

**NISSWA CITY COUNCIL  
JULY 20, 2016**

The regular meeting of the Nisswa City Council was held Wednesday, July 20, 2016 at 7:00 pm at City Hall.

Members Present: Kraus, Jacobson, Krautkremer, Johnson, Heidmann

Members Absent:

Also Present: Mark Hallan, Steve Qualley

Staff Present: Tom Blomer, Laurie Hemish, Brent Jones, Terry Wallin, Craig Taylor, Alex Hondl

**Motion** by Jacobson, seconded by Krautkremer to approve the consent calendar as presented:

- A. Approve minutes of June 15, 2016**
- B. Add \$12,500 to Capital Fund Money Market Account**
- C. Nisswa American Legion Auxiliary Raffle Request – Sept. 4, 2016 Nisswa American Legion**
- D. Lake Shore Conservation Club Raffle Request – March 19, 2017 Grand View Lodge**
- E. Essentia Health Foundation Raffle Request – Aug. 31, 2016 Grand View Lodge**
- F. Minnesota Surveyors and Engineers Society Raffle Request – Sept. 15, 2016 GVL**
- G. Accept Donations from Nisswa Lions - \$5,000 to Fire Dept and \$1,700 to Park & Rec**
- H. Presentation of Claims – #38256-#38469 totaling \$649,565.56**

All members voting “Aye”, with exception of Heidmann abstaining. Motion carried.

**OPEN FORUM**

**REPORTS**

Chief Taylor stated he had provided the monthly report via email. Stated the parade and Firecracker events went well.

Farrell stated June sales were great and so far July sales are fantastic. Farrell stated for the new hire at Spirits, Benjamin Collette worked two days and has since resigned. Would like motions to hire and accept resignation. **Motion** by Krautkremer, seconded by Heidmann to approve the hiring of Benjamin Collette at \$9.00 per hour as of 7/6/16. Carried unanimously. Jacobson questioned if we have received a resignation letter from Collette. Farrell stated no. Jacobson stated to place his resignation on next month’s agenda after receiving resignation letter.

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Wallin stated numbers for Pickle were down a little for June but have a couple weddings coming up in July. Freedom Day Parade and festivities went well. Thanked the police department. Next year looking to only have one band instead of two. Wallin stated he would like approval for new hire. **Motion** by Heidmann, seconded by Johnson to approve the hire of Mason Fussy as bar back part time at \$9.00/hour with a hire date of 6/23/16. Further discussion: Jacobson questioned why not start him at the new minimum wage. Wallin stated because he has already been working. Carried unanimously.

Jones stated the Planning Commission had their meeting last week and held five public hearings. A variance and CUP were approved for Verizon to place a communication tower on city owned property if lease agreement is approved tonight. A variance was denied to place a swimming pool within the OHW setback. Two ordinance amendments were recommended to council for approval. Have issued 38 land use permits year to date compared to 30 last year.

Hondl stated park and recreation programs are wrapping up for the summer. Thanked the Lions for the \$1700 donation approved on consent calendar. It will be used for fence-cap on the ballfield fence. Stated he handed out beer for the Fire Cracker Race and will have a few suggestions for next year and will be discussing with Dave Janowick.

Blomer stated public works meeting was held today. Stated City had large rain event with only shouldering work needing to be done.

Hallan stated he observed the lift stations over the 4<sup>th</sup> of July weekend to gather info. As anticipated they were operating at 160,000 to 180,000 gallons per day of flow.

**NEW BUSINESS**

**DISCUSS ORDINANCE AMENDMENT FOR SUNDAY OFF SALE OF GROWLERS**

Kraus stated the Council received all the information that was provided. To expedite the issue he would ask the Council for a motion to amend the ordinance to approve the off-sale of growlers on Sundays with the following conditions: hours are 8:00 am to 10:00 pm with no sales on Thanksgiving, Christmas Day, or after 8:00 pm on Christmas Eve as per State law; Sunday off-sale license fee is \$100, and off sale of growlers is approved by the Commissioner of Public Safety.

**Motion** by Krautkremer, seconded by Heidmann to amend the ordinance to approve the off-sale of growlers on Sundays with the following conditions: hours are 8:00 am to 10:00 pm with no sales on Thanksgiving, Christmas Day, or after 8:00 pm on Christmas Eve as per State law; Sunday off-sale license fee is \$100, and off sale of growlers is approved by the Commissioner of Public Safety. Further discussion: Jacobson questioned fee of \$200 and would like that all fees and licenses be current. Krautkremer **amended motion**, seconded by Heidmann to include that

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all fees and licenses are paid. Further discussion: Krautkremer stated this just amends the ordinance to allow for Sunday off sale of growlers. Qualley stated the business would still have to apply for the license. Carried unanimously.

