

**CITY COUNCIL MEETING
CITY OF FRIDLEY
APRIL 26, 2010**

The City Council meeting for the City of Fridley was called to order by Mayor Lund at 7:30 p.m.

ROLL CALL:

MEMBERS PRESENT: Mayor Lund
Councilmember-at-Large Barnette
Councilmember Saefke
Councilmember Varichak
Councilmember Bolkom

OTHERS PRESENT: William Burns, City Manager
Richard Pribyl, Finance Director
Fritz Knaak, City Attorney

PROCLAMATION:

Poppy Days – May 14 and 15, 2010

PRESENTATION:

Safe Kids – Car Seat Awareness.

APPROVAL OF PROPOSED CONSENT AGENDA:

APPROVAL OF MINUTES:

Local Board of Appeal and Equalization Meeting of April 12, 2010

APPROVED.

City Council Meeting of April 12, 2010

Councilmember Saefke asked on page 15 in the fifth paragraph to change *stipulations* to *conditions*.

APPROVED WITH CORRECTION.

OLD BUSINESS:

- 1. Second Reading of an Ordinance Amending the Fridley City Code, Chapter 4, Absentee Ballot Board.**

William Burns, City Manager, said Fridley adopted an ordinance providing for an Absentee Ballot Board in 2006. The State has recently adopted State legislation pertaining to appointment and duties of absentee ballot boards.

Dr. Burns said staff is recommending that Council modify its absentee balloting procedure in a manner that defers to the new State law. Under the new legislation, all absentee ballots must be counted at the City or County level rather than at the individual precincts. In 2010, the cities in Anoka County will provide staff to count absentee ballots at the County level. We have been told that the County will require absentee ballot counting to occur at the City level in 2012 and beyond. Staff recommends Council's approval of the second reading.

WAIVED THE READING OF THE ORDINANCE AND ADOPTED ORDINANCE NO. 1268 ON SECOND READING AND ORDERED PUBLICATION.

NEW BUSINESS:

2. Claims (145792-145937).

APPROVED.

3. Licenses.

APPROVED AS SUBMITTED AND AS ON FILE.

4. ESTIMATES.

THIS ITEM WAS REMOVED FROM THE CONSENT AGENDA AND PLACED ON THE REGULAR AGENDA.

APPROVAL OF PROPOSED CONSENT AGENDA:

Councilmember Bolkcom asked for the estimates to be removed.

MOTION by Councilmember Barnette to approve the Consent Agenda with the removal of the estimates. Seconded by Councilmember Varichak.

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.

ADOPTION OF THE AGENDA:

MOTION by Councilmember Bolkcom to Adopt the Agenda with the addition of the estimates. Seconded by Councilmember Saefke.

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.

OPEN FORUM (VISITORS):

Councilmember Bolkcom said that on May 1 there will be a fundraiser at the Springbrook Nature Center.

PUBLIC HEARING:

5. Consideration of Proposed Amendment to the Fridley City Charter, Chapter 4, Nomination and Elections, Pertaining to date of Primary Election and Canvassing.

MOTION by Councilmember Bolkcom to waive the reading of the public hearing notice and open the public hearing. Seconded by Councilmember Saefke.

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE PUBLIC HEARING OPENED AT 7:55 P.M.

Deb Skogen, City Clerk, said in 2009, the U.S. Congress adopted the MOVE Act allowing for a 15-day extension for military and overseas voters to vote by absentee ballot. In response to the federal legislation, the Minnesota Legislature adopted Minnesota Sessions Chapter 184 to allow for the extension of absentee ballot voting and other changes.

Ms. Skogen said Minnesota Sessions Laws Chapter 184 amended the State Elections law as follows:

- Moved the state Primary Election from September to August;
- Requires Creation of Absentee Ballot Boards to count the absentee ballots;
- Increased the number of days for absentee ballot voting; and
- Changed the canvassing time of the Elections from within two days to on the third day of the Primary and from within seven days to between the third and tenth days after the General Election to allow for the counting of absentee ballots by the Absentee Ballot Board.

Based on the changes, staff drafted an amendment by ordinance and took the issue to the Charter Commission for review.

Ms. Skogen said that on March 22, 2010, the Charter Commission unanimously approved the amendment and recommended the amendment be forwarded to the City Council for adoption. An amendment by ordinance requires a public hearing with notice published within one month of receiving the proposed amendment. The public hearing notice was published in the *Fridley Sun Focus* on April 1 and April 8.

