

**ELYSIAN CITY COUNCIL**

**MAY 10, 2010**

**REGULAR MEETING**

**MINUTES**

**6:00 P.M.**

The Elysian City Council met in regular session on Monday, May 10, 2010, at City Hall at 6:00p.m.

Members present were: Mayor David Rager; Councilmembers Roger Hanson, Mary Opsahl, Clerk Administrator Patricia Nusbaum, Administrative Assistant Lorri Kopischke, Public Works Director John Roessler, and City Attorney Jason Moran. Absent: Councilmembers Tiffani Atherton, Clinton Stoen.

Meeting was opened with the pledge to the US Flag.

On motion by, Hanson, seconded by Opsahl, all voting in favor, minutes of the April 12, 2010 were approved with the following correction being made:

Discussion was held on the bills. A concern by the mayor and councilmember Atherton was made regarding a bill in the amount of \$55.50 to clerk administrator Nusbaum for the dinner bill for herself and councilmember Stoen for a meeting attended in Mankato of the MN Valley Council of Governments, of which the City of Elysian is a member, on March 31, 2010. The bill consisted of mileage and meeting amount for Nusbaum in the amount of \$37.00 and a dinner for councilmember Stoen in the amount of \$7.51 and a dinner for Nusbaum in the amount of \$10.99. An accusation was made by Atherton and Rager that Nusbaum's act of paying for member Stoen's meal constituted bribery. Nusbaum explained that prior to Mayor Rager becoming mayor anyone, from the council attending the COG meeting was paid on one check which was paid by clerk administrator Nusbaum. Another concern was that Nusbaum had turned in a mileage and meeting stipend bill for Mayor Rager for also attending the meeting. Mayor Rager stated that he did not want to charge for mileage and stipend. Again, this is a responsibility of the clerk administrator to keep track of the meetings that council members participate in and bill the city accordingly.

On motion by Stoen, seconded by Opsahl, all voting in favor, to approve the bills, payroll and transfers in the amount of \$88,588.66. An amendment was offered by member Stoen, and approved by member Opsahl to amend the prior motion to remove the following amount of \$129.50 which included Nusbaum's COG dinner expense of \$10.99, member Stoen COG dinner amount of \$7.51, Nusbaum's mileage and meeting stipend allowance in the amount of \$37.00, member Stoen's mileage and meeting stipend amount of \$37.00, mayor Rager's mileage and meeting stipend amount of \$37.00 for a total approval of bills payroll, and transfers in the amount of \$88,459.16. Voting yes: Stoen, Opsahl, Hanson, Rager. Voting No: Atherton. Motion declared carried.

Corrections to minutes are as follows:

Discussion was held on the bills. A concern by the mayor and councilmember Atherton was made regarding a bill in the amount of \$55.50 to clerk administrator Nusbaum for the dinner bill

for herself and councilmember Stoen for a meeting attended in Mankato of the MN Valley Council of Governments, of which the City of Elysian is a member on March 31, 2010. Bill consisted of mileage reimbursement and meeting expense for Nusbaum in the amount of \$37.00 and a dinner expense for councilmember Stoen in the amount of \$7.51, and a dinner expense for Nusbaum in the amount of \$10.99. An accusation was made by Atherton that Nusbaum's, paying for member Stoen's meal, constituted bribery. Nusbaum explained that prior to mayor Rager becoming mayor, anyone from the council attending the COG meeting was paid on one check which was paid by clerk administrator Nusbaum. Another concern was that Nusbaum had turned in a mileage and meeting stipend bill for mayor Rager for also attending the meeting. Mayor Rager stated that he did not want to charge for mileage and stipend. Nusbaum stated that it is the responsibility of the clerk administrator to keep track of the meetings that council members participate in and bill the city accordingly. On motion by Stoen, seconded by Opsahl, all voting in favor, to approve the bills, payroll and transfers in the amount of \$88,588.66. An amendment was offered by member Stoen, and approved by member Opsahl to amend the prior motion to remove the amount of \$129.50 which included Nusbaum's COG dinner expense of \$10.99, member Stoen's COG dinner expense of \$7.51, Nusbaum's mileage and meeting stipend allowance in the amount of \$37.00, member Stoen's mileage and meeting stipend amount of \$37.00, and mayor Rager's mileage and meeting stipend amount of \$37.00 for a total approval of bills payroll, and transfers in the amount of \$88,459.16. Voting yes: Stoen, Opsahl, Hanson, Rager. Voting No: Atherton. Motion declared carried.

