

**DUNDAS CITY COUNCIL  
REGULAR MEETING MINUTES  
Monday, March 31, 2008  
7:00 p.m.  
Dundas City Hall**

Roll Call: Chad Marks, Mary Amy, John Cruz, Tresa Mazurek, John Zander

Others Present: Jim Kessler, Meg Ojala, Larry Fowler, Bonnie Fowler, Glenn Switzer, Michelle Millenacker, Shawn Adams, Grant Modory, Joe Kuchinka, Tom Seeze, Lyle Koester, Danny Ayotte, Chuck DeMann, Doug Kurtt, Jerry Adams, Rollie Green, Eric Schrader, Diane Schrader, Dusty Budd (KYMN), Kate Roberts *Northfield News*, Chief Gordon Mincke, City Attorney Paula Callies, City Engineer Tom McMahon, City Administrator John McCarthy, and others

**CALL TO ORDER/PLEDGE ALEGIANCE**

Mayor Marks called the meeting to order at 7:03 p.m. with the Pledge of Allegiance. A quorum was present.

**PUBLIC FORUM** – (non-agenda items)

Mayor Marks asked for any public comment; no one spoke.

**APPROVAL OF AGENDA**

**Motion by Amy, second by Mazurek, to approve the Agenda with City Administrator's Performance Evaluation Continuance moved to 9(d); addition of Downtown Revitalization 9(c) and 7(f) Resolution 2008-18 Summary of Ordinance 2008-01. Motion Carried Unanimously (MCU)**

**CONSENT AGENDA**

Councilor Mazurek requested minutes of March 10, 2008, and EPIC Service Contract for Parks Cleaning be removed from the Consent Agenda.

**Motion by Mazurek, second by Amy, to approve the Consent Agenda as follows:**

- a. EPIC Service Contract 2008-09 for City Hall Cleaning**
- b. Special Action Claims**
  - i. Wells Fargo Water/Sewer Bond Interest - \$67,130.00**
  - ii. Menards TIF Payment - \$ 64,763.92**
- c. Expenditures - \$205,897.36**

**MCU**

Mazurek was unable to listen to the recording of the minutes of March 10, 2008 and requested additional time to review. Mayor Marks laid over the minutes.

Mazurek asked for information on the contract for EPIC cleaning the parks. She stated the park shouldn't need to be cleaned as often since the bathrooms were not open to the public. Amy stated she supports the EPIC services with no change in the contract.

**Motion by Amy, second by Cruz, to approve EPIC Service Contract 2008-09 for Parks Cleaning. MCU**

**PUBLIC HEARING: Amendment Ordinance Chapter 101.02 Changes to Fees for City Licenses, Permits and Services**

Open Public Hearing: Mayor Marks closed the regular meeting and opened the Public Hearing at 7:11 p.m.

Staff Review: McCarthy reported staff has reviewed and recommended changes to Ordinance Chapter 101.02, which were further reviewed by the Finance and Legislation Committee. Committee and staff recommend the park pavilion rental fees be the same as the 2007 charges.

Public Comments: Marks called for public comments. No public comments.

Close Public Hearing: Marks closed the public hearing at 7:16 p.m.

**UNFINISHED BUSINESS**

Approval of Regular Meetings Minutes of February 25, 2008

**Motion by Mazurek, second by Amy, to approve the minutes of February 25, 2008. MCU**

2008 Lawn Mowing Proposal

McCarthy stated four proposals were received and staff recommends God's Country Nursery and Design of Farmington.

**Motion by Mazurek, second by Amy, to grant the 2008 Lawn Mowing to God's Country Nursery and Design of Farmington, MN. MCU**

**ORDINANCES/RESOLUTIONS**

ORDINANCE 2008-01 An Ordinance Amending Chapter 101.02 of the City Code Changing to Fees for City Licenses, Permits and Services

**Motion by Mazurek, second by Cruz, to approve Ordinance 2008-01. MCU**

Ordinance 2008-02 An Ordinance Amending Chapter 1500 of the Dundas Zoning Code Adding Section 9, Hester Street Corridor

McCarthy reviewed staff comments regarding Ordinance 2008-02 noting the changes in the proposal after meeting with the businesses and Planning Commission.

Jim Kessler (resident) is in favor of Ordinance 2008-02 but expressed concerns requiring entrances in the front and banning parking in front, zero lot lines, and access to some permitted uses including duplexes.