Ms. Skogen said that the actual changes are:

Sub. 4.03

- Changing the date of the Primary Election from “On the first Tuesday after the second Monday in September” to There shall be a primary election “on the date established by State Law,”; and

Sub. 4.08

- Changing the canvassing for the Primary Election from within “2 days” to “on the third day” after the Primary Election; and
- Changing the canvassing for the General Election from “within 7 days” to “between the third and tenth” calendars days.

Staff recommends holding the public hearing on the ordinance.

MOTION by Councilmember Barnette to close the public hearing. Seconded by Councilmember Saefke.

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE PUBLIC HEARING CLOSED AT 8:10 P.M.

OLD BUSINESS:

6. Second Reading of an Ordinance Amending Chapter 30, Lawful Gambling, of the Fridley City Code, Defining Licensed Organizations (Tabled April 12, 2010)

Richard Pribyl, Finance Director, said in December of 2009, the Mayor brought concerns from some of the Fridley organizations who want to conduct charitable gambling, but can't seem to find a location in the City, nor in neighboring cities. Staff surveyed eight cities and found seven cities had restrictive language requiring organizations to be located within the city. Based on these concerns, staff discussed the issue with the City Attorney and the City Council and prepared an ordinance for their review in February. After further discussion with the City Council and City Attorney, staff made a few more revisions to the ordinance.

Mr. Pribyl said the City Council held the first reading on March 29, 2010, and directed staff to notify the liquor establishments and current gambling organizations of the proposed changes. Letters were mailed out on March 30, 2010 to all liquor establishments and to the organizations currently conducting lawful gambling within the City.

Mr. Pribyl said the City Council reviewed the ordinance on April 12, 2010, and took additional information from the public. Shawn Donahue, Spring Lake Park (SLP) Lions read a letter opposing the ordinance and providing information about past donations to the City. If anything, they would like to see an exemption added to the ordinance for charitable organizations that might directly or primarily benefit the citizens of Fridley without being a local organization.

Mr. Pribyl said Wendy Nelson from the SLP Youth Hockey Association said that 10% of their membership comes from Fridley because it is an older community and there are fewer young people. They donate to the high schools for boys and girls hockey. They are concerned because they just signed a lease with Broadway Pizza and due to the lower membership of Fridley residents, they may not be able to stay. Mike Schrauth, Broadway Pizza, had interviewed four organizations and chose an organization that had membership within three to five miles of his establishment to bring in more business. He said in the years he has been at Broadway, he had not received one call from a Fridley organization wondering if he might be interested in another organization. He said Fridley Parks and Recreation had already asked SLP Youth Hockey

Association for a donation for warming houses. He said he did not think the membership would change unless the City got more involved in the ice rinks and providing warming houses.

Robert McNeal, Fridley American Legion, was concerned that the City has changed the 50% of expenditures in the trade area to 75% and was concerned that they and the VFW may not be able to support veteran's causes.

Tom Myhra of the Fridley School Foundation and they are still discussing whether or not they would like to get into the charitable gambling business.

Mr. Pribyl said staff recommends removing the ordinance from the table and holding a second reading of the ordinance.

MOTION by Councilmember Bolkcom to remove this item from the table. Seconded by Councilmember Varichak.

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE ITEM WAS REMOVED FROM THE TABLE.

Mayor Lund noted that because one member was absent at the last meeting, this item was tabled, as unanimous consent on any amendment is needed.

Shawn Donahue, Spring Lake Park Lions, asked if there could be an amendment to limit the area to the school district. He asked if that could be legally done.

Mayor Lund said to put in a waiver for school districts was not a bad idea.

Fritz Knaak, City Attorney, said that there are limitations in terms of the State Statute. Doing what is being proposed in this ordinance is pushing the envelope, but it is allowable. If you try to bring the ordinance outside of the city, it may become difficult.

Mayor Lund asked about the City of Blaine and creating a waiver by location.

Attorney Knaak said that Council can waive any requirement.

Mayor Lund said he is open to having a level playing field with other cities. Currently there are only six licenses. Fridley does not have a lot of businesses. Council is not trying to be overly restrictive to organizations.

Mr. Donahue said that his organization donates a lot of funds to the schools.

Councilmember Bolkcom asked if anyone talked to the City of Blaine.

Mr. Pribyl said that staff has reviewed their ordinance and their ability to allow an exemption but it does not say it carries on to the next business.

Councilmember Bolkcom said it makes sense to put criteria in the ordinance.

Attorney Knaak said with the language in the ordinance, the idea is preference for Fridley organizations and it must be stated so. If preference was created to Fridley organizations it would make sense to have that be an ongoing preference. If no Fridley organization were available and an establishment wants someone to come in, they may come in at the sufferance of the City until a Fridley organization would want it. Council could waive this option without this language in specific situations. Technically Council has the right to do that which may create a situation where someone would consider an enforceable right to renewal and Council may find them in a court case.

