

**OSSEO CITY COUNCIL
REGULAR MEETING MINUTES
October 22, 2018**

1. CALL TO ORDER

Mayor Duane Poppe called the regular meeting of the Osseo City Council to order at 7:11 p.m. on Monday, October 22, 2018.

2. ROLL CALL

Members present: Councilmembers Harold E. Johnson, Mark Schulz, Larry Stelmach, Anne Zelenak, and Mayor Duane Poppe.

Staff present: City Administrator Riley Grams, City Planner Nancy Abts, and City Attorney Andrew Biggerstaff.

Others present: James Kelly, Lindsey Bye, Pam & Alan Pickwell, Kim Peterson, and Patty McLean.

3. PLEDGE OF ALLEGIANCE

Poppe led the Pledge of Allegiance.

4. APPROVAL OF AGENDA [Additions - Deletions]

Poppe asked for additions or deletions to the Agenda.

A motion was made by Schulz, seconded by Stelmach, to accept the Agenda as presented. The motion carried 5-0.

5. CONSENT AGENDA

- A. Receive EDA Minutes of October 8
- B. Approve Council Minutes of October 8
- C. Receive September Fire Relief Association Gambling Report
- D. Receive September American Legion Gambling Report
- E. Hire New Firefighter Michael Libson
- F. Receive September Fire Report
- G. Receive September Lions Club Gambling Report
- H. Receive Planning Commission Minutes of October 15

A motion was made by Schulz, seconded by Zelenak, to approve the Consent Agenda. The motion carried 5-0.

6. MATTERS FROM THE FLOOR

Lindsey Bye, 613 1st Avenue NW, explained she was before the Council as a representative from the Osseo Urban Townhomes at 600 First Avenue NW. She stated a letter was sent to the City on behalf of Osseo Urban Townhomes. She read this letter aloud for the record. She explained Osseo Urban Townhomes was the only townhome association in the City. She understood this made it difficult to understand how to assess

the association. She explained her association takes up approximately eight single family home lots, but was multi-family housing. She believed the proposed assessments went against the City’s assessment policy and requested the City Council investigate this matter further.

7. SPECIAL BUSINESS

A. ACCEPT DONATIONS (Resolution)

City Administrator Riley Grams stated the City has received the following donations:

Donor	Amount/Item	Designated Fund
NOLA Bistro & Bar	\$ 100	Minidazzle
Osseo American Legion	\$ 500	Minidazzle
Ryan Company	\$ 100	Minidazzle
Steven Forsberg	\$ 100	Minidazzle
Harold E. & Gayle Johnson	\$ 500	Beautification Fund

(in memory of Jean Arlt, Carl Dickson, Bonnie Heinen, Patricia Rogers, and Rose Rue)

Staff recommends the Council accept the donations.

A motion was made by Schulz, seconded by Stelmach, to adopt Resolution No. 2018-58 accepting donations from NOLA Bistro & Bar, Osseo American Legion, Ryan Company, Steven Forsberg, and Harold E. & Gayle Johnson. The motion carried 5-0.

8. PUBLIC HEARINGS – None.

9. OLD BUSINESS – None.

10. NEW BUSINESS

A. APPROVE FEASIBILITY REPORT FOR 2019 STREET AND ALLEY PROJECT (Resolution)

Grams stated the City Engineer would be presenting this item to the Council.

Lee Gustafson, WSB, reported the 2019 street reconstruction project consists of reconstructing portions of 1st Avenue NW and 7th Avenue SE, including repairing or minimal reconstruction of the watermain, storm and sanitary sewer, replacement of the curb and gutter as needed, and sidewalk repair and installation as determined by Council. The 2019 project also includes the mill and overlay of portions of 2nd Street NW, 3rd Street NE, 4th Street NW, 5th Street NE, 6th Street NW, and 6th Street NE.

Mr. Gustafson explained existing roadway widths will be maintained to the greatest extent possible, and minimal impacts will be made outside of the curb with the exception for impacts related to utility work, curb replacement, or sidewalk installation. All driveways in the project area will receive a concrete apron as shown within the feasibility report. Based on field observations of the existing curb and gutter on 7th Avenue SE, all curb will be removed and replaced as part of this project. On 1st Avenue NW, however, there are two options proposed for surface improvements – spot curb replacement or full curb replacement. These options are discussed in further detail within the feasibility

report. Staff is recommending spot curb replacement on 1st Avenue NW for the following reasons:

- Full curb replacement on 1st Avenue NW will have significant impacts on boulevard trees and require some landscaped areas on the west side of the street to be removed.
- A high majority of the curb on 1st Avenue NW is in good condition and will last many more years.
- Adjacent streets that have been reconstructed or overlaid were done by retaining the good curbing. The appearance of 1st Avenue NW will therefore match adjacent streets closely after the project is completed.

