Council that made the motion and the second because it was quite clear that she was acting individually. Mr. Vale said that it was clear and Nienow said it twice and he hopes the citizens of North Branch are listening to this because censorship comes at election time. Mr. Vale said he does not even know if he agrees with the opinion of the Mayor but she has the right to her opinion.

Laura Scaramel said that what she sees is mincing words going back and forth. There is a majority of citizens that do not want this to continue. The elected members have a right to speak their opinions as this is a free country with freedom of speech. Ms. Scaramel said that she does not see that the Council wants to work together and she is disappointed.

Mack Guptel said that in the preamble to the motion prefaced a distinction between speaking as a body and speaking as an individual. Mr. Guptel said that the concern he has is that this body is taking a position of trying to determine whether someone should be censured or reprimanded when there is no written law or rule that governs this type of situation.

Laurie Warner said that if the code of conduct and ethics policy was not moved forward when presented so this smacks on hypocrisy and there are no rules in place.

David Karcher said that when he listened to the tape it can be interpreted a couple of different ways. Mr. Karcher said that principal is a hard thing to get everyone to agree upon and that is all we have since there is no code of ethics. Mr. Karcher suggested sitting down with the City Attorney and City Administrator to discuss and get this worked out together.

Paula McCabe thanked the Council for the opportunity to speak. She offered to answer any questions.

Canada asked the City Attorney on how to proceed now that there is an attorney involved. City Attorney said that this is a Council level decision on what action to take.

Borchardt asked for the definition of censure. City Attorney said he would consider it to be a formal disavow of behavior. It is not a disciplinary action or any action that has much consequence other than to state that the Council formally disapproves of the behavior.

Hagen-Kennedy asked if the City Attorney has listened to the tape and whether he has rendered an opinion. The City Attorney indicated he has listened to the tape and has not rendered a legal opinion.

Borchardt would like to withdraw her motion and Canada withdrew his second.

Motion by Borchardt, seconded by Canada, to table the matter to May 12, 2015 and request the City Attorney conduct an investigation and render an opinion.

City Attorney asked if Council wants to have an opinion rendered or an investigation phase.

After discussion members voted: Ayes – 5, Nays – 0. Motion carried.

PUBLIC HEARINGS: **NONE**

COMMITTEE/COMMISSIONS:

7A PLANNING COMMISSION **NONE**

7B ECONOMIC DEVELOPMENT AUTHORITY **NONE**

7C PARK COMMISSION
i. Meeting Update **INFO**

ii. American Legion Veteran’s Memorial
Williams noted that the American Legion is looking at various sites to do a Veteran’s Memorial. They have requested a partnership with the City where the City would take over ownership and maintenance after constructed. Furman suggested language to require that, if the City does not want to have the park as a memorial park then the Legion would get the land back.

Konrad noted that staff is looking for approval to work with the Legion on this project. An agreement would be required to spell out each entities responsibilities.

Canada asked for clarification on how this would work. Williams indicated that option three was the recommended site. Williams outlined the proposed sites.

Motion by Hagen-Kennedy, seconded by Canada to move forward with this project. All voted AYE. Motion carried.

7D WATER AND LIGHT COMMISSION NONE

STAFF REPORTS:

8A ENGINEERING/PUBLIC WORKS NONE

8B ADMINISTRATION

i. Township Fire Contracts

Konrad indicated that the five year contracts for fire service with the three townships have expired and this is a new five year contract with the townships. The contracts were updated and reviewed by the City Attorney and each township has approved the contracts.

Motion by Canada, seconded by Borchardt, to approve the 2015-2019 fire service contracts with the townships. All voted AYE. Motion carried.

8C BUILDING NONE

8D FINANCE

i. Financial Report INFO

8E LEGAL NONE

8F PUBLIC SAFETY NONE

8G OTHER NONE

NOTICES AND COMMUNICATIONS:

2015 East Central Minnesota Job Fair

April 30, 2015 Public Information Meeting on the Solar Project at 6:00 p.m.

Annual Recycling Day and Compost Day is April 25, 2015 from 8 to Noon

UNFINISHED BUSINESS: **NONE**

NEW BUSINESS:

a. Beautification Association – Request to Waive Group Transient Merchant Permit Fee

Laura Scaramel of the Beautification Association appeared before Council and asked the Council to consider waiving fees. They would like to have a Farmer's Market from 3 to 7 p.m. on Friday night at the Outlet Mall. Non-Agricultural vendors requires a \$260 permit per month and the market does not generate that

much profit so that puts a damper on raising funds for beautifying the City of North Branch.

Motion by Canada, seconded by Hagen-Kennedy, to waive the group license fee for May through October for the Beautification Association. All voted AYE.
Motion carried.

Furman said that this is different because this is the first time ~~for this~~ and the difference is that the proceeds will go back into the City of North Branch and is not being kept by the Association.

Borchardt would like to amend the Ordinance to allow this rather than having to ask for a waiver.

MAYOR AND COUNCIL:

12a Upcoming Agendas

INFO

12b Blomquist – Legislative Update

Blomquist updated on legislative issues.

12c Blomquist – Ordinances Consistent with Comprehensive Plan

Blomquist noted that an Ordinance was adopted allowing one acre lots that is not consistent with the Comprehensive Plan. Blomquist would like Council to decide what action to direct the Planning Commission to take at their May meeting.

Borchardt would like to hear from Williams on sewer at the work session before discussing this item. Blomquist said that there is no new information that she is aware of as she thinks that Williams is presenting information on how city services would be available in the 20 year growth area.

Borchardt said that she believes the Comprehensive Plan can also be adjusted to meet Ordinances adopted.

Hagen-Kennedy said that this would be a lot of wasted time and energy for Council if there is not the 4/5 vote available.

Furman commented that the Ordinances are what will be followed not the Comprehensive Plan because the City is not mandated to have a Comprehensive Plan.

Blomquist said that even though it is not required she believes a judge would look at the Comprehensive Plan and the Ordinance and question why the mixed messages are being given to developers.

Blomquist said that a lot of cities are not going to one acre lots with well and septic because, eventually, you are drinking each other's sewer.

Motion by Borchardt, seconded by Furman to take this item to a work session. Members voted: Ayes – 3, Nays – 2 (Hagen-Kennedy/Blomquist). Motion carried.

12d Hagen-Kennedy – Highway 95 Corridor of Commerce Coalition Meeting

Hagen-Kennedy provided an overview of her first meeting of the Highway 95 Corridor of Commerce Coalition Meeting.

Motion by Furman, seconded by Hagen-Kennedy to adjourn. All voted AYE. Motion carried.

ADJOURNED: at 8:43 p.m.

Respectfully submitted,

Bridgitte Konrad, City Administrator
jrl/TOSS