On motion by Hanson, seconded by Opsahl, all voting in favor, to approve the special meeting, Board of Review open book meeting minutes of April 21, 2010.

On motion by Opsahl, seconded by Hanson, all voting in favor, the agenda was approved with the deletion of #14, auditor will not be present; and #20, councilmember Stoen's comments.

On motion by Hanson, seconded by Opsahl, all voting in favor, to close the meeting and go to a public hearing to consider the amending of Ordinance #35/94 and adopting Ordinance 69/10 the adoption of the MN State Building Code.

## **Ordinance No. 69/10**

### **Amending of Ordinance #35/94**

#### **The Adoption of the Minnesota State Building Code**

AN ORDINANCE ADOPTING THE MINNESOTA STATE BUILDING CODE. THIS ORDINANCE: PROVIDES FOR THE APPLICATION, ADMINISTRATION, AND ENFORCEMENT OF THE MINNESOTA STATE BUILDING CODE BY REGULATING THE ERECTION, CONSTRUCTION, ENLARGEMENT, ALTERATION, REPAIR, MOVING, REMOVAL, DEMOLITION, CONVERSION, OCCUPANCY, EQUIPMENT, USE, HEIGHT, AREA, AND MAINTENANCE OF ALL BUILDINGS AND/OR STRUCTURES IN THIS MUNICIPALITY; PROVIDES FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREOF; PROVIDES PENALTIES FOR VIOLATION THEREOF; REPEALS ALL ORDINANCES AND PARTS OF ORDINANCES THAT CONFLICT THEREWITH. THIS ORDINANCE SHALL PERPETUALLY INCLUDE THE MOST CURRENT EDITION OF THE MINNESOTA STATE BUILDING CODE WITH THE

EXCEPTION OF THE OPTIONAL APPENDIX CHAPTERS. OPTIONAL APPENDIX CHAPTERS SHALL NOT APPLY UNLESS SPECIFICALLY ADOPTED.

Dan Murphy, Elysian City Building Official presented the proposed ordinance and fees associated with the adoption of the ordinance, resolution 347/10. Murphy indicated that the fees were mandated by the state and for a flat rate charge on a permit for this year only there is a \$5.00 State of Minnesota surcharge on each permit

Councilmember Hanson, seconded by councilmember Opsahl, introduced the following resolution for approval:

**Ordinance No. 69/10**

**Amending of Ordinance #35/94**

**The Adoption of the Minnesota State Building Code**

AN ORDINANCE ADOPTING THE MINNESOTA STATE BUILDING CODE. THIS ORDINANCE: PROVIDES FOR THE APPLICATION, ADMINISTRATION, AND ENFORCEMENT OF THE MINNESOTA STATE BUILDING CODE BY REGULATING THE ERECTION, CONSTRUCTION, ENLARGEMENT, ALTERATION, REPAIR, MOVING, REMOVAL, DEMOLITION, CONVERSION, OCCUPANCY, EQUIPMENT, USE, HEIGHT, AREA, AND MAINTENANCE OF ALL BUILDINGS AND/OR STRUCTURES IN THIS MUNICIPALITY; PROVIDES FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREOF; PROVIDES PENALTIES FOR VIOLATION THEREOF; REPEALS ALL ORDINANCES AND PARTS OF ORDINANCES THAT CONFLICT THEREWITH. THIS ORDINANCE SHALL PERPETUALLY INCLUDE THE MOST CURRENT EDITION OF THE MINNESOTA STATE BUILDING CODE WITH THE EXCEPTION OF THE OPTIONAL APPENDIX CHAPTERS. OPTIONAL APPENDIX CHAPTERS SHALL NOT APPLY UNLESS SPECIFICALLY ADOPTED.

This City Council of the City of Elysian does hereby ordain as follows:

*Section 1. Codes adopted by reference.*

The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes chapter 326B, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Unit, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this ordinance. The Minnesota State Building Code is hereby incorporated in this ordinance as if fully set out herein.

*Section 2. Application, Administration and Enforcement.*

The application, administration, and enforcement of the code shall be in accordance with Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by Minnesota Statutes, 326B.121, Subd. 2(d), when so established by this ordinance.

The code enforcement agency of this municipality is called the Department of Building Safety.

This code shall be enforced by the Minnesota Certified Building Official designated by this Municipality to administer the code in accordance with Minnesota Statutes 326B.133, Subdivision 1.