Mr. Gustafson reported as part of the City's initiative to increase walkability around the City, sidewalk installation is being proposed for certain portions of 7th Avenue SE. In determining the benefit of adding sidewalk with this project, this street was evaluated for potential impacts, connectivity to existing walk, and overall benefit to adjacent properties. Based on this evaluation, a new sidewalk is proposed on 7th Avenue SE on the east side of the street from Broadway Street to 2nd Street SE. A new sidewalk is also proposed for the west side of 7th Avenue SE between 2nd Street SE and 3rd Street SE. It is expected that the roadway improvements can be completed within existing road rights-of-way or drainage easements for work on all streets except the east side of 7th Avenue SE adjacent to the church, where only half of the existing road falls into public road right-of-way. It is understood that the City will acquire this right-of-way during final design similar to the 2017 project.

Mr. Gustafson explained the 2019 alley project consists of reconstructing the alley between Central Avenue and 1st Avenue NE, from 2nd Street NE to 3rd Street NE. It is proposed to maintain the existing alley width, and that all work will be within the existing alley right of way. The proposed surface improvements for the alley include removal of the existing bituminous surface and installation of a new 12-foot wide concrete pavement. The profile grades of the alley will be sloped to direct water towards the adjacent streets.

Mr. Gustafson commented storm and sanitary sewer televising was performed as part of preparing the feasibility report to help determine recommended utility repairs. If needed, sanitary pipes within the project area will be cleaned and lined as part of a separate maintenance project. Watermain valves and hydrants will be replaced or relocated as needed. Although the existing storm sewer system is generally in good shape, there is one pipe within the project area that was identified with joint spalling and longitudinal cracking - located on 2nd Street NE. It is currently proposed to line this pipe early in the spring under a separate contract prior to beginning the street reconstruction project in order to save time and money. Staff may consider adding another pipe or two outside of the project area to the lining project.

Mr. Gustafson indicated water services along 7th Avenue SE have had past issues with freezing. Several years ago, the city installed insulation over the water services as a measure to prevent freezing. Since the insulation was installed, staff is unaware of any additional issues with freezing. As part of this project, the existing watermain will be reviewed to determine if additional repairs are necessary.

Mr. Gustafson reported a neighborhood open house for the proposed improvements was conducted on October 11 for affected property owners. Preliminary information was presented regarding the proposed improvements, funding, schedule, and impacts

associated with the project. Comment cards were made available to attendees at the meeting and responses that were received prior to completing this report were included within the feasibility report. One particular comment was as follows:

- A question arose regarding how the properties at 601 thru 616 1st Avenue NW will be assessed. They are the town homes/condos north of 6th Street, which have small lots. Staff currently has them shown as a unit assessment since each home has a PID and separate tax statement. Staff believes the per unit assessment is appropriate because they receive the same benefits as larger lots for access and use. In addition, these parcels use the street as a primary parking area which adds to the benefit they receive for having a good street adjacent to their parcel.

Mr. Gustafson stated on completion of the assessment public hearings, the City Council will determine whether or not to authorize both projects. It was noted WSB is proposing to bid out all 2019 street and alley projects as one large project.

Schulz recommended the watermain be sunk eight feet below the street. Mr. Gustafson reported he would follow this recommendation.

Johnson asked if the new curb along 7th Avenue SE by the church would be the same. Mr. Gustafson stated he would be working with staff on this matter.

Stelmach questioned how much additional right of way would be needed in order to provide parking on both sides of 7th Avenue SE. Mr. Gustafson commented this would require an additional 10 feet of right of way.

Stelmach requested staff provide the Council with a design option within the street plans providing for the additional right of way. He asked how the watermain replacement would impact the assessment amounts for the residents living on this street. Grams explained the City would be covering the full expense for the watermain replacement.

Zelenak asked if staff felt the City was following proper assessment policies and procedures for assessing townhomes or multi-family dwellings. Grams explained the assessment policy does not clearly address this type of unique housing. He reported the City relied on previous assessment actions.

Zelenak stated she would like to investigate this assessment matter further.

Schulz agreed noting the Council had another six months to make a decision on this matter. Mr. Gustafson stated he would speak with the City Attorney and would report back to the Council with options for further consideration.