Mayor Lund said he would have a problem with waiving an outside Fridley organization and later allow an opening for a Fridley organization. It would be unfair and difficult to do that.

Councilmember Barnette thought it should be that way, to grant an exception. For example if the Spring Lake Park Lions wanted to come in, they could do that because they do a lot with the school district. They would have to understand that if they got an exception and a Fridley organization meets the criteria, the Spring Lake Park organization would have to be out. The ordinance would give Council the right to make that decision.

Councilmember Bolkcom said did not understand the when the organization's license would expire.

Attorney Knaak said there is nothing to prevent Council from going to any licensed organization to say when the renewal license is up, they will not get renewed.

Deb Skogen, City Clerk, said the time would be changed from biannual to perpetual. The organization has to sign a lease with the establishment and the agreement is tied to the lease, not with the license.

Mayor Lund said that would be a problem because Council has no control over the lease.

Attorney Knaak said that is correct, Council only has control over the license.

Mr. Donahue said his leases are perpetual and there is a 30-day out clause by either party.

Mayor Lund asked if there could be a waiver that is site specific if the City has openings.

Councilmember Bolkcom asked how that would help an organization that does not have a license.

Ms. Skogen said in the past, there has only been one establishment that has changed which was Broadway Pizza. They should check with the City Clerk first to see if anyone has expressed an interest and if they are interested the City could provide the names.

Mayor Lund said he did not see this as a big issue.

Councilmember Bolkcom asked how Council would be helping the establishments because it would not go back to the original objective.

Mayor Lund said that if new ownership came in it would allow changes.

Councilmember Bolkcom said that the ordinance needed to have more details.

Ms. Skogen said that names have been provided in the past if some were known but the City is not called often because they know someone or have another establishment to bring in.

Councilmember Barnette said he is in favor of the ordinance, but it should have a restriction upon renewal if a Fridley organization is there, because he would be in favor of giving the license to a Fridley organization.

Councilmember Bolkcom asked if another organization not in Fridley gives back to the community financially if they would still have to give up the license when the renewal is up.

Councilmember Barnette said yes.

Councilmember Bolkcom said she agreed and thought this should connect with the liquor license.

Councilmember Varichak said she agreed with Councilmember Barnette's recommendation.

Councilmember Bolkcom suggested this be tabled until the next meeting so staff can come back with the correct language.

Mr. Donahue wanted to reiterate that his organization gives back to the school district, which benefits Fridley, even though they are a Spring Lake Park organization.

Mayor Lund noted his request but said that the legal opinion says that it is not possible to tie this to the school district.

Attorney Knaak said the reason for this restriction is to provide greater supervision and control over ordinances. If the boundaries are stretched, there would be a question about the premise of the ordinance.

Councilmember Barnette said he has no problem with another group coming in, but Fridley organizations should be given first choice.

Robert McNeil, Fridley American Legion, said he has a concern with the 50% to 75%. This will reduce donations.

Councilmember Bolkcom asked what other communities were doing. She said she thought some were 100%.

Mayor Lund said that the American legion and the VFW want to give to the greater cause so it would be advisable to continue with the flexibility.

Attorney Knaak said that if the purpose is local and it is in fact a local expenditure.

MOTION by Councilmember Bolkcom to table the Second Reading of an Ordinance Amending Chapter 30, Lawful Gambling, of the Fridley City Code, Defining Licensed Organizations. Seconded by Councilmember Varichak.

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.

4. Estimates.

Councilmember Bolkcom asked what the amount was for.

William Burns, City Manager, said he thought it covered the change order but noted that this could be tabled until the next meeting and he would bring forth more information.

MOTION by Councilmember Bolkcom to table the estimates until May 10, 2010. Seconded by Councilmember Varichak.

UPON VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS:

7. Informational Status Reports.

Councilmember Barnette said that the Annual StarGazers event will be held Saturday, May 8.

Councilmember Varichak said that she attended the Historical Society lasagna dinner. About 130 people attended and it was a great event. She said they are looking for younger people to get involved with this organization to carry on the tradition.

Councilmember Saefke said this Saturday there is a shredding day for residents who have documents to shred.

ADJOURN:

MOTION by Councilmember Barnette to adjourn. Seconded by Councilmember Varichak.

UPON VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE MEETING ADJOURNED AT 9:10 P.M.

Respectfully Submitted,

Krista Monsrud
Recording Secretary

Scott J. Lund
Mayor