

**ELYSIAN CITY COUNCIL  
REGULAR MEETING  
AUGUST 8, 2011, 6:00 P.M.**

The Elysian City Council met in regular session on Monday August 8, 2011, at City Hall at 6:00 p.m.

Members present were: Mayor Katy Anttila: Council members Mary Opsahl, Clinton Stoen, Edna Thayer, Brian Ziemer, City Administrator Patricia Nusbaum, Public Works Director John Roessler, Deputy Clerk Lorri Kopischke, and City Attorney Jason Moran.

Meeting was opened with Pledge to US Flag.

On motion by Thayer, seconded by Stoen, all voting in favor, to approve the minutes of the July 11, 2011 meeting to include building, equipment and vehicles purchased during the tenure of the agreement, and to include under item 6, comments made by John Stephanie to include Clinton Stoen as part of the cutting taxes for 2011; to also include the amending of the June 13, 2011 minutes to include the special assessment policy approval motion which was overlooked in the July minutes; and to approve the July 14, 2011 as presented.

On motion by Anttila, seconded by Thayer, all voting in favor, to approve the agenda with the following addition:

1. Roger Hanson – FEMA update.

Present at the meeting were members of the Janesville Township Board to review quotes for repair to Maple Avenue which borders the Le Sueur/Waseca County line. Discussion was held on the road repair, installation of catch basins, and who would be paying for the improvement. Quotes obtained did not include catch basins. On motion by Ziemer, seconded by Thayer, all voting in favor, to obtain two quotes for catch basins which Mayor Anttila and council member Ziemer will meet with Janesville Township at their regular township board meeting to be held on September 6<sup>th</sup> to discuss the Maple Avenue project.

Council member Thayer reported on the recommendation of the Planning and Zoning Commission meeting regarding the moving ahead on the request on the petition of Willow Point Drive on the consideration of converting the street from a private drive to a public street. Attorney Moran stated that it could be possible with 100% petition of the property owners. He stated that it would come under the "Common Law" designation. A motion was made by Thayer, seconded by Stoen, to hold a public hearing if 100% of property owners have signed the petition by August 29, 2011. Voting Yes: Thayer, Stoen. Voting No: Opsahl, Ziemer, Anttila. Motion did not pass. On motion by Opsahl, seconded by Ziemer, all voting in favor, to hold a public hearing on September 12, 2011 at 6:00 p.m. on the request of the petitioners of Willow Point Drive.

John Schulte V was present to update the Council on the Capital Improvement Plan and to preliminarily discuss the proposed improvement. On motion by Stoen, seconded by Thayer, all voting in favor, to accept the Capital Improvement Plan as presented allowing the ability to fully discuss the project at a workshop with the engineer. On motion by Opsahl, seconded by Stoen to hold a separate budget workshop and a separate improvement project meeting with the engineer. Voting Yes: Opsahl, Stoen, Thayer, Ziemer. Voting No: Anttila. Motion declared carried.

On motion by Anttila, seconded by Thayer, all voting in favor, to hold a special meeting with the engineer to go over the proposed improvement project on September 1, 2011 at 5:00 p.m. and to hold a special meeting to review the 2012 payable budget on September 7, 2011 at 5:00 p.m.

**Visitors' Comments:**

Brad Gohla – 117 Main Street East – Questioned the procedure as to whether the three minutes for visitors comments meant three minutes per issue. Mayor Anttila stated yes, three minutes per issue, and he would have to sit down after each issue to allow someone else to speak. He was concerned that council member Ziemer voted in favor of the private drive that he lives on to become a city street, and should abstain due to a conflict of interest. He stated he had heard a comment made by Mayor Anttila at the start of the July 11<sup>th</sup> meeting that the first amendment rights did not apply to council meetings. Mayor Anttila stated that what she read she gave to the administrator and that she had stated nothing stating the first amendment. He also wondered why the meetings were not being recorded.

Steve Ritchison – 101 4<sup>th</sup> Street NW – He stated it was sad to hear people clapping after Mayor Anttila and council member Ziemer were asked to resign. People should be applauding for all the good they have done to make this place a better place to live. It all started with Mayor Rager. Edna, Katy, and Brian, have gone above and beyond their duties responding to the citizens of Elysian. “Mary and Clinton, I do not always agree with you very often – thank you for your service.” He stated that he did not want the position. He stated that accusations of last month of facts and name calling [by] those who clapped may be a majority at the meetings, but are a minority in the city for which he thanked God.