A motion was made by Johnson, seconded by Stelmach, to adopt Resolution No. 2018-59 receiving the Feasibility Report and Calling for the Improvement Hearing for the 2019 Street and Alley Reconstruction Project. The motion carried 5-0.

B. APPROVE CONDITIONAL USE PERMIT FOR GROUP CLASSES & MASSAGE THERAPY AND REPEAL PRIOR CUPS AT PARCEL ADDRESS 116 FIRST AVENUE NW (Resolutions)

City Planner Nancy Abts stated the storefront located at 24 2nd Street NW is located in the CBD (Central Business District). It is an "L" shaped parcel that also fronts 1st Avenue NW and has the Parcel Address 116 – 1st Avenue NW. It is owned by Kaap

Enterprises, LLC (Heinen's Motorsports). The proposal uses an existing storefront for a business that provides classes and wellness services. Some classes may provide instruction in massage techniques. The applicant is enthusiastic about bringing her business to Osseo after living in Champlin for many years.

Abts reported the proposed business location was formerly occupied by Pascual Signs. The sign business was subject to Conditional Use Permit 2007-13. Because the sign business has been discontinued for more than 12 continuous months, the CUP has expired and should be revoked. Revocation of prior CUPs is discussed the proposed CUP and will occur in a separate resolution. Prior to the sign business, there was a CUP for a New/Used furniture business that has also expired. A separate resolution to revoke all prior CUPs for the property is also included in this agenda item.

Abts commented the property, along with the adjacent parking lot, was purchased from Crystal Welding by Kaap Enterprises in July 2017. The parking areas are used by Heinen's Motorsports for storage. Under the current proposal, Heinen's will continue to use the back half of the property for storage. However, the CUP applies to the entire property so it's possible the use could occupy more of the property in the future.

Abts explained the applicant's business plan includes providing a variety of wellness classes. Topics ranging from Weight Loss, Aromatherapy, Hormones, Detoxing, Healthy Eating, Digestion, Allergies, Exercise, Movement, and Aroma Touch massage (a technique which utilizes scented oils). Most classes will be 60 minutes long. Longer evening sessions of 1.5-2 hours and occasional half-day workshops on weekends are possible. Around 6-12 people are expected at the classes, although the business will also offer one-on-one consultations. The largest class attendance is expected on weekends and evenings.

Abts indicated the proposed business would include space for classrooms and a reception area. There would also be an office and additional space for storage and a retail space. The plan submitted as part of the application makes use of the space as-is. It does not include interior renovations. However, staff believe a different layout could make more efficient use of the space for the proposed business. Future renovations would require a Site/Building Plan Approval. In the draft CUP, Classroom Occupancy allows class sizes to increase if floor plans are approved by the Building Official and kept on file with the City.

Abts stated historically the City has not required City-issued licenses for a massage business. Instead, the City has relied on any State of Minnesota requirements and Conditional Use Permits for massage therapy. Applicable Provisions would require the business to comply with any new state or local requirements for Massage Therapy licensing.

Abts reported the draft approval continues to treat massage therapy as a Conditional Use. To address concerns around the use, the City will continue to require that massage therapists undergo a criminal background check from the Osseo Police Department. No one under the age of 18 will be allowed to work at this business as a massage therapist. Massage therapists will be required to have their license in plain view of the reception area at all times, and price rates will be posted.

Abts explained the Planning Commission questioned whether the CUP would "expire" for lack of use if massage did not take place at the business. The City Attorney agrees that as long as there is some activity happening consistent with the CUP, the CUP

continues and does not expire. Staff provided further comment on the request and noted the Planning Commission recommended approval of the CUP and revocation of all prior CUPs for the property.

Stelmach asked what the hours of operation would be for the Wellness Boutique. Kim Peterson, 10801 Hackberry Lane in Champlin, discussed the classes she would be offering and noted the majority would be held in the afternoon and evening. She reported she would be done with classes by 9 p.m.

Johnson supported this business having some off-street parking and encouraged the property owner to move his for-sale vehicles off-site.

Schulz questioned what aroma touch massage was. Ms. Peterson explained this was a massage conducted with essential oils that would take place in a chair for necks and hands.

Schulz inquired if Ms. Peterson supported all of the conditions for approval. Ms. Peterson reported this was the case.

Schulz requested further information from staff regarding the condition about rates and asked why rates had to be posted. Abts stated this condition was used for all massage therapy businesses to ensure rates were clear and consistent.

Schulz questioned if the City could offer an off-street parking reduction for the applicant. Abts stated this was the case and noted the same procedure was followed for the Rochon development. She reported the applicant was requesting no off-street parking be required.