City Engineer McMahon requested the Ordinance be tabled to further address the parking issues and lot lines.

**Motion by Mazurek, second by Zander, to lay over approving of Ordinance 2008-02 for further review by staff and the Planning Commission. MCU**

Resolution 2008-15 A Resolution Approving Volunteer Accident Coverage

McCarthy reviewed and recommended the accident coverage for volunteers.

**Motion by Mazurek, second by Cruz, to approve Resolution 2008-15. MCU**

Resolution 2008-16 A Resolution in Support of Charitable Gambling Operated by the Dundas Baseball Association

**Motion by Mazurek, second by Amy, to approve Resolution 2008-16. MCU**

**ORDINANCES/RESOLUTIONS (con't)**

Resolution 2008-17 A Resolution Approving Publication by Title and Summary of Ordinance 2008-01

**Motion by Cruz, second by Amy, to approve Resolution 2008-17. MCU**

**REPORTS OF OFFICERS, BOARDS AND COMMITTEES**City Administrator/Clerk

McCarthy reported on a complaint regarding a zoning issue. Callies suggested an independent person review the status of violations rather than the zoning administrator.

**Motion by Amy, second by Cruz, to approve retaining an independent entity to review alleged zoning and Conditional Use Permit (CUP) violations and recommend any action based on the review. Motion Carried. 4 Yes, 1 Abstain; Roll Call: Yes: Amy, Marks, Cruz, Mazurek. Abstain: Zander**

Administrative Assistant, Linda Ripka, received a scholarship of \$150.00 toward tuition for Minnesota Municipal Clerks Institute. This will be her third and final year.

The Small Cities Development Grant applied for with Faribault was not funded. The Rice County SBDC will be informing the applicants.

McCarthy requested the Kor property status be placed on the Council's Work Session for April 7 meeting as there have been three more inquiries.

McCarthy reported a storm sewer backup on Mill Street. The outlet froze up causing street and yard flooding along with a possible wet basement. A contractor was called and jetted the storm sewer finding a substantial amount of yard debris in the pipe.

McCarthy stated the Finance & Legislation Committee reviewed a draft of a five-year budget, which is setup to enter variables and will be available at the Work Session on April 7. The projection should assist in reviewing impacts on the budget of changes in revenue and expenditures.

**Motion by Mazurek, second by Amy, to approve delinquent utility accounts as submitted for water shut off and discontinuance of garbage service. MCU**

Councilor's Report

Zander requested a motion as part of revitalizing downtown and asked for support to have the Planning Commission look into grants and funding available for shared transit.

**Motion by Zander, second by Cruz, to approve the Planning Commission look into funds available for downtown revitalization and shared transit. MCU**

Continue Performance Evaluation for City Administrator

Mayor Marks requested Attorney Callies conduct this portion of the meeting.

Callies reviewed previous meeting with Council action requesting McCarthy's resignation. McCarthy has submitted a letter to the Council stating he does not intend to resign. Council is now required to take action on McCarthy's employment. Options are to continuing employment or to terminate. Callies presented a draft resolution for termination.

Marks stated the public wants to comment. Callies stated it is up to the Mayor to receive public comment as it is not a public hearing. Ordinarily the public does not have direct input into a personnel review.

Marks stated he has received enough concern by the citizens to allow public input. The Council needs to listen to their constituents. Marks requested comments be kept to two minutes or less and Council will take comments but will not give feedback.

Continue Performance Evaluation for City Administrator (con't)

Meg Ojala (resident at 205 East St) remarked she read in the *Northfield News* the Council action requesting McCarthy resign and hoped he would refuse to resign. She urged Council to support and affirm John and move forward as it would be a setback to the City. She stated it is not in the City's best interest to ask for his termination or go through the turmoil it would cause. She has observed John working with the City, and he works well with staff. He is a good administrator. Ojala urged restraint and support rather than a move to terminate as it would be very costly and damaging to the City.

Larry Fowler (resident 105 First St N) said he would second what Ojala stated, and he supports the continuation of John as the city administrator. Fowler stated as a member of the Planning Commission and the Historical Society, John's support has been invaluable. He stated he has enjoyed the positive prospective the City has had and gives John part of the credit. He and his wife (Bonnie) urge the Council to support John's continuation as city administrator.

Shawn Adams (resident and business owner) remarked he has on numerous occasions talked to John, found him to be very cordial and has had good discussions. John has been very good in getting information out in person. He stated there does need to be more communication and the Council should find time to dedicate some of the issues as John's plate may be too full.

