



CITY OF BAYPORT

294 NORTH 3RD STREET
BAYPORT, MN 55003

CITY COUNCIL WORKSHOP

City Hall - Council Chambers

July 1, 2013

4:30 – 5:00 p.m.

***** Please note: There will be no public comment taken at the workshop. *****

CALL TO ORDER

BUSINESS

- Review options to help facilitate economic development related to a water main extension and installation of an internal fire sprinkler system for the commercial building located at 243 3rd Street North

ADJOURN

ECKBERG LAMMERS
MEMORANDUM

TO: Bayport City Council

FROM: Andy Pratt, City Attorney

CC: Sara Taylor, Acting City Administrator

DATE: June 26, 2013

RE: Financing Options for Public Improvement Projects

Background

At the June 3, 2013 regular Council meeting, Christopher Most, son of property owners Lynn and Jan Most, appeared during the Open Forum session to discuss various concerns related to State Building Code provisions requiring the Mosts to install a fire sprinkler system at commercial property located at 243 Third Street North within the City (the "Property"). The Council later addressed this issue in further detail during New Business. Correspondence from the Mosts and from Building Official John Buckley was included in the Council packet. At the direction of the Acting City Administrator, I prepared a memorandum dated June 6, 2013 discussing the application of the State Building Code, Fire Code, and City Code on the Property, particularly as such codes relate to the requirement to sprinkle the interior of the building on the Property.

This memorandum will not repeat the analysis from the first memorandum, but it is my understanding that the general consensus of the City Council is to not waive the various Codes requiring sprinkling of the building on the Property. There are good public policy reasons to not waive these requirements, chief among those being public safety necessities, and therefore it has been determined it is not in the City's best interest to pursue waiver of these codes. However, a few councilmembers expressed a desire for staff to look at other possible ways the City could help facilitate the project and offset costs in the way of loans and/or assessments. The Mosts claim that the sprinkling project will cost upwards of \$60,000, perhaps up to \$100,000.¹ A local contractor familiar with the Property intimated to the Building Official that the total project cost is likely in the \$40,000-\$50,000 range.

Should the City Council have interest in providing assistance for this Project, this memorandum provides options to consider at the upcoming workshop. It should be noted that because the City does not have an established redevelopment grant or loan program and/or fund in place, this memo

¹ The Building Official has informed us that the sprinkling project has two steps: (i) extending the water main from under Highway 95 to the Property; and (ii) hooking up the water main into an installed interior sprinkler system serving the Property. When referenced in this memorandum, this work shall be referred to as the "Project."

offers options to provide assistance in the way of assessing the Project costs to the property owner, which would be required to be paid back to the City over a period of time (similar to a loan), but would alleviate the up-front cost burden for the property owner. If the City Council is interested in developing an economic development loan policy and/or grant fund, that is something the City can pursue at a future date. However, until a formal policy is in place, the City needs to take a cautious approach in its decision to lend or grant any type of funding to private property owners, to ensure fairness, consistency, and avoid setting a precedent for future potential projects requesting City assistance.

Option One – City to assess costs for water main extension under Hwy 95 to Property

Under Minnesota Statutes, Chapter 429, the City may undertake water main extension work as a public improvement project. Financing for public improvement projects occurs in the form of special assessments, in which the work is performed, contractors are paid, and the cost gets repaid by the property owner to the City over the long-term through special assessment payments. The City certainly has the legal authority as a public improvement project to extend the closest water main under Highway 95 to the Property. The costs of doing so may be charged to the Property as a special assessment, since it is the parcel that benefits from the improvement; it must be ensured that the costs of the Project do not exceed the benefits to the Property (if this is a close question an appraisal showing the market value increase of the assessed property after the project is completed may be ordered). The City Council may authorize and order this portion of the Project on its own accord, or the Mosts may petition the Council for this improvement. If the City Council orders the improvement on its own motion, a four-fifths vote is required. If the Mosts place a petition for the improvement before the City, only a majority vote is required (and no public hearing needs to be held in this instance).

Undertaking the Project as a public improvement under the special assessment statutes is beneficial because the City has a secure stream of repayment from the assessments. The Project costs are automatically placed on the Property, to be payable along with the regular property taxes. The City Council can place an interest rate on the assessment loan as well.