*Section 3. Permits and Fees.*

The issuance of permits and the collection of fees shall be as authorized in Minnesota Rules Chapter 1300. Permit fees shall be assessed for work governed by The 2007 Minnesota State Building Code this code in accordance with the fee schedule adopted by the municipality in Resolution # 347/10. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minnesota Statutes 326B.148.

*Section 4. Violations and Penalties.*

A violation of the code is a misdemeanor (Minnesota Statutes 326B.082, Subd. 16).

*Section 5. Building Code Optional Chapters.*

Minnesota State Building Code, Chapter 1300 allows the Municipality to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code.

*Section 6. Effective Date of Ordinance.*

This Ordinance will become upon approval of the Elysian City Council and upon publication in the official newspaper.

The following vote being taken:

Voting Yes: Hanson, Opsahl, Rager

Voting No: None.

Abstain: None.

Dated this 10<sup>th</sup> day of May, 2010.

Attest:

\_\_\_\_\_  
Patricia Nusbaum, Clerk Administrator                      David Rager, Mayor

Reviewed By: \_\_\_\_\_  
Daniel Murphy, Building Official

On motion by Opsahl, seconded by Hanson, all voting in favor, to close hearing at 6:17 p.m.

On motion by Opsahl, seconded by Hanson, all voting in favor, the regular meeting was opened at 6:18 p.m.

**Visitors Comments:**

1. Mike Kauss, 6 Egret Lane
  - a. He takes pride in Elysian and the people who work for our community. He stated that we have nice trucks and is wondering why the City of Elysian logo and name are not on the vehicles.
  - b. He believes that businesses help a city to grow and provide goods and services to the members of the community and surrounding areas. He would like to know what the City Council and EDA are doing to enhance our existing businesses and what they are doing to draw new businesses to our city?
2. There has been some discussion on the mayor's desire to have keys to City Hall and the post office box. Hanson commented that, as a community member, he does not see a good reason for this request. He states that currently we have people whose job descriptions require them to operate City Hall, and there are people bonded to deal with the federal mail system. Any time you increase the distribution of keys you tend to increase the possibility of errors related to the function of these keys.

On motion by councilmember Hanson, seconded by councilmember Opsahl, presented the following resolution for approval:

**RESOLUTION 347/10**  
**CITY OF ELYSIAN, MINNESOTA**  
**Resolution to Adopt the 2010 Department of Building Safety Fixed Fee Schedule**  
**City of Elysian, Minnesota**

WHEREAS, the State of Minnesota allows the City Council to adjust fees for licenses, services, and permits; and,

WHEREAS, the State of Minnesota established the procedures for the issuance of licenses and permits; including the requirement that fees be paid to the City of Elysian; and,

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Elysian, Minnesota to adopt:

Exhibit A: 1994 Uniform Building Code

Exhibit B: Department of Building Safety Fixed Permit Fees

Exhibit C: Valuation worksheet

The amounts shall be in effect immediately and shall remain in effect until modified by resolution of the City Council.

Voting Yes: Hanson, Opsahl, Rager.

Voting No: None.

Abstain: None.

Adopted by the City Council of Elysian, Minnesota this 10<sup>th</sup>.day of May 2010.

ATTEST:

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Patricia Nusbaum, Clerk Administrator

David Rager, Mayor

County Engineer Daryl Pettis was present to inform the council on work to be done within the city limits on County Road #11. Work area on road will begin between Lake Francis and Lake Tustin and continue to County Road #13. Work will begin in August. Seal coating of Main Street, County Road #50, will take place in 2011.

On motion by Opsahl, seconded by Hanson, all voting in favor, the following resolution was presented:

**RESOLUTION 351/10**  
**STATE AID FOR LOCAL TRANSPORTATION**  
**RESOLUTION**  
**APPROVING COUNTY PROJECT WITHIN MUNICIPAL CORPORATE LIMITS**

WHEREAS, PLANS FOR Project No. SAP 40-611-36 showing proposed alignment, profiles grades and cross-sections for the construction, reconstruction or improvement of County State-Aid Highway No. 11 within the limit of the City as a (Federal) (State) Aid Project have been prepared and presented to the City.

NOW, THEREFORE, BE IT RESOLVED: That said plans be in all things approved.

Dated: this 10<sup>th</sup>. day of May, 2010.