Tom Seeze (resident 209 Railway St S) requested Council not terminate John. As a park board member he has received information from John in a timely manner. He stated he is concerned about the number of staff having been terminated the past few years and the costs incurred in hiring and terminating people. The Council needs to look at all avenues, especially training and working together and not be so quick to terminate.

Danny Ayotte (business owner) stated he has had considerable opportunity to work with John this past year on the Kor property redevelopment. He stated John's talents and experience are necessary to administer the growth of the City of Dundas. Organized growth is essential to the tax base. John McCarthy has the capacity and ability. Dismissing people is very expensive and knowing when and how to due it is essential.

Glenn Switzer (resident 107 First St N) stated he was part of the process in hiring John and has been part of the process in the past terminations. A lawsuit was just settled with the City for someone who was terminated improperly. Switzer commented one of the reasons John was brought in was his financial understanding. The budget prior to him was hand written. Prior Council did not know where the finances of the City were and it had been six years since the check book was reconciled. He stated John just indicated tonight he has prepared a budget spread sheet with a 5 year projection. He knows his finance. Another reason for hiring John was his experience as an executive director to a sewer district. If anyone understands the issue holding Dundas back from its growth, it is dealing with sewer and waste water capacity. Switzer stated this is an expertise the City needs and was one of the main reasons John was hired. He continued stating, "Will you find someone that can answer every single question at every single time and know every single piece of paper and code and everything – no, they are not out there." Switzer indicated other cities around here have had issues and some are still having issues. He stated if anyone needs to be evaluated it is the Council and asked has the Council provided a work environment conducive to the success of the employees. The answer is no. There is always nitpicking, personal attacks, all these little things do not need to be part of a meeting. The Council is here for the betterment of the City. The personal politics that happen have to end. He stated flushing John out does not fix things. It is not the first time this has happened. He asked who pays the price for the Council not getting along with someone and responded it's the citizens of the town. Switzer confirmed he was here to support John.

Continue Performance Evaluation for City Administrator (con't)

Grant Modory (business owner and resident Hester St) stated he was part of the process of hiring John along with the termination of others. He stated he agrees with Switzer completely and remarked John was put into an environment which was hard to succeed in. John has draw backs in some things but he is very good in others. Modory stated the Council asked for John's resignation but have they looked at each other and asked who has done their job. Who has been representing the City. If any one can't say they really have, then they should ask for their own resignation instead of someone else's. Modory stated John has put in the effort and now Council should do so as well.

Attorney Callies stated the Council has the ultimate decision. She stated McCarthy does not have an employment contract or union contract and under the City's personnel policy, there doesn't have to be a cause to terminate employees. The Council reviewed his performance in July 2007, again in February and March 2008, which resulted in asking for his resignation. John has stated he is not resigning.

Marks stated there has been ample time and discussion from the Council and there was a motion requesting his resignation.

**Motion by Mazurek, second by Marks, to adopt Resolution 2008-19 regarding the termination of John McCarthy.** Mazuek stated the Council has crossed their t's and dotted their i's and gave McCarthy ample time to improve on areas. Mazurek further commented on the great turn out of people for McCarthy but it doesn't state what all constituents feel. Zander thanked citizens for their opinions and stated some things cannot be discussed. **Motion failed. 2 Yes, 3 No; Roll call: Yes: Mazurek, Zander. No: Marks, Cruz, Amy.**

**Motion by Cruz, second by Amy, to continue the employment of John McCarthy as City Administrator/Clerk-Treasurer, with a review in six months along with a discussion within 30 days regarding areas of opportunity.** Marks asked for further discussion. Zander stated it was a difficult decision and was given a lot of thought from Council. Zander did not want to wait six months for a review. Amy stated she received eight calls with six in favor of continuing his employment and the other two were borderline noting the importance of the Council representing their constituents. She further stated, in addition to comments in support of John, there were just as many comments expressing concerns about the Council working together, needing to move on and making every effort to work with John. Marks commented the Council has a commitment to the City and should not act on an individual basis. **Motion carried. 3 Yes, 1 No, 1 Abstain; Roll call. Yes: Amy, Cruz, Marks. No: Zander. Abstained: Mazurek**

**ADJOURNMENT**

**Motion by Cruz, second by Amy, to adjourn meeting at 8:28 p.m. MCU**