Option Two – City to assess costs for water main extension under Hwy 95 to Property and installation of the interior sprinkler system

In addition to financing the water main work under Highway 95, the City can assist with the interior sprinkler improvements under the special assessment statutes. Under Minnesota Statutes, Section 429.021, Subdivision 1(15), the City may “construct, reconstruct, alter, extend, operate, maintain, and promote fire protection systems in existing buildings...”. However, to undertake such a project, the City must receive a petition from the Mosts to do so (see prior section). In other words, the City Council may not proceed upon its own accord to extend special assessment financing for the sprinkler portion of the Project.

Moreover, a decision will have to be made if the sprinkler system will be owned by the City or owned by the Mosts. If it is the former, the City will need to receive the requisite property interest in the Property to enter and maintain the sprinkler system. Assurances of such property interest must be received before the petition is approved by the City Council. If the Mosts will own the

sprinkler system, the petition itself must contain the plans and specifications for the system, the estimated cost, and an indication of whether the City or the Mosts will contract for construction. If the City contracts for construction of the privately owned sprinkler system, the City Council must actually approve the plans, specifications, and cost estimates of the system before it can approve the petition for the improvement. These requirements are found in Minnesota Statutes, Section 429.031, Subdivision 3.

To summarize, the City has the statutory authority to extend financing for both options. However, because of complications with Option 2, staff feels that if the City Council wishes to offer any level of assistance, they may want to confine the project to the work included in Option 1. The City Council should be aware the city does not currently have a fund specifically set aside in which to pay for the up-front costs for this Project. Funding would either need to be allocated from the City's water enterprise fund, which has an approximate cash balance of \$269,000.00, or the City could use available revenues from TIF District No. 1, which has an approximate balance of \$296,000.00 to pay the up-front costs. With either funding source, the Mosts would be required to reimburse the City through special assessment payments.

To utilize the TIF fund, the City Council will need to modify the approved TIF Plan for the TIF District to specifically authorize the project, as all revenues derived from the TIF District must be spent in accordance with authority granted in the TIF Plan. It is likely that a public hearing is not necessary for this type of modification. The City may then be repaid for the project costs from special assessments collected against the Property. Further research with staff will have to be undertaken to determine how an expenditure of TIF funds for the project affects the TIF District budget and reporting requirements.² It should be noted that there may be other improvement projects or redevelopment opportunities in the immediate future for which the city may be eligible to use TIF funds, but not other general City funds, which should be taken in to consideration when discussing potential financing methods for this Project. The City will also need to make some much needed repairs to well #3 in the immediate future, which would be funded by the water enterprise fund.

Please contact us if you have any questions concerning this memorandum. We look forward to discussing this matter with you at the July 1 workshop.

² If a loan is made using TIF revenues, repayment of that loan is also considered to be TIF revenues. This is true even if the underlying TIF District is decertified. This matter is a quirk of the TIF statute, but it should be noted as the City may have to report the loan to its auditors years after the TIF District has expired.

June 17th, 2013

To: Honorable Mayor Susan St. Ores

Sara Taylor, Asst. Admin.

City Council Members:

Connie Carlson

Dan Goldston

Michele Hanson

Patrick McGann

SUB: 243 NORTH THIRD STREET BUILDING COUNCIL WORKSHOP

1. 243 North Third Street building has always been classified as a retail business since its beginning as Morrisette's grocery store. (See attached last Occupant Certification of Compliance as retail.)
2. No notification of change or reason or request of classification from the city or city officials or by owner was ever received.
3. Retail business would bring in customers to help support other businesses in the area. Light manufacturing classification would not fit in with the current Bayport Retail Zoning District.
4. There have been no requests from small companies to have a Light Manufacturing business in this building. The reasons are - too small of space, not enough parking for 15 people or more, area is not satisfactory for delivery and shipping trucks or vehicles, especially large semi-trucks. Noise levels could be disruptive due to the closeness of other businesses.
5. All local municipalities have optional provisions in addition to the 1306 State Building Code. Under 1306.0020 Municipal Option Subpart 2, existing buildings would not be required to have an automatic sprinkler system if the occupancy classification stayed the same.
6. The National Fire Protection Agency (NFPA) indicates the standards are not law and are left to state and local building codes. Factors are size and layout of building(2 or more stories), location of exits, number of people within a given structure at any given time, persons living in the building, risk of fire and materials found inside the structure.