**Motion** by Jacobson, seconded by Johnson to authorize the summary publication. Carried unanimously.

Kraus stated we also need a motion to approve the licenses for off-sale of Growlers on Sundays. Qualley stated if approved they cannot sell until ordinance is published, pay the license fee, and be issued the license. Kraus stated the ordinance will be published on July 28<sup>th</sup>, so earliest they could sell would be July 31<sup>st</sup>. Heidmann questioned if they can apply/pay for their license on the 28<sup>th</sup>. Hemish stated yes.

**Motion** by Johnson, seconded by Heidmann to approve Sunday off-sale of growlers for Big Axe Brewing and Gull Dam Brewing. Further discussion: Krautkremer stated he has an issue with granting Gull Dam Brewing the license as the sold growlers on Sundays against the ordinance. Andre Anderson, Gull Dam Brewing, stated they didn't sell growlers; they sold T-shirts not the growlers. Krautkremer stated that is illegal since they sold the T-shirt to give away the growler. Kraus stated we should address that issue separately from this motion. Jacobson suggested holding a hearing to address the violation. Krautkremer stated we shouldn't grant the license then, until we hold a hearing. Qualley stated you can approve or deny either or both Big Axe or Gull Dam Brewing. Krautkremer questioned if the City can deny Gull Dam the license based upon what we know. Qualley stated it is up to the Council as they approve all licenses. Stated the ordinance has a framework for violations of issued licenses, and as a City you have very broad authority to issue a license. Johnson **withdrew his motion**, seconded by Heidmann.

**Motion** by Johnson, seconded by Heidmann to approve Big Axe Brewing Sunday off-sale of growlers after paying license fee and publication of ordinance. Carried unanimously.

Johnson and Heidmann stated they were not aware of Gull Dam's violation. Kraus stated he was given information that Gull Dam was giving away growlers for the purchase of a T-shirt. He sent a guy in on a Sunday who bought the T-shirt and was given a growler. Stated the Chief of Police investigated and confirmed with Mr. Anderson who told him it wouldn't happen again. Kraus stated per ordinance, the Council can address the violation. Qualley stated the ordinance lists violations and penalties. Krautkremer questioned if severity of violation matters. Qualley stated there is a framework and things of extreme nature. Stated it has been in the code for a long time. Krautkremer stated what they did warrant more than a \$500 fine. Discussion over holding a hearing later. Johnson stated we don't have to grant them the ability to sell growlers on Sundays. Qualley stated you would need a reason and a violation is a reason.

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**Motion** by Krautkremer, seconded by Heidmann to deny the Sunday off sale license for Gull Dam Brewery due to the violation. Further discussion: Heidmann questioned if there should be a specific penalty. Qualley stated separate issue, as this motion is denying the license. Heidmann stated it troubles him that a State Representative who owns the business would have a hand in doing something illegal. Jacobson stated he feels Gull Dam should have been given notice. Krautkremer stated they can re-apply for license. Qualley stated Council can approve or deny the Sunday off-sale license, and they admitted here tonight of the giving away the growler for a purchase of a T-shirt which is not allowed. That can be used for the basis of denying the license. Chief Taylor stated you do have an admission tonight, so that is evidence. Stated he wanted to clarify that he did not interview Mr. Anderson. Stated he just told him he had heard a violation had occurred and Mr. Anderson told him he understood and would be in compliance. Stated he sent an undercover officer in a week later who was not sold to. Kraus read police report from June 7<sup>th</sup> which indicated he provided Anderson with State Statute and City Ordinance pertaining to liquor laws. All members voting “Aye”, with exception of Jacobson voting “Nay”. Motion carried.

**NEW HIRE AT PICKLE**  
(handled under staff reports)

**NEW HIRE AT SPIRITS**  
(handled under staff reports)

**INCREASE MINIMUM WAGE FOR EMPLOYEES AT SPIRITS AND PICKLE**

**Motion** by Johnson, seconded by Jacobson to increase the minimum wage for employees from \$9.00 per hour to \$9.50 per hour effective August 1<sup>st</sup>. Further discussion: Hemish stated as per her memo, she would like it effective July 25<sup>th</sup> so she doesn't have to do two pay rates in one pay period. Johnson **amended motion**, seconded by Jacobson to make effective July 25<sup>th</sup>. Further discussion: Heidmann questioned if we are increasing any other wages than minimum wage. Hemish stated we are waiting for the pay equity/market study from Springsted before making any further changes. All members voting “Aye”, with exception of Heidmann voting “Nay”. Motion carried.

