

Ely City Council Regular Meeting May 17, 2011

The Ely City Council Regular Meeting was called to order by Mayor Skraba at 6:02 p.m. on May 17, 2011 at the Ely City Hall.

PRESENT: Council members Debeltz, Nikkola, Omerza, Salerno, Shedly, Zupec and Mayor Skraba (7)

Motion by Salerno supported by Nikkola to approve the minutes of May 3, 2011 Regular Meeting as presented. Approved correction to April 28, 2011 Board of Equalization minutes as follows: 'Richard Wahlberg PID 030-0050-02480 requested classification change from duplex to single family dwelling. Motion by Debeltz supported by Zupec to direct Ben Thomas to look into the homestead classification change as requested and approved changing the property from 4B to 201 residential.' Motion carried unanimously.

ADDITIONS AND OMISSIONS TO AGENDA:

- A. Mayor's Report 5E – Fire District Study Group Meeting, May 25th 6 pm VCC (post as special mtg)
- B. Mayor's Report 5F - Chamber's City Wide Rummage Sale and Crazy Days – Fri/Sat May 20th & 21st
- C. Mayor's Report 5G - Young Life annual fundraiser –Sweet Auction May 20th @ GEL & Operation Clean Up Sun May 22nd
- D. Dept Report 9Bi – Fire Chief Monthly Report
- E. Dept Report 9Bii – Fire Chief request for monthly cell phone allowance of \$30
- F. Dept Report 9Div – Award Playground equipment bid
- G. New Business 13E – Approval Wine License for Stony Ridge
- H. New Business 13F – Resolution for Water Plant Demolition
- I. New Business 13G – Authorization to advertise for bids Disadvantaged Business Participation for FY 2011 – Ely Airport
- J. New Business 13H – Approve Disadvantaged Business Enterprise Program Plan for Ely Airport

Motion by Debeltz supported by Salerno to approve additions and omissions to the agenda A-J as listed above. Motion carried unanimously.

MAYOR'S REPORT

Mayor Skraba presented Rollie Green with the "Outstanding Service Award" given by the Minnesota Council of Airports (MCOA) on April 14, 2011 and proclaimed June 14, 2011 as Rollie Green Day in Ely, MN.

Mayor Skraba reminded everyone of the City of Ely Clean-up Day to be held at the old Public Works garage on May 28, 2011 for the residence of Ely from 8:00am to 3:00pm and the Household Hazardous Waste Collection for all of St Louis County to be held at the Ely Joint Public Works Facility on June 16, 2011 from 10:30 a.m. to 2:30 p.m.

Mayor Skraba stated there will be a Special Council Meeting on Wednesday, May 18th at the Joint Public Works Facility at 6:00 p.m. to discuss annexation.

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Motion by Debeltz and supported by Salerno to send thank you letters to Trevor Boes, Aleksy Perry and Ashton Swanson for their help in the clean-up of Miner's Dry on May 7th and to publish a "Thank You" in the paper for all of those who volunteered that day. Motion carried unanimously.

Motion by Salerno and supported by Zupec to call a special meeting of the council to attend the Fire District Study Group Meeting on May 25th at 6:00 p.m. at VCC. Motion carried unanimously.

Mayor Skraba mentioned the City Wide Rummage Sale and Crazy Days on Friday & Saturday, May 20th & 21st and he also mentioned the Young Life annual fundraiser - Sweet Auction on May 20th at the GEL with live auction starting at 7:00 p.m. and silent auction at 6:00 p.m. along with their Operation Clean Up Day on Sunday, May 22nd to raise money for the kids to attend camp.

CONSENT AGENDA:

Motion by Nikkola and supported by Salerno for the Ely Igloo Snowmobile Club to sponsor the Ely to Lake Vermilion Trail. Roll Call: Debeltz – yes, Nikkola – yes, Omerza – yes, Salerno – yes, Sheddy – yes, Zupec – yes and Mayor Skraba – yes. Motion carried unanimously.

REQUESTS TO APPEAR:

Gerald Tyler spoke on behalf of the American Legion Post 248 regarding their rental of the Community Center kitchen. He presented to the Council a Proposed Motion: 1. Ely American Legion Post 248 shall continue to have the use of the kitchen in the CC "free of charge" pursuant to that certain agreement of March 17, 1996 by and between the City of Ely and Ely American Legion Post 248; 2. Food preparation, clean-up and sanitizing of the kitchen and dining room by Legion Post 248 will be completed under the supervision of a person certified by the State of MN; 3. Legion Post 248 will forgo its claim to the \$1300 it paid the City of Ely for its previous use of the kitchen. Such amount will be applied to defray the cost of installing a dishwasher in the CC kitchen; 4. American Legion Post 248 will confer, cooperate, and advise the City of Ely as to the applicable regulations and requirements to make such improvements to the kitchen as will encourage the use of the facilities by various organizations and entities, and thereof, provide for the common good of the public.

Motion by Debeltz and supported by Zupec to accept the Proposed Motion from the American Legion Post 248 in its entirety except striking the words "pursuant to that certain agreement of March 17, 1996 by and between the City of Ely and Ely American Legion Post 248" contingent upon review and drafting a lease by Attorney Klun to be reviewed at June 21st Council meeting. Roll Call: Debeltz – yes, Nikkola – yes, Omerza – yes, Salerno – yes, Sheddy – yes, Zupec – yes and Mayor Skraba – yes. Motion carried unanimously.

Recessed at 6:44pm and reconvened at 6:49pm.

COMMITTEE REPORTS

Omerza noted the TAB meeting change to June 9th at 4:00 p.m. and the next Park and Rec meeting the first Monday of the month will be in Whiteside Park, weather permitting.

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Nikkola stated the Budget Committee meeting is moved from May 19th to May 26th.

Debeltz commented on the Liquor Commission meeting. He stated the Cemetery Gardens will be dedicated on Memorial Day after the service.