7. We request that the current building remain a retail classification and therefore no fire sprinkling system would be required. The building has been upgraded with new electrical, heating and cooling systems, handicapped bathroom facilities, new front of building, signed parking stalls /handicapped and new metal doors front and back.

8. The potential renters are anxious to start a local grocery store and would be a great addition to the city and its residents.

9. The cost to install sprinkling system as estimated by General Sprinkler, Summit Fire and others according to the building square footage would be in the range of \$50,000. The current savings on insurance premiums would be about \$500 - \$700 per year. The potential renters do not want to be a part of this investment and it would take many years to recover this cost.

Respectfully,

A handwritten signature in cursive script that reads "Jan + Lynn". The signature is written in black ink and is positioned above the typed name of the owners.

Jan and Lynn Most, Owners
651-436-7264

CITY OF BAYPORT
OFFICE OF CLERK/ADMINISTRATOR

The Honorable Mayor
and
City Councilmembers

Council Letter 92-130

Agenda Oct. 5, 1992

Certificate of Compliance for John Orf of Anergy Corporation

Lynn Most has been approached by John Orf of Anergy Corporation to rent space in the building Mr. Most owns at 243 No. 3rd Street. The building has approximately 2,800 square feet of interior space and is located in a district which is zoned Retail Business. Mr. Orf's Company provides immunology reagents to biological scientists for use in their studies in understanding the complex mechanisms controlling the immune system. The Anergy Corporation primary operation is the sale of immunological reagents. Ninety five percent of orders for reagents will take place by telephone or facsimile. Deliveries and shipments of goods and products will be via Federal Express, UPS or similar delivery methods which utilize small delivery trucks or vans. The Zoning Ordinance defines Retail Business as, "stores and shops selling personal services or goods for final consumption." Mr. Orf's Company sells immunological reagents directly to bio-medical scientists. The sales are made to the end users and not to distributors. Therefore, staff believes this company fits under the Retail definition of the Zoning Ordinance and is permitted in the Retail Business District with a Certificate of Compliance. I have enclosed a description of the Anergy Corporation submitted by John Orf as Attachment A.

The City Council, according to the Zoning Ordinance Section 506.01, must issue a Certificate of Compliance prior to the Anergy Corporation occupying the Most Building. A Certificate of Compliance must be issued to verify that this particular use in the Retail Business District, complies with applicable Ordinances and Regulations.

Staff has reviewed Mr. Orf's proposal and is recommending that the Certificate of Compliance be issued. However, staff is requesting the Certificate of Compliance address parking on the west side of Larson's Architects, Anergy Corporation and Bill's Hair Care businesses. To date there is no organized parking for these businesses. Consequently, people park in a hap-hazard manner which tends to minimize the amount of parking available. As a condition of issuing the Certificate of Compliance, Staff is recommending 10 designated parking stalls be established on the west side of the businesses. At a minimum, the parking stalls would have a post placed in the middle of the stall with signage which:

1. Direct the car occupant to center the car on the post.
2. Designates the parking space for Larson

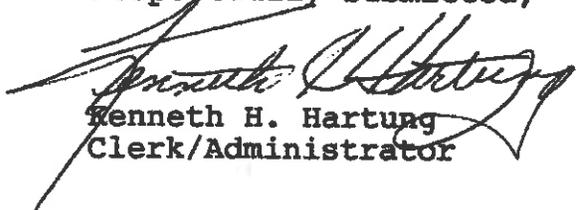
Architecture, Anergy Corporation or Bill's Hair Care.