**VERIZON LEASE**

Qualley stated Verizon submitted the lease proposal to the City. Suggested Council look at counter proposal with term of lease, increase in rent over the years, and what to do with tower at the end of lease. Jacobson stated the proposed tower is on top of the ballfield light. Qualley suggested adjusting rent for inflation rate. Jacobson stated it is to the City's advantage to get the tower to increase capacity in downtown. Paul Harrington, Verizon, stated businesses are now using cell phones for everything and using up capacity. Stated the ordinance directs us to go on City property at our expense and integrate into the area. Would like to negotiate details with

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City Attorney. Heidmann questioned if City could use space on tower for a camera or speaker or whatever. Qualley stated nothing in the lease allows for that. Also suggested using consumer price index for increase in rent. Jacobson recommended an escalation clause at five or ten years. Heidmann stated he would like the City to have a choice at the end of the lease of whether to own the tower or require Verizon to remove. Harrington stated the lease currently states it becomes City property at termination of the lease but we can change to Verizon removing it. Qualley stated since it has the ballfield lights on it, it makes sense to leave it to the City.

**Motion** by Jacobson, seconded by Krautkremer to approve the lease with Verizon with the following conditions: 1) exhibit B describing the land needs to be approved prior to construction; 2) agree to annual \$6,000 rent fee for first 5 years with consumer price index increase thereafter; 3) page 17 should not list air emissions as they are required to use natural gas and not diesel for the generator. Further discussion: Heidmann stated he wants the cancelation of the lease by the City permitted. Harrington stated they mirrored the lease to existing tower lease at sewer plant and want to be treated similarly. Stated Verizon would be taking down existing ballfield light pole and replacing with our pole and lights. Stated no additional user would be going on the tower. Requested Verizon legal counsel and City Attorney work out the details. Krautkremer stated we could motion to allow the City Attorney to negotiate the lease with Verizon. Qualley stated yes with suggested changes of Council. Heidmann suggested looking at other leases on what municipalities receive for revenues. All members voting “Nay”, except Jacobson voting “Aye”. Motion failed. **Motion** by Heidmann, seconded by Krautkremer to authorize the City Attorney to negotiate the lease with Verizon with the discussion items stated earlier and City Attorney bring to Council next month or two. Further discussion: Jacobson stated that could cause timing issue for Verizon. Harrington stated we will work quickly and bring back next month. Carried unanimously.

**ORDINANCE AMENDMENT FOR TEMPORARY SIGNAGE**

Jones stated the Planning Commission recommends approval of the amendment for temporary signs as presented. **Motion** by Jacobson, seconded by Heidmann to approve the ordinance amendment for temporary signage as presented. Further discussion: Anjeanette Smith, business owner on sign committee, stated she would like the council to reconsider allowing portable temporary signs. Krautkremer stated he agrees with that especially along Hwy 371 corridor. Kraus stated if allowing temporary portable signs, the rules should be followed. Heidmann stated he agrees portable signs are important. Jacobson stated the Planning Commission had numerous meetings with business community and is looking at electronic signage. Stated lots of work went in to this ordinance.

Ted Schaefer, Schaefer’s Foods, stated when we remodeled in 1993 we put all signage on the building to comply with ordinance. Then got permission from the City to put out a large portable temporary sign as long as he put it out for specials/events and then put it away. It is not lit and has displayed maybe 10 weeks a year. Feels that sign is better than having 4 banners which is

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allowed for his property. Johnson suggested allowing the large portable signs. Jones questioned what parameters as currently they are not allowed per ordinance. Krautkremer stated so they are currently in violation. Jones stated yes. Krautkremer suggested limiting number of weeks, not lit, and not out all the time, and no neon signs. Smith stated limiting square footage, no fluorescent/neon colors, and other guidelines would be worth it. Heidmann stated he would like the large portable signs to be used for businesses who could then allow charity notices as well. Jones stated the City can't regulate the content of the sign, so if they want to put on charity information, the business could. Qualley confirmed the city cannot regulate the verbiage on the signs, but you can regulate the number of days displayed.