Langowski commended Commissioner Mike Forsman for his donation of his time and equipment to the Cemetery Gardens. Motion by Debeltz and supported by Omerza to send a thank you letter from the Council to Mike Forsman for all of his hard work. Motion carried unanimously.

Mayor Skraba spoke on the meetings he attended: Twin Metals office opening in St. Paul; Dick Walsh from IRRRB regarding city projects; Emergency Preparedness, next meeting in September; Alternative Energy Task Force, alternative methods of delivery for district heating; and Airport Commission.

Mayor Skraba spoke about the Boy Scouts coming to Ely on September 10th and they would like to donate two hours of their time to the City. Ideas for the 200 plus Scouts to work on were to fill in the sunken graves at the cemetery and also Trezona Trail clean-up. Director Langowski will work with the school for transportation to get the Scouts from the Scout Base to Ely.

DEPARTMENTAL REPORTS

Fire Chief

Motion by Debeltz and supported by Zupec to approve the monthly cell phone allowance of \$30 for the Fire Chief. Motion carried unanimously.

Police Chief

Chief Lahtonen stated that everyone passed their First Responders course.

City Operations Director

EUC Consent Agenda Items: The following items of business were recommended for approval at the regular EUC meeting of Wednesday, May 11, 2011:

- A. Approved proceeding with and purchasing materials for a 4" waterline for the Ely Little League field.
- B. Approved tasking the city attorney to look at rate options for the Beacon Hill electric customers.
- C. Approved purchase of 1000 lf of 4/0 URD triplex wire from Resco for \$1,474.88.
- D. Approved purchase of 13 LED street lights for Central Avenue for an additional \$2,726.10, after the refund of the returned fixtures.

Motion by Nikkola supported by Salerno to approve EUC consent agenda items A-D as presented above. Motion carried unanimously.

Motion by Debeltz to accept Forest Concrete bid. Motion failed for lack of a second.

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Motion by Nikkola and supported by Salerno to accept Seppi Brother's bid of 107.35/yd for large loads of concrete 7 yards or greater and to accept Forest Concrete bid of 108.00/yd for projects requiring 1-5 yards. Motion carried 6 to 1 with Mayor Skraba opposed.

Motion by Nikkola and supported by Omerza to accept the Work Order from RLK to do the contracted work on the 2011 Pattison St Reconstruction. Motion carried unanimously.

Motion by Nikkola and supported by Sheddy to accept the bid from Jeff Sundell for \$200 for the old playground equipment from Whiteside Park. The money will go toward the new playground equipment. Motion carried unanimously.

City Attorney

Attorney Klun received map for the Sale of Outlot C. There is no further discussion at this time.

Motion by Debeltz and supported by Sheddy to accept Lease#144-012-0687 between the DNR & the City of Ely as written and to send the Notification of the Sub-Lease to the DNR regarding the Nordic Ski Association. Motion carried unanimously.

Motion by Debeltz and supported by Nikkola to accept the first reading of Ordinance 243, 2nd Series Amending Section 2.04 of the City Charter of the City of Ely as presented. Roll Call: Debeltz – yes, Nikkola – yes, Omerza – yes, Salerno – yes, Sheddy – yes, Zupec – yes and Mayor Skraba – yes. Motion carried unanimously.

ORDINANCE NO. 243, 2nd Series

AN ORDINANCE OF THE CITY OF ELY, MINNESOTA, AMENDING SECTION 2.04 OF THE CITY CHARTER OF THE CITY OF ELY

THE COUNCIL OF THE CITY OF ELY DOES HEREBY ORDAIN:

SECTION 1. Section 2.04 of the Charter of the City of Ely, Minnesota, is hereby amended as follows:

Section 2.04 Vacancies.

An elective office becomes vacant when the person elected or appointed thereto dies or fails to qualify before taking office, or the incumbent dies, resigns in writing filed with the city clerk-treasurer, is convicted of a felony, ceases to reside in the city, or is adjudged incompetent by a court of competent jurisdiction. In each such case THE COUNCIL shall forthwith, by resolution, declare the vacancy to exist. If the next municipal election is within one year of the date of declaring the vacancy, THE COUNCIL shall forthwith appoint an eligible person to fill the vacancy, until the next municipal election, when the office shall be filled by election for the unexpired term. If the vacancy is declared more than one year prior to the next municipal election, THE COUNCIL shall forthwith, by resolution, order a special election for the unexpired term and provide all means for holding ~~it~~ said special election. The clerk-treasurer shall give at least two weeks published notice of a special election. The procedure at such election shall conform as nearly as possible to that prescribed for other city elections. The special election shall take place, as far as practical, within ninety (90) days of declaring the council seat vacant.

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SECTION 2. Effective Date: Pursuant to Section 3.08 of the Charter of the City of Ely, Minnesota, the adoption of this Ordinance is effective ninety (90) days after final adoption and publication.

Motion by Salerno and supported by Debeltz to accept the first reading of Ordinance 244, 2nd Series Amending Section 6.01 of the City Charter of the City of Ely as presented. Roll Call: Debeltz – yes, Nikkola – yes, Omerza – yes, Salerno – yes, Sheddy – yes, Zupec – yes and Mayor Skraba – yes. Motion carried unanimously.

ORDINANCE NO. 244, 2nd Series

**AN ORDINANCE OF THE CITY OF ELY, MINNESOTA,
AMENDING SECTION 6.01 OF THE CITY CHARTER OF THE CITY OF ELY**

THE COUNCIL OF THE CITY OF ELY DOES HEREBY ORDAIN:

SECTION 1. Section 6.01 of the Charter of the City of Ely, Minnesota, is hereby amended as follows:

Section 6.01 Administrative, Officers & General Provisions.