Staff met with Chris Most, John Orf, of Anergy Corporation, John Larson of Larson Architecture, Inc. and Bill of Bill's Hair Care and Dick Neville, Commander of the American Legion. During the course of the meeting, all parties agreed to establish a ten stall parking configuration to be installed by Friday, October 22. Attachment B indicates the lay-out of the ten parking stalls. Parking stalls have been positioned back ten feet from the Legion building because a 10 foot spacing is required by the City's Zoning Code. Additionally, signs at each parking stall would identify the business assigned to the parking stall. This signage would eliminate Legion use of the parking lot. The Legion Commander, Dick Neville, was at the September 30 meeting and indicated he did not see a problem restricting the use of the parking lot. Although the proposed parking configuration is not the ideal solution to parking for these businesses, I believe it represents the best solution short of paving the parking lot and establishing a drainage system.

RECOMMENDATION

Staff recommends the Council approve a Certificate of Compliance for the Anergy Corporation's occupying the building at 243 No. 3rd Street. I have prepared a draft Certificate of Compliance for Council review. The draft Certificate of Compliance is included as part of your Council Packet under this subject.

Respectfully submitted,



Kenneth H. Hartung
Clerk/Administrator

**CITY OF BAYPORT
CERTIFICATE OF COMPLIANCE
NO. 92-09C**

APPLICANT: John Orf
2560 Overlook Avenue North
Stillwater, MN 55082

PROPERTY ADDRESS: 243 No. 3rd Street
Bayport, MN

LEGAL DESCRIPTION: Lot 4 and Part of Lot 5, being the Northerly 12 feet, Block 56, City of Bayport

WHEREAS: The building located at 243 No. 3rd Street, Bayport, Minnesota is zoned Retail Business, and;

WHEREAS: The Anergy Corporation is engaged in the sale of immunology reagents to biological scientists, and

WHEREAS: The Anergy Corporation constitutes a Retail Business.

NOW THEREFORE BE IT RESOLVED: By the City Council of the City of Bayport grants a Certificate of Compliance to the Anergy Corporation owned by John Orf for occupation of the building at 243 No. 3rd Street in Bayport, Minnesota.

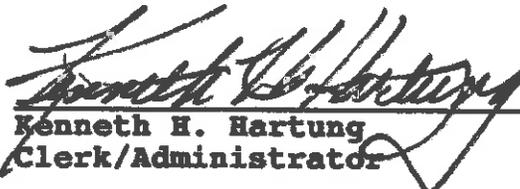
The Compliance Certificate is granted under the following conditions:

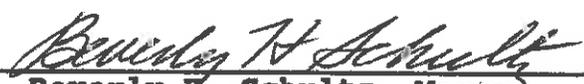
1. That a minimum of 10 parking stalls be installed as indicated on Attachment A. Attachment A is hereby included and is a part of the Compliance Certificate.
2. That one of the parking stalls be designated "Handicapped".
3. That the parking stalls be identified with a center post with instructions to center the car on the post.

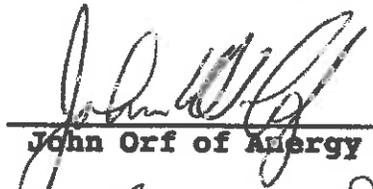
4. The parking stalls be identified with the specific business for which the parking stall has been allocated.

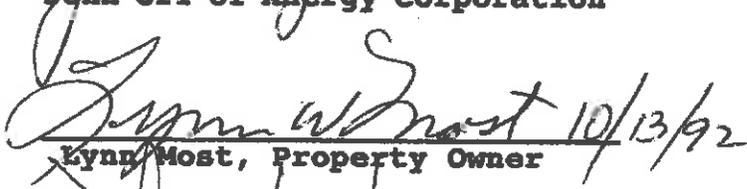
DATE OF COUNCIL ACTION

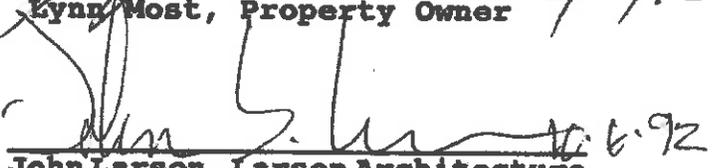
October 5, 1992


Kenneth H. Hartung
Clerk/Administrator


Beverly H. Schultz, Mayor


John Orf of Anergy Corporation


Lynn Most, Property Owner


John Larson, Larson Architecture

LEGION

