

**Meeting Minutes of the Richmond City Council
May 16, 2019
City Council Workshop and Meeting**

Item #1: Call to Order/Pledge of Allegiance

Mayor Hemmesch called the meeting to order at 6:30 p.m. at Richmond City Hall.

Council Members noted as being present: Jim Hemmesch; Tim Paczkowski; Pat Evens; Mike Mathiasen; Kimberly Craven

Also present were: Tesa Tomaschett, City Administrator/Clerk-Treasurer; Gordie Dingmann, Public Works Director; Casey Hopfer; Sandi Bernard; William M Hopfer; Tracy Hopfer; Adam Ripple, City Attorney, Rinke Noonan

Item #2: Open Forum - none

Item #3: Approval of Agenda

Mayor Hemmesch asked if there were any additions or changes to the Agenda.

Add Item # 4 b. Resolution 143-19: Authorization of Temporary 1 to 4 Day Amendment to Liquor License for the Corky's Bar on June 22, 2019 at Corky's Bar Parking Lot

Motion made by Councilor Mathiasen to approve the Agenda with additions, seconded by Councilor Evens. Motion passed

Item #4: Consent Agenda

- a) Resolution 142-19: Authorization of Use of Municipal Personnel and Resources in Conjunction with the River Lake Days Festival and Approval of Requested Festival-Related Permits and Authorizations
- b) Resolution 143-19: Authorization of Temporary 1 to 4 Day Amendment to Liquor License for the Corky's Bar on June 22, 2019 at Corky's Bar Parking Lot

Motion made by Councilor Evens to approve the Consent Agenda, seconded by Councilor Paczkowski. Motion passed

(Temporary Recess for Council workshop)

Workshop Agenda

Item #5: Options for Dutch Ave.

The City's attorney Adam Ripple prepared a memo laying out the options for Dutch Ave SW and 2nd St. SW. Casey Hoper and Sandi Bernard (representative for John Lucken) were both here to speak on the matter. Lots of discussion was done on this topic to find the best option where the city wins, Hoper wins, and Lucken wins. The city does not want to land block themselves for any future developments that may happen across the river and wants to make sure the Wastewater treatment plant has enough room to operate. There are encroachments from both the Hoper and Lucken properties, which everyone would like to get it cleaned up. There is Stormwater that runs through Dutch Ave SW. If vacation of the right of ways for both Dutch Ave SW and 2nd St SW is done, then a 24 ft. utility easement following the Stormwater line would be need for any future maintenance. It was suggested that all costs for the vacation be split between the city, Hoper, and Lucken. Hoper was in agreeance with that but Bernard needed to speak to her family before she could agree to spend the money. It was decided that we move forward with vacating as long as all parties are willing to share the cost. It was discussed that Dutch Ave SW would be vacated with a 24 ft. utility easement and the land would be split between the property owners Hopfer and Lucken. Also, 2nd St SW would be vacated and the land would be split between the city and Hopfer. A public hearing is needed to vacate a right of way. The city will wait to hear from the Luckens on how they plan to proceed. Hopfer also asked during this process if he could change his address from Dutch Ave SW to 2nd St. SW since that is where his driveway is.

The City has been made aware of significant long-term encroachments in the right of way at the intersection of Dutch Avenue and 2nd Street SW. Although the right of way is platted, neither road is improved in the area of the encroachments. The property owner at 152 Dutch Avenue SW has significant encroachments and has inquired about vacation of the portions of Dutch Avenue and 2nd Street SW as depicted in the attached drawing from O'Malley & Kron surveyors. It appears that structures at 153 Dutch Avenue may also encroach into the right of way. The City does have utilities in the area of potential vacation. The biggest utility issue is storm sewer that runs north-south under Dutch Avenue. There also appear to be sewer and water service lines serving the property at 152 Dutch Avenue under 2nd Street SW. The City has several options, all of which require action by the Council.

ASSERT RIGHTS

The City right of way cannot be adversely possessed. If there are future plans to extend Dutch Avenue, the Council should consider leaving the right of way intact. There may be some difficulty clearing the encroachments from the right of way, but the City is advised to do so sooner rather than later if that is a concern. If the City chooses to go this route, it is imperative to provide notice before moving private property located in the public right of way.

ENCROACHMENT AGREEMENT

Another option to maintain the status quo would be to grant the encroaching property owners an encroachment agreement. This would allow some or all of the encroachments to remain, subject to certain conditions. Suggested conditions would be: (1) if the structures are destroyed or rebuilt, they would be located outside of the right of way, (2) indemnification of the City by the property owners for any liability stemming from the encroachments, (3) continuous insurance on the encroachments by the property owners, and (4) the City to require removal after significant notice if the right of way is required for a public project in the future. This option preserves the City's right in the full right of way. This option may cause some difficulty for the property owners if they have a mortgage.