THE COUNCIL may appoint, at its discretion, for a two (2) year term, the following administrative officers: city clerk-treasurer and; city attorney, ~~city assessor and superintendent of public works~~. THE COUNCIL may also appoint, at its discretion, for a two (2) year term, a police chief, a fire chief and an operations director. ~~general manager for the Ely Utilities Commission~~. THE COUNCIL shall fix such compensation for each administrative officer as will secure competent and faithful performance of the duties thereof. THE COUNCIL shall have the power to authorize the appointment or employment of such deputies, assistants or other personnel as the proper management of each administrative office may require.

SECTION 2. Effective Date: Pursuant to Section 3.08 of the Charter of the City of Ely, Minnesota, the adoption of this Ordinance is effective ninety (90) days after final adoption and publication.

Motion by Debeltz and supported by Nikkola to accept the first reading of Ordinance 245, 2nd Series Amending Section 6.02 of the City Charter of the City of Ely as presented. Roll Call: Debeltz – yes, Nikkola – yes, Omerza – yes, Salerno – yes, Sheddy – yes, Zupec – yes and Mayor Skraba – yes. Motion carried unanimously.

ORDINANCE NO. 245, 2nd Series

**AN ORDINANCE OF THE CITY OF ELY, MINNESOTA,
AMENDING SECTION 6.02 OF THE CITY CHARTER OF THE CITY OF ELY**

THE COUNCIL OF THE CITY OF ELY DOES HEREBY ORDAIN:

SECTION 1. Section 6.02 of the Charter of the City of Ely, Minnesota, is hereby amended as follows:

Section 6.02 City Clerk-Treasurer; Powers and Duties.

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The city clerk-treasurer shall be a full time officer of the city and during this term shall hold no other regular employment or engage in any other business or profession during regular city office hours.

(a) Experience Required. The city clerk-treasurer shall have clerking and accounting experience or such other experience as the appointing council may deem equivalent.

(b) Duties.

- Administration
- Statutory Clerk Duties
- Statutory Treasurer Duties
- Supervision of Department Employees
- External Communications/Relations
- Coordination with Other Departments
- Community and Economic Development
- And all other job duties and responsibilities as reflected in the job

description on file.

~~In addition to the duties prescribed in other provisions of this charter, the city clerk-treasurer shall keep the corporate seal of the city and all papers and records thereof except as herein otherwise provided. He/she shall attend all meetings of THE COUNCIL and keep a record of all proceedings thereof and shall be the sole purchasing agent of the city. He/she shall have the supervision over all printing and publication ordered by THE COUNCIL or required under this charter and shall cause to be published in the official paper the minutes of all proceedings of THE COUNCIL as soon after each meeting as is practicable after their final passage and shall perform such duties as may be required of him/her by the laws of this state or by THE COUNCIL.~~

~~—————The city clerk-treasurer shall receive and safely keep all money belonging to or accruing to the city and its departments. He/she shall be the custodian of all bonds, certificates of indebtedness or other securities held by the city or its departments and shall maintain records of bonds and coupons, paid and unpaid, and a file of those cancelled and paid. Upon receipt of any money he/she shall credit it to the various funds which THE COUNCIL or this charter shall have established. Such money shall be deposited daily in the name of the city to the order of the city clerk-treasurer in depositories designated by THE COUNCIL. Upon an authorized order properly drawn and countersigned, the city clerk-treasurer shall pay out money of the city and its departments. The city clerk-treasurer shall draw, sign, and issue all orders on municipal funds as directed by THE COUNCIL and shall keep a full and accurate account of the orders so drawn by him/her on the various city funds and books provided for that purpose. Said books shall show to whom and for what purpose the same are drawn.~~

~~—————The city clerk-treasurer shall keep regular books of accounts which shall show at all times the precise financial condition of the city and the various departments thereof, a record of all receipts and disbursements, and all bonds, orders, warrants, or other evidence of indebtedness of the city and its departments which have been redeemed and the amount of each outstanding. Said books shall contain separate accounts for the various funds of the city and the amount, date, and purpose of each appropriation made by THE COUNCIL and all payments made on account of the same. The city clerk-treasurer shall cause a summary of such financial statement to be published once in a legal and qualified newspaper within the city prior to May 1 of each year.~~

~~—————The city clerk-treasurer shall also prepare a monthly statement of outstanding debts including certificates of indebtedness, bills payable, warrants, and the bonded debt, and date of~~

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~~maturity thereof and any other information that may be necessary to show the true financial condition of the city. Each month a statement shall be submitted to THE COUNCIL revealing the amounts received and disbursed in each fund of the city and its departments and the balance of such funds.~~

~~—The city clerk treasurer shall maintain a system which will give him/her control over all purchases over \$500.00 by all departments of the city in accordance with Section 6.05, herein.~~

~~—The city clerk treasurer shall attest to the signature of the mayor to all contracts and affix the seal of the city thereto and deliver the same to the proper officer or party.~~

SECTION 2. Effective Date: Pursuant to Section 3.08 of the Charter of the City of Ely, Minnesota, the adoption of this Ordinance is effective ninety (90) days after final adoption and publication.

Motion by Salerno and supported by Debeltz to accept the first reading of Ordinance 246, 2nd Series Removing Sectin 6.04 of the City Charter of the City of Ely as presented. Roll Call: Debeltz – yes, Nikkola – yes, Omerza – yes, Salerno – yes, Sheddy – yes, Zupec – yes and Mayor Skraba – yes. Motion carried unanimously.

ORDINANCE NO. 246, 2nd Series

**AN ORDINANCE OF THE CITY OF ELY, MINNESOTA,
REMOVING SECTION 6.04 OF THE CITY CHARTER OF THE CITY OF ELY**

THE COUNCIL OF THE CITY OF ELY DOES HEREBY ORDAIN:

SECTION 1. Section 6.04 of the Charter of the City of Ely, Minnesota, is hereby removed as follows:

~~Section 6.04—City Assessor, Powers & Duties.~~

~~The city assessor shall meet the qualifications for an assessor as provided for in applicable Minnesota Statutes. The city assessor shall make a fair and equitable valuation of all taxable property in the city according to the tax laws of the State of Minnesota. Assessments may be revised, in the interest of fairness, by the Board of Equalization of THE COUNCIL established in accordance with the laws of this state. The city assessor shall perform such duties as may be requested by the Laws of the State of Minnesota or THE COUNCIL.~~

SECTION 2. Effective Date: Pursuant to Section 3.08 of the Charter of the City of Ely, Minnesota, the adoption of this Ordinance is effective ninety (90) days after final adoption and publication.