CERTIFICATION

State of Minnesota

County of Le Sueur

City of Elysian, MN

I hereby certify that the foregoing Resolution is a true and correct copy of a resolution presented to and adopted by the City Council of Elysian at a meeting therefore held in the City of Elysian, Minnesota on the 10<sup>th</sup>. day of May, 2010, as disclosed by the records of said City in my possession.

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Clerk Administrator

City engineer John Schulte V, representing the firm of Jones, Haugh and Smith, Inc. was present to introduce himself to the council. Discussion was held on the upcoming street, sanitary sewer, and storm sewer needs. On motion by Hanson, seconded by Opsahl, all voting in favor, to proceed with an infrastructure needs plan for the city. Schulte will meet with public works director Roessler as to the pressing items needing to be addressed and will report back to the council. Charges for engineering services will be billable hours.

**John Roessler report:**

1. Presented a quote in the amount of \$8,701.66 from James Brothers Construction for repair work on Third Street NW leading to the Park. On motion by Hanson, seconded by Opsahl, all voting in favor, to authorize the Third Street NW project quote from James Brothers Construction in the amount of \$8,701.66.
2. Updated the Council on a recent letter received from MN PCA which was a follow up to an on site review of the City sanitary sewer facilities. Report indicated the need to purchase a generator and a phone alarm system for one of the lift stations, and to repair a couple of areas from ongoing infiltration of water into the system. Total cost could exceed \$35,000. On motion by Hanson, seconded by Opsahl, all voting in favor, to get quotes on the generator, and to check with the phone company as to costs for the alarm system, along with quotes to repair the infiltration of water into the sanitary sewer.
3. Quote of \$6,300 to clean the storm water ponding area near Willow Point Drive was presented. Discussion on the extent of the cleaning of ponds in other parts of the city was held. Roessler, again, indicated that a monthly storm water fee should be initiated to help with the costs of maintaining the ponds.

**Clerk Administrator updates:**

1. Elysian is one of the four cities in Le Sueur County that will receive funds for updating of homes of those meeting the income criteria. Those who will not be awarded funding this time will be considered for a second funding cycle in October.
2. The first week in May is considered Clerk's Week. Color books are available for children of the community at City Hall.
3. An updated fee schedule will be ready for the next meeting.
4. Thank you to Lorri Kopischke, administrative assistant for all of her work when the computers were down and for the extra work involved with trying to catch up.
5. Internal Controls Policy will be addressed by the auditor during his report to the council.

**Committee Reports:**

1. Park – Committee met and working on a runoff problem near the park, swing set in good shape yet - needs paint, grill is needed and being worked on, sand for beach and volleyball court is supplied as needed.
2. Planning and Zoning Commission – as a positive effort in promotion and working together as a community, Planning and Zoning Commission members Jeanette Crawmer and Roger Hanson presented a brochure to the Council announcing PRIDE,

Personal Responsibility in Daily Effort. The brochure is intended to offer information and tips on helping to make Elysian a better place with the help of everyone. The costs to produce the brochure will be presented to the Elysian Economic Development Authority for consideration of funding.

3. EDA – Total of \$177,596 in the revolving loan account is available to be loaned to businesses for enhancement, repairs, and updating.
4. Personnel Committee – based on research from attorney Moran, the clerk administrator position qualifies as an exempt position. On motion by Rager, seconded by Hanson, all voting in favor, upon recommendation of the city attorney to approve employee exempt status for the position of administrator.

On motion by Hanson, seconded by Opsahl, all voting in favor, to approve the job descriptions as presented.

On motion by Hanson, seconded by Opsahl, all voting in favor, to approve the employee performance evaluation forms as presented. City Administrator will perform the Deputy Clerk evaluation and the Public Works Director will perform the evaluation of the Public Works Worker. Councilmember Hanson requested to revisit the evaluation forms after they have been completed for the first time. Nusbaum asked at what point in time does the exempt status start. Motion was made by Rager, seconded by Hanson, all voting in favor, exempt status will start at the same time salary is set at the June 14<sup>th</sup> regular council meeting.

Jan and Mack Evans, 103 Park Avenue NW, were present to ask the council for the budgeted \$500 for National Night Out, which will be held on Tuesday, August 3rd. and requested \$250.00 in addition to the budgeted amount. They indicated that there are over 400 hundred in attendance each year. On motion by Hanson, seconded by Opsahl, to allow the \$500.00 from the budget and to allow an additional \$200 from the park recreational programs budget. Voting Yes: Hanson, Opsahl. Voting No: Rager. Motion declared carried.