VACATION

If there is no foreseeable need for the full right of way, the City may consider vacation. The City may vacate some or all of the right of way if there is no longer a public need. The only real restriction is that a vacation cannot cause a property to lose its public access. Through the vacation process, the City may vacate the right of way while reserving easements for utilities. It is best to define these reserved easements in order to prevent private improvements from being built over the utilities. There are two ways to initiate the vacation right of way—a petition from the majority of adjacent property owners or a 4/5ths vote of the Council. A public hearing is required and notice must be provided to the DNR if the area to be vacated touches the Sauk River. Generally, vacated right of way reverts from the centerline to the adjacent property

Item #6: Plow Truck

Gordie informed the council that the plow truck needs some repairs and needs to be inspected for DOT. He presented quotes from:

Renegade Truck Equipment, Inc. for \$2,225.00

Little Falls Machine, Inc. for \$2042.52 (which does not include labor)

These quotes do not include DOT inspection.

Motion made by Councilor Paczkowski to have Renegade Truck Equipment do plow repairs and DOT the truck, seconded by Councilor Mathiasen. Motion carried.

Item #7: Mayor/Council Rules

The City's attorney Adam Ripple read a couple sections from the League of Minnesota's Handbook for Minnesota Cities Elected Officials and Council Structure and Role.

II. City council and its powers

- *It is the duty of the mayor, clerk, and councilmembers to ensure that the city is fulfilling its duties under the law and lawfully exercising its powers.*
- *City officials can sometimes be held personally liable for failing to act or for taking unauthorized actions on the part of the city. To avoid personal liability, city officials should gain a working knowledge of the laws that regulate city government. Whenever there is any doubt about the validity of an action or procedure, city officials should consult their city attorney.*

A. Role of the individual councilmember

- *Councilmembers' statutory duties are to be performed, almost without exception, by the council as a whole. For example, it is the council and not individual councilmembers that must supervise administrative officers, formulate policies, and exercise city powers.*
- *Councilmembers should devote their official time to problems of basic policy and act as liaisons between the city and the general public. Councilmembers should be concerned, not only with the conduct of daily affairs, but also with the future development of the city.*
- *The most important single responsibility of a councilmember is participation at council meetings. In statutory cities, each councilmember, including the mayor, has full authority to make and second motions, participate in discussions, and vote on every matter before the council.*
- *In a statutory city, the mayor or any two councilmembers of a five member council or any three councilmembers of a seven-member council may call a special meeting. Care should be exercised to give proper notice, however.*
- *As individuals, councilmembers have no administrative authority. They cannot give orders to or otherwise supervise city employees unless specifically directed to do so by the council. The council, however, has complete authority over all administrative affairs in the city. In Plan B cities, this authority is generally restricted to conducting investigations and establishing policies to be performed by the manager.*
- *Under state law that was repealed in 2001, all members of the council, including mayors, were "peace officers." Councilmembers were authorized to suppress any "riotous or disorderly conduct" in the streets or public places of the city. The mayor and individual councilmembers no longer have peace-officer authority.*

Due to some past incidents of council behavior, Councilor Mathiasen asked for these roles to be read out loud and remind council what expected of everyone. It is not the responsible of an individual to take on any type of city action without council approval to do so. Councilor Mathiasen is referring to some of Council Evens behavior outside of city council meetings. City council members are not able to act on behalf of the city as an individual without approval from the city council. Councilor Evens expressed that he is acting as a liaison for the city. Councilor Evens also expressed he will check on any issue that is going on with the city, will continue representing the people of the city, and continue to be a liaison.

(Reconvene Council Meeting)

Item #8: Closed Meeting- Employee Review of City Administrator- Clerk-Treasurer Tesa Tomaschett

Mayor Hemmesch Closed the meeting for review

Item #9: Open Meeting: Recap of employee review

Mayor Hemmesch opened the meeting up for recap of employee review. Adam Ripple reported that the council went through the 12 categories for the evaluation. Two of those items were marked as meets expectations and all the others were marked at exceeds expectation. She was asked to continue attending Clerk's Conference and Region 3 meetings.

Item #10: Other Matters of Concern and Related Matters

- a. Next Council meeting June 5, 2019 at 6:30 pm

Item #11: Adjournment

Mayor Hemmesch asked for any additional items.

Hearing none Mayor Hemmesch declared the meeting adjourned at 8:30 p.m.

Respectfully Submitted,

Tesa Tomaschett
City Administrator/Clerk-Treasurer