Motion by Sheddy and supported by Nikkola to accept the second reading of Ordinance 242, 2nd Series adding to the Ely City Code Chapter 16, Sections 16.01 through 16.23, related to the Licensing of Rental Dwellings as presented to be effective upon publication after council approval of minutes at next meeting. Roll Call: Debeltz – yes, Nikkola – yes, Omerza – yes, Salerno – yes, Sheddy – yes, Zupec – yes and Mayor Skraba – yes. Motion carried unanimously.

ORDINANCE NO. 242, 2nd Series

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AN ORDINANCE OF THE CITY OF ELY, MINNESOTA, ADDING TO THE ELY CITY CODE, CHAPTER 16, SECTIONS 16.01 THROUGH 16.23, RELATED TO THE LICENSING OF RENTAL DWELLINGS.

THE COUNCIL OF THE CITY OF ELY DOES HEREBY ORDAIN:

SECTION 16.01. PURPOSE. It is the purpose of this Ordinance to protect the public health, safety and welfare of citizens of the City by adopting a Rental Dwelling inspection and maintenance program that corrects substandard conditions, maintains a standard for existing and newly constructed Rental Dwellings, and ensures neighborhood stability in the City. The operation of rental properties is a business enterprise that includes certain responsibilities. Rental Owners, Operators and Managers are responsible to take such reasonable steps as are necessary to ensure that the citizens who occupy such rental units, as well as neighboring properties, may pursue the quiet enjoyment of the normal activities of life in surroundings that are safe, secure, and sanitary, free from noise, nuisances and annoyances, and free from unreasonable fears about safety of persons and property.

SECTION 16.02. DEFINITIONS. Words used in this Ordinance shall have the following meanings unless otherwise defined in this Ordinance.

- (1) "Apartment" means a community, complex or building having a common Owner and containing at least one Rental Dwelling Unit.
- (2) "City Approved Inspector's Report" or "Inspection Report" means a Rental Dwelling inspection report prepared and signed by a City rental housing inspector or inspector contracted by the City to conduct an inspection and provide a report to the City.
- (3) "Building Official" means the City of Ely Building Official or his or her designee.
- (4) "Dwelling" means a building or one or more portions of a building occupied or intended to be occupied for residential purposes of a continued nature.
- (5) "Let for Occupancy" or to "Let" or to "Rent" means to permit possession or occupancy of a Dwelling or Rental Dwelling Unit by a person who is not the legal Owner of record thereof, pursuant to a written or unwritten lease.
- (6) "Occupant" means any person occupying, living, or sleeping or having possession of a space within any structure, building, dwelling, dwelling unit or premises.
- (7) "Operate" means to charge a rental charge, fee or other form of compensation for the use of a Rental Dwelling Unit.
- (8) "Operator" or "Manager" means any person who has charge, care or control of a structure or premises that is Let or offered for Occupancy.

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(9) "Owner" or "Licensee" means any person having a legal or equitable interest in the property or recorded in the official state, county or City records as holding title to the property or otherwise having control of the property.

(10) "Person" may be an individual, corporation, firm, association, company, partnership, organization or any other group acting as a unit.

(11) "Rental Dwelling" means any Dwelling used for residential occupancy by one or more Persons who are not the Owner or a member of the Owner's immediate family.

(12) "Rental Dwelling Unit" means any room or rooms, or space, in any Rental Dwelling designed or used for residential occupancy by one or more Persons who are not the Owner or a member of the Owner's immediate family.

(13) "Tenant" means any person occupying a dwelling unit or having possession of a space within a dwelling unit who pays, in any manner, for the right to occupy such space.

SECTION 16.03. LICENSE REQUIRED.

(1) General Rule. No Person may operate a Rental Dwelling or Rental Dwelling Unit in the City without a license for each building.

(2) Exceptions.

(a) These rental licensing requirements do not apply to residential property that has been sold on a contract for deed or has been sold as rent to own so long as the Purchaser occupies the property and the sale document used to memorialize the sale is in the form of a uniform conveyance or is recorded with the St. Louis County Recorder's office and a copy is provided to the City upon request.

(b) These rental licensing requirements do not apply to residential property that is occupied by the Owner and two or less tenants where the Owner and the tenants share all living space within the dwelling.

(c) These rental licensing requirements do not apply to residential property that is owned by a person commonly referred to as a "Snowbird" when the property is rented to another person for a period of less than 120 consecutive days. The Owner must occupy the property during the remainder of the year.

(d) Rental licensing fees and conversion fees do not apply to residential property owned by a member of the armed services who is on active duty and the property is rented to another person during the time of active duty. The Owner must provide the City with a copy of the owner's military orders and must occupy the property when not on active duty as the owner's primary residence.

(3) Application Requirements. An owner of a rental dwelling or rental dwelling unit must complete an application on an official application form provided by the City and submit the required application fee. Renewal applications may be submitted on a simplified renewal form provided by

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the City. The City Building Official must be notified in writing within 30 days of any changes to the information provided on the application. Applications must include the following information at a minimum:

- (a) The name, address, telephone number and date of birth of the Property Owner.
- (b) The name, address, telephone number and date of birth of a designated local agent if the Owner resides outside of the City Limits.
- (c) The name, address, telephone number, and date of birth of the seller and purchaser if the property is in the possession of a Purchaser under a contract for deed when the contract has not been recorded with the St. Louis County Recorder's Office.
- (d) The local address of the rental dwelling and the number of rental dwelling units within the dwelling.