Brad Gohla – 117 Main Street East – He stated he had a concern about the mayor in her opening to the last month’s meeting making a statement regarding that he was not necessarily covered by the first amendment during these council meetings and that the first amendment rights do not necessarily apply. He further asked that the meetings be taped. Then the following was read by Gohla: “The following is from a commencement speech by former Chief Justice Warren Burger: to a graduating class of political science laureates. When asked later as to the candor with which he spoke he replied, I did not want to sound as though I was offering a supreme court ruling, which in most cases requires another attorney to decipher what I said. I wanted to speak in common, understandable English.”

“There is no greater freedom granted to the citizens of this nation by the Bill of Rights than that of the freedom of expression, specifically the freedom of speech. It is what prevents our country from being ruled by tyrants, miscreants, and other wrongdoers. Of all forms of available speech, political speech is the most protected form imaginable. The courts have even gone to the extent of protecting the rebellious who burn our American Flag in protest. Those who attempt to quiet that outrage rather than address it, are bound to be overthrown. The British learned this full well a while back in our history. Simply put...You cannot gag the first amendment.”

Political speech is the most highly guarded form of speech because of its purely expressive nature and importance to a functional republic. Restrictions placed upon core political speech must weather Strict Scrutiny analysis or they will be struck down.

Strict scrutiny is the most stringent standard of judicial review used by United States courts. It is part of the hierarchy of standards that courts use to weigh the government’s interest against a

constitutional right or principle. Statutes and policies that are subjected to strict scrutiny most often fail to meet it.

Many people elected to political posts do not realize while running for these offices that political free speech has basically no rules, and they automatically inherit, for the most part, no protection against it or its content. They simply inherit a large target.

Jack Frank – 9 Roots Beach Lane – He stated that he had not been here for the past 4 or 5 months. 5 to 5 – somehow get someone off the Council, taxes are going down too.

Brad Gohla – 117 Main Street East – Found recently a city ordinance about signage. He was concerned that he had asked for a 2-sided placard sign to be placed in front of his business a few years ago and was denied and since then a number of businesses have signs advertising their business. The rules are not being applied equitably.

Mike Meyer – Representing the Elysian Area Chamber of Commerce as their vice president. He had been asked from the last meeting to bring quotes for a new hot water heater and air exchanger for the Tourism Center. Quotes were presented and it was determined that all were not equal in consideration. Meyer will bring to the September meeting quotes with all vendors quoting the exact same items.

Council member Stoen questioned as to why items he had placed on the agenda had been removed by the mayor, and stated it is not appropriate to use control in that manner. For the next meeting if he puts something on the agenda, he needs to be respected as a council member and needs to be called. He also questioned the letter sent by the mayor to the people of the city. He did not receive one and was wondering how many other council members had received a letter. City employees did not receive a letter. He asked what the process was and why not everyone was included. Mayor Anttila responded stating that it was a personal letter and she did not need to explain, and that it did not belong at a city council meeting. She stated she had purchased a mailing list, and some of the lists people have requested to not be on the list so letters were sent only to those on the list.

Council member Stoen, as the president of the Roemhildt Addition Association, questioned the protocol as to how letters are sent to property owners whose grass has exceeded the 6" length. Do we call the mayor or the administrator? He has had trouble with a property for over two years and needs to know the process. Mayor Anttila responded that city administrator handled the letter, she was not the compliance officer for mowing of grass over 6". Administrator Nusbaum explained that the mayor is in charge of noxious weeds; mowing is handled by the office. When the grass on a property is over the 6", a letter is sent to the property owner, and it states that if the grass is not cut by a named date, the city crew will mow. The letter states also that this is the letter for the entire year, thus allowing whenever the grass gets above 6" the city can go in and mow, and the property owner will be billed for the service. Council member Stoen asked about the possibility of consideration in the 2012 budget the costs for mosquito spraying of the city. Administrator will check into the costs.

On motion by Stoen, seconded by Thayer, all voting in favor, to approve the budgeted \$750 for National Night Out.

**John Roessler – Public Works Director report:**

1. Quotes on generator will be presented at the September meeting.
2. Reported on a trip to view the storm water ponds with council member Ziemer as to signage on ponds. The pond on the north side of the Roemhildt Addition will be filled with black dirt, and included in the process will be the installation of a 40' drainage pipe which will divert a safety hazard.
3. Water tower update – Painting of the tower will be within the next couple of weeks. Water will be pumped directly into the mains since the tower will be empty while being repaired and painted. Pumping into the water mains under pressure needs to be observed as to the rate of pressure. Every four hours the rate of pressure must be checked. On motion by Ziemer, seconded by Stoen, all voting in favor, to hire Roger Hanson to observe the pressure during the night time hours at a rate of \$10.00 per hour plus mileage.
4. A break in a water line was found between the fire hall and the city shop. Repair must happen soon due to potential damage to the fire hall. On motion by Ziemer, seconded by Stoen, all voting favor, quotes will be obtained by Roessler with lowest quality quote to be approved by Roessler prior to work beginning. A shut off will be placed to each building.