Schulz commented on how this area of the City would be impacted if 15 to 20 individuals were attending classes at the Wellness Boutique. He asked if Ms. Peterson had made the request that no off-street parking be required, or if this came from the property owner. Ms. Peterson explained Heinen's made it clear to her that they have no off-street parking available for her business or clients.

Schulz encouraged Ms. Peterson to speak with Rochon to see if their parking lot could be used in the evening hours. Ms. Peterson stated she would be speaking with individuals from Rochon after this meeting.

Schulz explained he did not want parking to become a concern for this new business, especially in the winter months. He commented on how tight parking was in this area. He stated he was torn on the off-street parking issue and supported the property owner providing six off-street parking spaces for the new business.

Schulz asked how long the classes would be at the Wellness Boutique. Ms. Peterson anticipated the classes would be one hour in length.

Grams suggested the Council approve the CUP as is and see how the parking situation is handled. He reported the Council could always amend the CUP if parking were a concern.

Johnson stated he believed now was the time to make parking suggestions and require the applicant to come back and request a CUP amendment.

Stelmach commented he was pleased a new business was coming to town and he believed Ms. Peterson had a great business concept. He suggested the parking signs in this area be metered to allow for only two-hour parking. He stated he would also like to hear from the landlord regarding this matter and explained the Police Department could more strongly enforce the ordinances. Grams reported the Police Department has been enforcing the City ordinances and noted Heinen's has been contesting all parking tickets in court. Abts explained she would like to have a longer conversation with the Council and the City Attorney regarding how CUPs are written and enforced.

Stelmach stated he believed this would be an important conversation to have and noted he would be offering his support to the CUP as recommended by staff.

A motion was made by Zelenak, seconded by Stelmach, to adopt Resolution No. 2018-60 approving a Conditional Use Permit for Group Classes and Massage Therapy for the property at 22 2nd Street NW/116 1st Avenue NW (Wellness Boutique), subject to the twenty conditions listed below:

- 1) Applicable Provisions. This permit is subject to the requirements of the City's ordinances and the Applicant is required to comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and to obtain such other permits and permissions as may be required. Local and state regulations and ordinances shall include but are not limited to the following:
 - a. The business must at all times meet any requirements of Hennepin County and the Minnesota Department of Health relating to massage uses;
 - b. Any trash enclosure must be properly screened from public view, per Osseo City Code § 153.057 (B) (1) (d);
 - c. The building appearance shall be maintained so that it adheres to Osseo City Code § 153.053;
 - d. Signage relating to the use, including temporary signage, shall adhere to Osseo City Code § 153.090.
- 2) Rates posted. Price rates for all classes and services shall be prominently posted near the business entrance in a location accessible to all prospective customers.
- 3) Employee training. Massage therapy services may only be provided by a massage therapist who has a minimum of 500 hours of class credits from a massage therapy school accredited by an organization of therapeutic massage professionals which has a written code of ethics, and the massage therapist(s) certification(s) shall be prominently displayed within the business in a location accessible to all prospective customers. If massage therapy services are not currently being offered, a statement to that effect shall be displayed in the same fashion;
- 4) Employee age. No person less than eighteen (18) years of age shall be employed as a massage therapist.
- 5) Employee criminal history. No person who has any prostitution or prostitution-related criminal convictions or any controlled substance criminal convictions shall offer massage services at this location.
- 6) Employee background check. Any new massage therapist offering services at this location shall report to the Osseo Police Department within 10 days of offering services at this location to submit an application and pay any required fees for an Osseo Police Department-issued criminal background search.
- 7) Employee covered. Any person giving, demonstrating, or providing instruction in massage shall at all times have his/her breasts, buttocks, anus, and genitals covered with a non-transparent covering, and no other person shall touch any such area.