(4) Property Contact Information. For single-family residential dwellings, the license applicant must provide 24 hour contact information for one person in any of the following categories. For all other types of dwellings, the license applicant must provide 24 hour contact information for two people in any of the following categories:

- (a) At least one Owner of the Rental Dwelling or Rental Dwelling Unit;
- (b) At least one person, if different from the Owner, who is responsible for compliance with this and any other Code requirement pertaining to the Rental Dwelling or Rental Dwelling Unit, such as a property manager, who resides within a 10 mile radius of the City of Ely.
- (c) Any of the Owner's agents responsible for management of the Rental Dwelling or Rental Dwelling Unit, such as a property management company and the name and contact information of a person at the property management company.
- (d) Any Sellers and all Purchasers, if the Rental Dwelling or Rental Dwelling Unit is being sold pursuant to a contract for deed that is not recorded with the St. Louis County Recorder's Office.

(5) Number and Type of Units. The license application must contain the number of units and types of units (condominium, apartment, townhome, etc.) within the Rental Dwelling.

(6) Inspection Report. The license application must be accompanied by a satisfactory City Inspection Report, including an applicable inspection fee. Rental Dwellings with more than four units will be inspected on a schedule between one and four years. Rental Dwellings with less than four units will be inspected on a schedule between one and three years. The City Building Official will adopt an inspection schedule for rental dwellings taking into account the property's inspection history, history of compliance with Federal, State and Local Law, and the history of inspections, property maintenance violations, and other code enforcement violations at the Property.

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SECTION 16.04 PROVISIONAL LICENSE. The City Building Official may issue a provisional license to the owner of a rental dwelling who has submitted an application and paid the license fee required by this chapter. A provisional license shall authorize the continued occupancy of rental dwelling units in actual existence on the effective date of this chapter, pending issuance of a rental dwelling license. A provisional license shall authorize the continued occupancy of dwelling units converted to rental usage after the effective date of this chapter, which shall be inspected pursuant to this Chapter. A provisional license indicates only that the owner has submitted an application for a license and paid the required fee, and that the license shall be issued or denied after the building has been inspected for compliance with the minimum standards set forth in this chapter. A provisional license is not a determination that the building complies with the minimum standards set forth in this chapter.

SECTION 16.05 ADMINISTRATIVE CHARGE. Failure to obtain either a provisional license as required by this section, or an operating license, will subject the owner of a dwelling unit to an administrative service charge up to two hundred fifty dollars (\$250.00).

SECTION 16.06. CHANGES IN OWNERSHIP. A license is non-transferable. If there is a change in the Ownership of the Rental Dwelling or Rental Dwelling Unit the license automatically expires. The new owner must obtain a license under this Chapter prior to the change in ownership.

SECTION 16.07. CHANGES IN THE RENTAL DWELLING OR RENTAL DWELLING UNIT. If changes are made in the number or type of units within the licensed premises, the Owner shall file an application to amend its license. Depending on the nature of the changes, the City may require a new property inspection.

SECTION 16.08. ANNUAL LICENSE. Persons wishing to let Rental Dwellings or Rental Dwelling Units must make an annual application to the City, provide the information required by this Section and pay the annual license fee of one hundred dollars (\$100.00), which may be modified by City Council resolution. Licenses are valid for one year from the date of issuance.

SECTION 16.08. NOTIFICATION REQUIREMENTS FOR PUBLIC HEARINGS. The Owner must, as a continuing obligation of the license, provide written notice to tenants or in the alternative, post the written notice in the lobby or common area of the Rental Dwelling for any public hearing received by the Owner that pertains to the property on which the Rental Dwelling is located or any adjacent rights of way.

SECTION 16.09. DISPLAY OF LICENSE CERTIFICATE. For buildings containing more than four Dwelling Units, the rental license certificate must be displayed in the lobby or other common area visibly accessible to all tenants of the licensed building. The license certificate must be encased in a frame with a clear glass or plastic surface over the certificate and must be mounted securely to a wall. For buildings containing four or less units the Licensee must provide a copy of the rental license certificate to each tenant by attaching the copy to the Tenant's copy of the executed lease agreement.

SECTION 16.10. COMPLIANCE WITH MINN. STAT. §21IB.20. Owners must comply with the requirements of Minn. Stat. §21IB.20 and allow access to candidates who have filed for election to public office and seek admittance to the Rental Dwelling solely for the purpose of campaigning.

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SECTION 16.11. RESPONSIBILITY FOR ACTS OF MANAGER. Licensees are responsible for the acts or omissions of their Managers as it pertains to the Rental Dwelling.

SECTION 16.12. MAINTENANCE STANDARDS.

(1) Maintenance. It is the responsibility of the Licensee to assure that every Rental Dwelling and Rental Dwelling Unit is maintained in compliance with all City Ordinances and state laws. A violation of any of the following laws and Ordinances constitutes a Public Nuisance and may be abated under the provisions of the Public Nuisance code: 10.27.

(2) Snow and Ice Removal. Rental facilities containing more than four dwelling units must remove snowfalls of four inches or more, or successive snowfalls accumulating to a depth of one inch or more, from all walkways, sidewalks and steps within 12 hours of cessation of the snowfall. Rental facilities containing more than four units must remove snowfalls of four inches or more, or successive snowfalls accumulating to a depth of four inches or more from parking aisles, parking areas and drives within 72 hours of cessation of the snowfall.

(3) Inspections. The Building Official, Building Inspector, Fire Department personnel, police officers and their respective representatives are authorized to make inspections reasonably necessary to enforce this Section. All authorized inspectors have the authority to enter any Rental Dwelling or Rental Dwelling Unit at all reasonable times. Pursuant to Minnesota Statutes, Section 504B.211, the Owner, Manager, or Local Agent is responsible for scheduling the inspection and notifying any existing tenant of the inspection. If the Owner, Manager, or Local Agent is unwilling to consent to the inspection, an administrative warrant may be obtained allowing the Building Official to conduct the inspection. Nothing in this chapter shall preclude a limiting of the scope of the administrative warrant by a judicial officer.