A letter had been received from the WEM Partners in Education as to a fund raiser to update the tennis courts in all three communities. On motion by Hanson, seconded by Opsahl, all voting in favor, to send a letter of support of effort to the PIE group.

Jeanne Zwart, representing Southern MN Lakes Region, was present to update the council on the new printing of the area map and tourism guide of the area.

Waste Management will be contacted as to concerns of some of the businesses regarding the higher costs for refuse service to their commercial district. On motion by Rager, seconded by Hanson, all voting in favor, to discuss with Waste Management the consideration of reduction or matching other area garbage collectors of commercial refuse or look at taking bids on residential and commercial.

Mayor's request for a key to City Hall and the Post Office box was discussed, and mayor Rager removed request from discussion.

Mayor Rager, not having signed the payroll check for councilmember Hanson who had helped the city crew flush hydrants, questioned the need for councilmember Hanson being paid for helping to flush hydrants. Roessler indicated that it takes three people to flush hydrants. Rager's

concern was that someone could have volunteered to do it. He does not like elected officials doing work for the city. Hanson said he was not comfortable having volunteers flushing hydrants. Rager indicated that a fire fighter could have done it since they are volunteers. Nusbaum reiterated that those people doing work on behalf of the city need to be paid in order to be covered by Worker's Compensation. Hanson stated that we are in a hiring freeze, and when that is lifted we can take applications. Opsahl stated that people should be paid for the jobs they do. Motion was made by Opsahl to get a pool of applicants so that when help is needed, a person could be taken from the pool. No second to the motion being called. Rager asked Hanson to donate his check back to the city and he would approve the bills. Hanson said he would donate his check back to the city. Hanson stated that he never said he was not going to donate it back to the city. On motion by Opsahl, seconded by Rager, all voting in favor, to approve bills, payroll, and transfers in the amount of \$110,937.92.

**Attorney Moran's comments:**

1. Updated the Council on the billing from the Administrative Law Judge for annexation costs of \$9,781.50 had been reduced to \$5,200 which was due and payable. Since Moran had worked intently on the lowering of the original amount and is recommending that the Council pay the reduced amount. Indications are that it will go to collection and that will have an impact on the City's ability to bond. On motion by Hanson, seconded by Opsahl, all voting in favor, to allow the \$5,200 for the Administrative Judge fee for the Tustin and Francis annexation.
2. Reviewed with the Council a letter received from Elysian Township regarding fees being charged to the City of Elysian for expenses to the township on the annexation. Attorney advised that the township was not warranted in requesting fees for the services stipulated in their letter in the amount of \$1,383.75. On motion by Hanson, seconded by Opsahl, all voting in favor, to accept the recommendation of the City Attorney and not allow the billing from Elysian Township.
3. Reported on Joint Fire Board meeting and the discussion on the Joint Power Agreement draft. It appears that an update to the Memorandum of Understanding will be made versus going with the Joint Power Agreement.

**Mayor comments:**

First let me thank my fellow leaf collectors (City Council) who traversed the city picking up leaves a week ago Saturday. It went really well and I, for one, would like to see it done in the fall also. It takes very little time and we work cheap.

Second let us thank the city employees as they start to implement the flex time that is part of our new personnel policy.

Third let me thank the members of the personnel committee who have worked diligently and without compensation to bring forth some of the necessary changes that our city so urgently needed.

Fourth thanks to all of you for coming to these council meetings and tuning in to how this city is being run.

I truly do appreciate all of you.

Councilmembers Comments:

1. Councilmember Opsahl commented that the employees are doing a great job. The city always looks neat and clean. We need to keep Elysian's small city quaintness. The volunteers need to be thanked for the work they do and for having pride in the city.

**Visitors Comment:**

1. Jan Evans, 203 Park Avenue NW – Thanked the council for the \$200. Take pride in the community, and if any one is interested, she has T shirts available for \$6.00 each with the logo stating being positive for growth in Elysian.
2. Brian Ziemer, 138 Willow Point Drive – Is concerned with employee evaluations as to how an employee can be removed if the evaluation is only held once a year.

On motion by Hanson, seconded by Opsahl, all voting in favor, meeting adjourned at 8:07 p.m.

Attest:

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Patricia Nusbaum, Clerk Administrator

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David Rager, Mayor