Roger Hanson, Assistant Emergency Management Director, updated the council on FEMA funding from the state and federal government. Total funds secured are \$21,988.03. The spring rain event and claims on the park playground area have been submitted which are just under \$4,000.

Council member Opsahl updated the council on the information she had obtained regarding the length of yellow to be painted on the curb from the corner of an intersection. She stated that there is no law saying what the length of the curb paint shall be, it is up to the jurisdiction. Roessler was authorized to paint the curbs as quickly as possible using his discretion as to the length.

On motion by Opsahl, seconded by Stoen, all voting in favor, the following resolutions were approved in block:

**RESOLUTION 370-11  
RESOLUTION ACKNOWLEDGING A DONATION FROM  
ELYSIAN FIRE DEPARTMENT RELIEF ASSOCIATION**

WHEREAS, the City of Elysian has received a donation in the amount of \$2,761.00 from the Elysian Fire Department Relief Association, and have designated this donation be used for the purchase of a mini cutter for the Elysian Fire Department.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ELYSIAN, MINNESOTA THAT: the City Council of the City of Elysian acknowledges and accepts the \$ 2,761.00 donation from the Elysian Fire Department Relief Association.

BE IT FURTHER RESOLVED THAT: The Elysian City Council expresses its thanks and appreciation for the donation.

Council member Opsahl introduced the resolution and was seconded by Council member Stoen.

Council Members voting in the affirmative: Opsahl, Stoen, Thayer, Ziemer, Anttila.

Council Members voting in the negative: None.

Council Members abstain: None.

Adopted by the City Council of the City of Elysian this 8<sup>th</sup>.day of August, 2011.

ATTEST:

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Kathleen Anttila, Mayor

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Patricia Nusbaum, City Administrator

**CITY OF ELYSIAN  
ELYSIAN, MINNESOTA  
RESOLUTION 371-11  
RESOLUTION ACKNOWLEDGING A DONATION FROM  
COUNCIL MEMBER BRIAN ZIEMER**

WHEREAS, the City of Elysian has received a donation in the amount of \$566.10 from Council member Brian Ziemer, to the City of Elysian for placement in the Fire Equipment Fund which has been designated for the purpose of purchasing of fire equipment for the Elysian Fire Department.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ELYSIAN, MINNESOTA THAT: the City Council of the City of Elysian acknowledges and accepts the \$566.10 donation from Council member Brian Ziemer.

BE IT FURTHER RESOLVED THAT: The Elysian City Council expresses its thanks and appreciation for the donation.

Council member Opsahl introduced the resolution and was seconded by Council member Stoen.

Council Members voting in the affirmative: Opsahl, Stoen, Thayer, Ziemer, Anttila.

Council Members voting in the negative: None.

Council Members abstained: None.

Adopted by the City Council of the City of Elysian this 8<sup>th</sup>.day of August, 2011.

ATTEST:

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Kathleen Anttila, Mayor

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Patricia Nusbaum, City Administrator

**RESOLUTION 372-11  
RESOLUTION ACKNOWLEDGING A DONATION FROM  
LAKE FRANCIS ASSOCIATION**

WHEREAS, the City of Elysian has received a donation in the amount of \$166.23 from the Lake Francis Association, and have designated this donation be used to purchase a buoy to be used at the Lake Francis swimming beach.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ELYSIAN, MINNESOTA THAT: the City Council of the City of Elysian acknowledges and accepts the \$166.23 donation from the Lake Francis Association.

BE IT FURTHER RESOLVED THAT: The Elysian City Council expresses its thanks and appreciation for the donation.

Council member Opsahl introduced the resolution and was seconded by Council member Stoen.

Council Members voting in the affirmative: Opsahl, Stoen, Thayer, Ziemer, Anttila.

Council Members voting in the negative: None.

Council Members abstain: None.

Adopted by the City Council of the City of Elysian this 8<sup>th</sup>.day of August, 2011.

ATTEST:

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Kathleen Anttila, Mayor

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Patricia Nusbaum, City Administrator

**RESOLUTION 373/11**

WHEREAS; THE ELYSIAN CITY COUNCIL WAS PRESENTED WITH A REQUEST FROM THE ELYSIAN AMERICAN LEGION POST #311 FOR ONE DAY OFF SITE LAWFUL GAMBLING,

WHEREAS; STATE LAWS OF MINNESOTA REQUIRE APPROVAL BE GRANTED BY THE LOCAL GOVERNING BODY, THUS THE CITY OF ELYSIAN,

WHEREAS; THE REQUEST WAS MADE AT A REGULAR MEETING OF THE ELYSIAN CITY COUNCIL,

NOW THEREFORE, BE IT RESOLVED; THE ELYSIAN CITY COUNCIL GRANTED APPROVAL FOR A ONE DAY OFF SITE LAWFUL GAMBLING LICENSE TO THE ELYSIAN AMERICAN LEGION POST #311, WITH A FISHING CONTEST TO BE HELD ON

FEBRUARY 5, 2012, OR IN THE CASE OF INCLEMENT WEATHER, TO BE HELD ON FEBRUARY 12, 2012.