(4) Access by Occupant. Each Occupant of a Rental Dwelling or Rental Dwelling Unit shall give the Owner, the Owner's agent or authorized City official access to any part of such Rental Dwelling or Rental Dwelling Unit at reasonable times for the purpose of inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this Ordinance. If the Occupant is unwilling to consent to the inspection, an administrative warrant may be obtained allowing the Building Official to conduct the inspection. Nothing in this chapter shall preclude a limiting of the scope of the administrative warrant by a judicial officer. Entry under this Section is subject to Minnesota Statutes, Section 504B.211 (Residential Tenant's Right to Privacy) as amended.

(5) Inspection Fee. There shall be a onetime fee of fifty dollars (\$50.00) for inspections of a single unit and an additional onetime fee of twenty dollars (\$20.00) incurred for any subsequent units inspected within the same Dwelling. These fees apply to all inspections performed under this section.

(6) Costs of Obtaining Warrant. If the City finds it necessary to obtain an administrative warrant to enter the property for inspection due to the property owner, operator, person in charge, or occupant's lack of cooperation, said person or persons may

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also be charged with all costs of obtaining the warrant, including court costs and attorney's fees.

SECTION 16.13 NOTICE OF NONCOMPLIANCE; COMPLIANCE ORDER. When the Building Official or Inspector of any rental dwelling unit, or the premises surrounding any of these, fails to meet requirements of the City Code or the Minnesota Statutes, the City Building Official may issue a compliance order setting forth the violations of the code and ordering the owner, occupant, operator, or agent to correct such violations.

(1) Form of Compliance Order. The compliance order must:

- (a) Be in writing;
- (b) Describe the location and nature of the violations;
- (c) Establish a reasonable time, not to exceed 90 days, for the correction of such violations.
 - i. When a violation constitutes an imminent peril to life, health, or property, an immediate and exact time for the correction of the violation constitutes a "reasonable time" for correction for purposes of this subpart. When this is the case, no stay of proceedings in furtherance of action will be granted on appeal.
 - ii. A reasonable time may be longer than 90 days if correction is not possible because of prevailing weather conditions;
- (d) Include information regarding the owner's right to appeal the order and the procedure to be followed in filing such an appeal;
- (e) State that in the event the violations are not corrected within the time set in the compliance order, the license may be suspended or that the necessary work may be performed by the City at the expense of the owner and that if the owner does not pay for the expense, the cost of the work will be assessed against the property.

(2) Service of Order: Be served upon the owner or his agent or the occupant, as the case may require. Such notice shall be deemed to be properly served upon such owner or agent, or upon any such occupant, if a copy thereof is:

- (a) Served personally, or
- (b) Deposited in the U.S. Post Office addressed to the owner at his last known address with postage prepaid, or
- (c) Upon failure to affect notice by personal service or by mail, posted at a conspicuous place in or about the dwelling which is affected by the notice.

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(3) Follow-up Inspection. At the end of the period allowed for the correction of a violation specified in the compliance order, the Building Official shall make, or attempt to make, a follow-up inspection of the premises to determine whether corrective actions have been sufficient to bring the violation(s) into compliance.

(a) If the premises are in compliance with the requirements of this section at the time of the follow-up inspection, a license may be issued in accordance with the requirements of section 4.31.

(b) If the Building Official determines that the violation(s) has not been corrected and the rental unit(s) has not been vacated, the Building Official shall suspend any existing license. The Building Official also may issue a citation or may file a formal complaint summoning the responsible party into court. The citation shall reiterate the charge and the ordinance section(s) violated. The City may also take action to correct violations under the provisions of section 4.31, subdivision 2, paragraph 9.

(c) After a suspension, the property owner may pay a re-inspection fee and request a re-inspection and reinstatement of the license. If the Building Official determines that the violation(s) has been corrected and the rental unit(s) and building comply with HMC, the license shall be reinstated.

(4) Execution of Compliance Orders. Upon the failure to comply with a compliance order within the time set therein, the rental unit(s) not being vacated, and no appeal having been taken, the criminal penalty established hereunder notwithstanding, the City Council may by resolution direct the Building Official to remedy the deficiency (deficiencies) cited in the compliance order. The cost of such remedy shall be a lien against the subject real estate and may be levied and collected as a special assessment in the manner provided by Minnesota Statutes, Chapter 429. Such action will not be taken, however, without a good faith effort on the part of the City to provide the property owner with advance notice of its intention to proceed with repairs and assessment of the costs of repairs to taxes.

(5) Appeal. If the Building Official suspends a license under this section the property owner may appeal the decision to the City Council.

SECTION 16.14 LICENSE DENIAL, SUSPENSION, OR REVOCATION.

(1) Grounds for Denial, Suspension or Revocation. The City Building Official may deny or not renew and the City Council may revoke or suspend a license for any of the following reasons that shall also constitute a violation of this ordinance:

(a) The use of the property does not conform to the Zoning Ordinance;

(b) The use does not comply with a health, building, maintenance, or other provisions of the City Code or State Law;

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- (c) The applicant has failed to pay the license fee, inspection fees, the investigation fee, or has failed to pay a fine that has been imposed;
- (d) The applicant has made fraudulent statements, misrepresentations, or false statements in the application or investigation, or in any information required by this chapter;
- (e) Conviction of any crime related to the business licensed and failure to show, by competent evidence, rehabilitation and present fitness to perform the duties of the business;
- (f) Operating or allowing the rental property to be used in such a manner as to constitute a breach of the peace, a menace to the health, safety, and welfare of the public, or a disturbance of the peace or comfort of the residents of the City, upon Recommendation of the Police Chief;
- (g) Actions unauthorized or beyond the scope of the license granted;
- (h) The applicant's license has been denied, revoked, or suspended by the City, the State, or another governmental unit
- (i) Failure to continuously comply with all conditions required as precedent to the approval of the license;
- (j) Real estate or personal property taxes on the business have become delinquent and the property owner and the applicant are the same person or entity, or have any common ownership where they are a different person or entity;
- (k) Violation of any regulation or provision of the City Code or Zoning Ordinance applicable to the activity for which the license has been granted, or any regulation or state law that may be applicable;
- (l) Failure to actively pursue the eviction of tenants who have violated the provisions of the crime free lease addendum or who have otherwise created a nuisance in violation of the provisions of the written lease; and
- (m) Other good cause as determined by the City Council.