- 8) Recipient covered. A person receiving a massage shall at all times have his/her breasts, buttocks, anus, and genitals covered with a non-transparent covering, and no other person shall touch any such area, except male breasts need not be covered and portions of the breasts and buttocks may be uncovered when such portion of the body is being massaged. At no time shall any other person touch the nipples, genitals, or anus of the person receiving a massage.
- 9) Recipient age. All individuals under the age of eighteen (18) years of age shall have written parental permission and the parent must accompany the minor for the first visit for massage services. All signed parental permission forms shall be kept on file with the applicant and be made available for inspection by the City when requested.
- 10) Open to inspection. During any hours at which the business is open, the business shall be open to any State or County official and to any City official or police officer for inspection to determine compliance with the stated conditionals of approval.
- 11) Insurance coverage. If offering massage therapy, the business shall have in effect personal liability insurance in the amount of at least \$1,000,000 covering liability in the practice of massage therapy and insuring the business and each massage therapist.
- 12) Hours of operation. The hours of operation shall be not earlier than 8:00 AM and not later than 10:00 PM.
- 13) Parking. Employees and instructors are encouraged to park in available off-street parking locations. Additionally, class participants shall be provided with information regarding relevant City parking restrictions and available off-street parking locations. Documentation of communications with class participants regarding parking restrictions shall be available for inspection.
- 14) Classroom occupancy. Occupancy of the classrooms indicated on plans included as Exhibit B shall not exceed 12 persons (including students and instructors) per classroom. Occupancy for other classrooms and/or remodeled spaces shall be approved by the Building Official. At no times shall classroom occupancy exceed the number authorized by the CUP or other plans approved by the Building Official and on file with the City.
- 15) Building appearance. To enhance and maintain an environment orientated to the walking public, improvements to the building exterior shall be completed no later than October 22, 2019. Improvements shall include installation and maintenance of:
 - a. Signage clearly identifying the business near the entrance;
 - b. Exterior downlighting near all entrances;
 - c. Awnings along 2nd Street NE; and
 - d. Addition of durable (e.g., wood or metal) trim around the windows facing 2nd Street NE.
- 16) No Waiver. Failure by the City to take action with respect to any violation of any condition, covenant, or term of this permit shall not be deemed to be a waiver of such condition, covenant, or term or any subsequent violation of the same or any other condition, covenant, or term.
- 17) Revocation. The violation of any terms or conditions of this permit including, but not limited to, any applicable federal, state, or local laws, rules, regulations, and ordinances may result in revocation of the permit. The Applicant shall be given written notice of any violation and reasonable time, as determined by the City, to cure the violation before a revocation of the permit may occur.
- 18) Prior permits revoked. Prior conditional uses of the Property have been ceased for more than 12 consecutive months. Therefore, prior conditional uses permits for the Property have expired and will be revoked.

- 19) Binding Effect. This permit and its conditions are binding on the Owner and Applicant, their successors and assigns, and shall run with the Property, and shall not in any way be affected by the subsequent sale, lease, or other change from current ownership, until the permit is terminated or revoked as provided herein. The obligations of the Applicant under this permit shall also be the obligations of the current and any subsequent owners of the Property.
- 20) Acceptance of Conditions. Utilization of the Property for any of the uses allowed by this permit shall automatically be deemed acceptance of, and agreement to, the terms and conditions of the permit without qualification, reservation, or exception.

Johnson stated he would not be offering his support to the request as he believed it would be too hard to bring this property into compliance with the City's parking requirements. He feared this business and the neighboring businesses would suffer given the fact no off-street parking was being required.

Schulz questioned if the City had an interim use permit that could be considered. Abts reported staff was investigating this and would be bringing it before the Council at a future work session.

The motion carried 4-1 (Johnson opposed).

A motion was made by Stelmach, seconded by Schulz, to adopt Resolution No. 2018-61 revoking all prior Conditional Use Permits for the parcel address of 116 1st Avenue NW. The motion carried 5-0.

C. APPROVE ACCOUNTS PAYABLE

Grams reviewed the Accounts Payable with the Council.

A motion was made by Johnson, seconded by Schulz, to approve the Accounts Payable as presented. The motion carried 5-0.

11. ADMINISTRATOR REPORT – None.

12. COUNCIL AND ATTORNEY REPORTS

Abts reported she attended the American Planning Conference in Rochester last month. She stated this was an exciting gathering that brought together planners from all over the Midwest. She thanked the Council for the opportunity to attend this event.

Johnson stated he inspected the trees that were trimmed along Central Avenue and explained he understood why some of the business owners were upset. He requested staff reshape the trees in order to create some level of consistency.

Stelmach welcomed Firefighter Michael Libson to the Fire Department.

13. ANNOUNCEMENTS

Poppe encouraged the public to attend the Lions Club Halloween Event on Saturday, October 27, from 11 a.m. to 2 p.m.

Poppe updated the public on early voting and encouraged all residents to get out and vote now or on Tuesday, November 6.

Poppe reported City Hall would be closed on Monday, November 12, in observance of Veterans Day. He explained the upcoming City Council meeting was not scheduled for Monday, November 12, but on Tuesday, November 13.

14. ADJOURNMENT

A motion was made by Schulz, seconded by Zelenak, to adjourn the City Council meeting at 8:34 p.m. The motion carried 5-0.

Respectfully submitted,

Heidi Guenther
TimeSaver Off Site Secretarial, Inc.