THE MOTION FOR THE ADOPTION OF THE FOREGOING RESOLUTION WAS PRESENTED BY MEMBER OPSAHL AND SECONDED BY MEMBER STOEN, AND

AFTER FULL DISCUSSION THEREOF AND UPON VOTE BEING TAKEN THEREON, THE FOLLOWING VOTED IN FAVOR THEREOF; OPSAHL, STOEN, THAYER, ZIEMER, ANTILA.

AND THE FOLLOWING VOTED AGAINST THE SAME: NONE.

WHEREUPON SAID RESOLUTION WAS DECLARED DULY PASSED AND ADOPTED.

DATED THIS 8TH. DAY OF AUGUST, 2011.

ATTEST:

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Kathleen Anttila, Mayor

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Patricia Nusbaum, City Administrator

Attorney Moran updated the council on the newly drafted snow and ice removal ordinance. A public hearing will be scheduled for October. The snow and ice removal procedure policy was discussed. The question as to the alleys running east and west on the north and south side of the commercial district between First Street North and Second Street NE and the fact they are not declared alleys was discussed. Another matter of concern was the brooming of the Main Street sidewalks to remove the first snow prior to the public walking on them. On motion by Ziemer to not do initial clearing of snow in front of the businesses, and if they do not do it the city will do it and assess it to the property owner. Motion died for a lack of a second. On motion by Thayer, seconded by Stoen, to further discuss Section 8 of the Snow and Ice Removal Procedure and to hold a public hearing at the October regular meeting on the Snow and Ice Removal and Snow and Ice Ordinance. Voting Yes: Stoen, Thayer, Opsahl, Anttila. Voting No: Ziemer.

Discussion was held on the alleys bordering Main Street on the north and the south.

On motion by Stoen, seconded by Ziemer, all voting in favor, the curfew ordinance was approved as presented with a public hearing to be held at the September meeting.

On motion by Ziemer, seconded by Thayer, all voting in favor, to approve Mike Meyer as a temporary employee for eight week up to 40 hours per week at a rate of \$10.00 per hour.

On motion by Stoen, seconded by Ziemer, all voting in favor, to approve the hiring of Dan Engebritson as a part-time employee to help with the brush pile at a rate of \$7.55 per hour.

**Administrator Nusbaum gave update:**

1. Thank you to Roger Hanson, Jared La France, Chris Roessler, John Roessler, Chuck Taylor, Katy Anttila and Dave Rager for helping with the clean up of City Hall when it became flooded in July due to heavy rains, and to Garett Schmahl, Ted Zwart, and Tim Bengtson for equipment.
2. On August 18<sup>th</sup> 275 bikers will be on the trail and stopping in Elysian. The group is BAM – Biking across Minnesota – they are promoting tourism.

Personnel Committee handed out a salary survey from other communities.

Mayor Anttila reported on the Joint Fire Board meeting indicating that the concern of the Joint Fire Board is that the City of Elysian budget overrides the budget they set. Chief Jason James and First Assistant Chief Mark Muellerleile reported on the repair to one of the pumpers, due to vehicle having a brake problem. Estimated costs will run around \$2,500. James also reported on the need to purchase a new rescue vehicle. The present rescue vehicle is quite old and has many ailments. James stated that the vehicle estimated cost is around \$175,000. Council will consider cost for a new vehicle when reviewing the 2012 budget. More discussion will be held at the Joint Fire Board meeting on August 29<sup>th</sup>.

On motion by Ziemer, seconded by Stoen, all voting in favor, bills, payroll, transfers in the amount of \$64,953.89 were approved.

**Visitors Comments:**

Brad Gohla – 117 Main Street East – (in reference and part of the Declaration of Independence) - That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government. But, when a long train of abuses and usurpations, pursuing invariably the same object evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Legislative bodies have been called together at places unusual,

uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with measures.

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever. Domestic insurrections have been excited amongst us.

On motion by Ziemer, seconded by Stoen, all voting in favor, meeting adjourned at 10:19 p.m.

ATTEST:

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Kathleen Anttila, Mayor

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Patricia Nusbaum, City Administrator