(2) Process for consideration suspension, revocation, denial or non-renewal.

- a. No action will be taken by the City Council to revoke, suspend, deny, or not renew a rental license without a public hearing and written notice of that hearing is sent to the property owner a minimum of twenty (20) calendar days notice of the time and place of the hearing and must state the grounds for the proposed suspension or revocation of the license. The notice may be served upon the licensee personally or by leaving the notice at the licensed premises with the designated Manager, or by certified mail to the address listed on the license application.

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- b. A hearing will be conducted before the City Council at a public meeting. The licensee shall have the right to be represented by Counsel, the right to respond to the charged violations, and the right to present evidence through witnesses. The rules of evidence do not apply to the hearing and the City Council may rely on all evidence it determines to be reasonably credible. The determination to suspend or revoke the license shall be made upon a preponderance of the evidence. It is not necessary that criminal charges be brought in order to support a suspension, revocation of a license nor does the dismissal or acquittal of such a criminal charge operate as a bar to suspension revocation under this Section.
 - c. The Council shall give due regard to the frequency and seriousness of the violations, the ease with which such violations could have been cured or avoided and good faith efforts to comply.
 - d. The Council shall issue a decision to revoke, suspend, deny or not renew a rental license only upon written findings.
 - e. Upon a decision to revoke, suspend, deny or not renew a license, no new application for the same facility will be accepted for a period of time specified in the Council's written decision, not exceeding one (1) year. Such new applications shall be accompanied by a reinstatement fee as required by this Article.
 - f. The Council may suspend, revoke, deny or not renew a license for part or all of a facility.
 - g. A written decision to revoke, suspend, deny or not renew a license or application for part of a facility shall specify the part or parts of the facility to which it applies. Thereafter, and until a license is reissued or reinstated, no rental units becoming vacant in such part or parts of the facility may be re-let or occupied.
 - i. Revocation, suspension, denial or non-renewal of a license shall not excuse the owner from compliance with all terms of this chapter for as long as any units in the facility are occupied.
 - ii. Failure to comply with all terms of this chapter during the term of revocation, suspension, denial or non-renewal is a misdemeanor and grounds for extension of the term of such revocation or suspension or continuation of non-renewal, or for a decision not to reinstate the license, notwithstanding any limitations on the period of suspension, revocation, denial or non-renewal specified in the City Council's written decision.
- (3) Appeal of Decision to Deny or not Renew License.** If the City Building Official denies or does not renew an application he/she shall notify the applicant in writing, specifying the reasons for denying or not renewing the license. If the applicant corrects the conditions leading to the denial or non-renewal within seven days, the Building Official shall issue the license. An applicant whose license application has been denied or not renewed by the Building Official may appeal the decision by filing with the City Clerk written notice of appeal within 7 days of receiving notice of the City's decision. The hearing will be conducted pursuant to 16.14.
- (4) Notification to Tenants.** Upon denial, suspension, revocation other enforcement action of a license, the City will notify all affected tenants of the action against the license. If the

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license is revoked or suspended the Licensee may not let, rent or allow to be occupied any vacant units, or units that become vacant during the revocation or suspension period.

SECTION 16.15 Reinstatement fee. A fee of two hundred dollars (\$200.00) must accompany any application for reinstatement of any license or provisional license that has been denied, revoked or suspended if the applicant is a new owner of the property. If the applicant for reinstatement was the owner of the property when the license or provisional license was denied, revoked or suspended a fee of five hundred dollars (\$500.00) must accompany any application for reinstatement.

SECTION 16.16 Summary Action.

(1) Emergency. When the conduct of any Owner or Owner's agent, representative, employee or lessee, or the condition of the Rental Dwelling or Rental Dwelling Unit, or the property in or on which it is located, is detrimental to the public health, sanitation, safety and general welfare of the community, or residents of the Rental Dwelling or Rental Dwelling Unit so as to constitute a nuisance, fire hazard, or other unsafe or dangerous condition and thus give rise to an emergency, the Building Official has the authority to summarily condemn or close individual Rental Dwelling Units or areas of the Rental Dwelling as the Building Official deems necessary, or may take other action to protect the residents and general public as deemed necessary.

(2) Notice. Notice of summary action will be mailed to the licensee and posted at the units or areas affected and will describe the units or areas affected. No person shall remove the posted notice, other than the Building Official or a designated representative.

(3) Costs. If the building is not condemned or closed pursuant to this section, the costs of any services performed by the City to prevent the condemnation or closure of the building may be levied against the property as a special assessment.

(4) Appeal. Any person aggrieved by a summary action of the Building Official shall be entitled to appeal to the City Council by filing a notice of appeal with the City Clerk within five days of the summary action. The City Clerk must schedule a date for hearing before the City Council and notify the aggrieved person of the date. The hearing will be conducted pursuant to Section 16.1.

SECTION 16.17. Posted To Prevent Occupancy. Whenever any Rental Dwelling or Rental Dwelling Unit is found to be hazardous or unfit for human habitation, it shall be posted by the Building Official on the door of the Rental Dwelling or Rental Dwelling Unit, whichever the case may be, to prevent further occupancy. No person, other than the Building Official, shall remove or alter any posting. The Building Official will post the date the Rental Dwelling or Rental Dwelling Unit shall be vacated and no person shall reside in, occupy or cause to be occupied that Rental Dwelling or Rental Dwelling Unit until the Building Official or Council permits it.