Bob Sullivan, Wendy's, suggested putting a timeframe for number of days permitted and limit to 32 sq. ft. in size. Krautkremer stated that violations need to be made clear. Jacobson stated the ordinance has a \$100 per day fine for violations and a mechanism in place starting the first of the year. Jacobson suggested instead of sending the ordinance back to the Planning Commission for revision, to make Schaefer's large portable sign a non-conforming preexisting use and allow it. Qualley stated they can do that. Heidmann stated it should be in the record so it doesn't get lost.

Jacobson **amended motion**, seconded by Heidmann to include that Schaefer's large portable sign is permitted as a preexisting nonconforming use. Further discussion: Qualley stated that becomes part of the City Code then. Carried unanimously.

**Motion** by Jacobson, seconded by Krautkremer to authorize the summary publication for temporary signage amendment. Carried unanimously.

**ORDINANCE AMENDMENT FOR DRIVEWAYS AND PATIOS AND AMEND FEE SCHEDULE**

Jones stated this is to clear up some ambiguous verbiage in the ordinance.

**Motion** by Krautkremer, seconded by Heidmann to approve ordinance amendment and amend fee schedule for driveways and patios as presented. Carried unanimously.

**Motion** by Jacobson, seconded by Heidmann to authorize the summary publication for driveways and patios amendment. Carried unanimously.

**APPROVE JOB DESCRIPTIONS**

Hemish stated that there is an error on page two of some of the job descriptions where it lists the job as exempt. Stated page one is correct as all jobs are non-exempt. Krautkremer questioned if we can move to next meeting as he hasn't had the opportunity to review all the job descriptions. Jacobson stated he would like some verbiage in the job descriptions regarding other duties as

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assigned. Wentler stated that is covered under general definition of work with “and related work as apparent or assigned”.

**Motion** by Heidmann, seconded by Krautkremer to table approval of job descriptions until the next Council meeting. Carried unanimously.

**APPROVE 2016-17 HEALTH INSURANCE PLANS**

Hemish stated the committee recommends approval of the three plans as presented and held a staff meeting on Monday to discuss the plans. Jacobson stated the premiums increased but the plans essentially stayed the same with some minor changes. Krautkremer stated it is the cheapest rate we can get with the different levels to meet employee’s needs. Wentler questioned if other carriers were looked at. Jacobson stated yes and they were more expensive or didn’t offer in our area.

**Motion** by Jacobson, seconded by Krautkremer to approve the health insurance plans as presented effective September 1<sup>st</sup>. Carried unanimously.

**STD/LTD/LIFE AND ACCIDENT POLICY RENEWAL**

Hemish stated she has to give Sun Life 31 days written notice to cancel if the council is switching to Madison National so would like effective date of Sept. 1<sup>st</sup>. **Motion** by Jacobson, seconded by Krautkremer to approve the STD/LTD/Life and Accident policy with Madison National as presented effective Sept. 1, 2016. Carried unanimously.

**SET BUDGET MEETING DATES**

Kraus went over some dates to have budget meetings in August and September.

**Motion** by Krautkremer, seconded by Heidmann to set the preliminary budget meeting dates for Wednesday, August 24<sup>th</sup>, 31<sup>st</sup>, and September 7<sup>th</sup> at 4:00 PM. Carried unanimously. Hemish to provide Council information a week prior. Kraus requested the department heads have a 2% or less increase to budget if possible. Heidmann stated he would like to see a 3 to 4% decrease in budgets.

**SET WORKSHOP DATES**

Kraus called a special closed council meeting to discuss real estate for Wednesday, August 3<sup>rd</sup> at 6:30 PM.

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**OLD BUSINESS**

**COUNCIL REPORTS**

Kraus assigned Johnson and Jacobson to meet with the police union regarding a grievance issue.

Heidmann questioned the ditch issue along the Grand View maintenance building. Kraus stated that is handled thru Blomer's department.

Krautkremer questioned if Council has to do anything further with Gull Dam Brewing issue. Heidmann stated they were denied, so up to them to proceed further. Qualley stated they can request to be heard.

Johnson and Heidmann stated they both won't be at the August 17<sup>th</sup> council meeting. Hemish reminded council we need three members for a quorum.

Jacobson read from a flyer that was put on properties along the Fire Cracker Race route indicating the residents shouldn't park along the route including their own driveways. Council needs to address this issue next year.

**ANNOUNCEMENTS**

**Motion** by Krautkremer, seconded by Johnson to adjourn. (meeting adjourned at 9:37 PM)

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Harold Kraus, Mayor

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Laurie Hemish, Clerk