SECTION 16.18. Falsely Reporting Violations. No person shall report a violation of this chapter knowing or having reason to know that the report is false with the intent to affect the licensing status or inspection schedule of the property.

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SECTION 16.19. Violations. In addition to any other sanctions or administrative penalties imposed, any violation of this chapter shall constitute a misdemeanor offense, punishable as defined by State Law. Each day of violation constitutes a separate offense.

SECTION 16.20. No Warranty By City. By enacting and undertaking to enforce this Ordinance, neither the City nor its Council, agents or employees warrant or guaranty the safety, fitness or suitability or any Rental Dwelling or Rental Dwelling Unit in the City. Owners and occupants should take appropriate steps to protect their interests, health, safety and welfare.

SECTION 16.21. Severability Clause. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter.

SECTION 16.22. Remedies in this chapter not exclusive. The remedies provided in this chapter are not exclusive. They are in addition to, and do not supersede or preempt, other remedies such as condemnation, written violation orders and warnings, criminal charges for violation of substantive provisions of any city or state code relating to housing maintenance, fire safety, building codes, zoning, health, and the like. Further, the remedies in this article do not supersede or affect the legal rights and remedies of tenants provided under state law or this Code.

SECTION 16.23. Effective Date: Pursuant to Section 3.08 of the Charter of the City of Ely, Minnesota, the adoption of this Ordinance is effective immediately after final adoption and publication.

First Reading: May 3, 2011
Adopted this 17th day of May, 2011.

Second Reading: May 17, 2011

Mayor Skraba noted the Sky Warn- Storm watcher group will meet May 23rd at VCC Room 104.

City Engineer

Daryl Maninga brought the contracts for signing by the Mayor and the Clerk for the Old Water Treatment Plant Demolition which is scheduled to begin on June 6th.

COMMUNICATIONS

Special Council Meeting correction on the date. They will meet on Tuesday, June 14, 2011 at 6:00pm to review the 2010 audit report. Also, EUC members were invited to attend.

Motion by Nikkola and supported by Sheddy to approve the Shagawa Pines (Latourell) platting deadlines extension which was granted by P&Z. Motion carried unanimously.

CLAIMS FOR PAYMENT

- A. City and EUC claims for May, 2011 - \$375,419.53
- B. U S Bank – GO Crossover refunding Bonds of 2003, Inv#2847151 - \$431.25
- C. Seagrave Fire Apparatus, LLC – Repairs to Chassis – Inv#0068901 - \$8,796.82

Motion by Debeltz supported by Zupec to approve payment of claims A-C as listed above.
Motion carried unanimously.

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OLD BUSINESS

Motion by Salerno and supported by Debeltz to waive readings in entirety of all ordinances and resolutions on tonight's agenda. Motion carried unanimously.

Motion by Omerza and supported by Salerno to approve Jewell Designs, Inc dba Organic Roots to sell Strong Beer and approve application of 3.2% License. Roll Call: Debeltz – yes, Nikkola – yes, Omerza – yes, Salerno – yes, Sheddy – yes, Zupec – yes and Mayor Skraba – yes. Motion carried unanimously.

St. Louis County land classification of tax forfeited parcels was tabled until June 7th Meeting.

NEW BUSINESS

Motion by Debeltz and supported by Zupec to approve the TKDA Design Contract and to authorize advertisement for bids – Airport 2011 CIP, Crack Seal and Roof. Motion carried unanimously.

Motion by Salerno and supported by Sheddy to appoint Muriel Kovall to the HRA Board as public housing resident board member. Motion carried unanimously.

Motion by Debeltz and supported by Zupec to approve the Resolution setting City of Ely 2011 Fee Schedule with the addition of Demolition Permit fee - \$60.00. Roll Call: Debeltz – yes, Nikkola – yes, Omerza – yes, Salerno – yes, Sheddy – yes, Zupec – yes and Mayor Skraba – yes. Motion carried unanimously.

Communication Policy regarding Social Media for City Employees will be review by Attorney Klun.

Motion by Omerza and supported by Sheddy to approve the Wine License for Stony Ridge. Roll Call: Debeltz – abstain, Nikkola – yes, Omerza – yes, Salerno – yes, Sheddy – yes, Zupec – yes and Mayor Skraba – yes. Motion carried unanimously.

Motion by Debeltz and supported by Zupec to approve the Resolution of the Declaration of Covenants and Restrictions for the Water Treatment Plant Demolition. Roll Call: Debeltz – yes, Nikkola – yes, Omerza – yes, Salerno – yes, Sheddy – yes, Zupec – yes and Mayor Skraba – yes. Motion carried unanimously.

Motion by Salerno and supported by Debeltz to authorize to advertise for bids on Disadvantaged Business Participation for FY2011 – Ely Airport. Motion carried unanimously.

Motion by Debeltz and supported Omerza to approve the Disadvantaged Business Enterprise Program Plan for the Ely Airport. Motion carried unanimously.

OPEN FORUM

Duane Whalen asked where the special meeting tomorrow night was being held which is at the Joint Public facility.

Mike Jankovec spoke regarding his contract between the City of Ely and Ely TV.

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Angela Campbell introduced Vicky Hallin visiting Council member from Princeton, MN who then introduced herself to the Council.

Marty Breaker spoke regarding Memorial Day and also on behalf of the American Legion Post 248 and the group's Community Center rental and the use of kitchen.

Motion by Debeltz and supported by Zupec to recognize Memorial Day and the people that sacrificed their lives for us to be here. Motion carried unanimously.

Motion by Omerza supported by Sheddy to adjourn meeting at 7:50 p.m. Motion carried unanimously.

Terri Boese
Clerk/Treasurer