

**WORTHINGTON CITY COUNCIL
REGULAR MEETING, NOVEMBER 14, 2005**

The meeting was called to order by Mayor Alan E. Oberloh at 7:00 p.m., in the City Hall Council Chambers with the following Aldermen present: Leland Hain, Roger E. Nelson, Bob Petrich, Lyle Ten Haken, and Mike Woll.

City Staff present: Bob Filson, City Administrator; Dwayne Haffield, Director of Engineer; Brad Chapulis, Director of Community/Ec Development; Mike Cumiskey, Director of Public Safety; Jim Laffrenzen, Supt of Public Works; and Karen Buchman, City Clerk

Others present: Darrell Stitt, KWOA Radio; Ryan McGaughey, Daily Globe; and Steve Robinson, SEH.

AGENDA APPROVED

The motion was made by Alderman Ten Haken, seconded by Alderman Woll and unanimously carried to accept the agenda as presented.

MINUTES APPROVED

The motion was made by Alderman Hain, seconded by Alderman Petrich and unanimously carried to accept the Regular City Council minutes of October 24, 2005.

MINUTES OF BOARDS AND COMMISSIONS

The motion was made by Alderman Nelson, seconded by Alderman Hain and unanimously carried to accept for review the Water and Light Commission minutes of November 7, 2005; Housing and Redevelopment Authority minutes of October 13 and October 20, 2005; Memorial Auditorium Advisory Board minutes of October 6, 2005; and Planning Commission minutes of November 8, 2005.

FINANCIAL STATEMENTS

The motion was made by Alderman Nelson, seconded by Alderman Hain and unanimously carried to accept the Municipal Liquor Store Income Statement for the period January 1, 2005 through October 31, 2005; and Prairie View Golf Links Statement of Revenues vs. Expenditures for the period January 1, 2005 through October 31, 2005.

RESOLUTION ADOPTED FOR STATE AID FOR AIRPORT MAINTENANCE AND OPERATIONS

The City of Worthington has a maintenance agreement with the Minnesota Department of Transportation, Office of Aeronautics for the Municipal Airport. The state will reimburse 2/3 of the documented, routine maintenance costs, not to exceed the base amount of state aid as set forth in the

agreement for the cost of snow plowing, mowing, fertilizing, re-seeding, rehabilitation of runway lights, landing strip markers, drainage systems, and general maintenance of the runways, taxiways, and apron area. The base amount of state aid is calculated for each airport based upon the amount of runway infrastructure. Reimbursement is based on actual time and cost records kept by the municipality. The renewal period for this agreement is July 1, 2006 through June 30, 2007. The motion was made by Alderman Ten Haken, seconded by Alderman Nelson and unanimously carried to authorize the Mayor and Clerk signatures on the maintenance agreement and adopt the following resolution:

RESOLUTION

AUTHORIZATION TO EXECUTE MINNESOTA DEPARTMENT OF TRANSPORTATION GRANT AGREEMENT FOR AIRPORT MAINTENANCE AND OPERATION

It is resolved by the City of Worthington as follows:

1. That the state of Minnesota Agreement No. 88463, "Grant Agreement for Airport Maintenance and Operation," at the Worthington Municipal Airport is accepted.
2. That the Mayor Alan E. Oberloh and City Clerk Karen Buchman are authorized to execute this Agreement and any amendments on behalf of the City of Worthington.

RESOLUTION NO. 3086 ADOPTED, AUTHORIZING ADMINISTRATIVE FINES

The Police Department has updated the administrative fine amounts and list of violations that may be charged under the Administrative Offenses Ordinance. The motion was made by Alderman Nelson, seconded by Alderman Woll and unanimously carried to approve the amounts shown on the resolution of the various offenses and adopt the resolution:

RESOLUTION NO. 3086
REVISING RESOLUTION NO. 2989

A RESOLUTION TO AMEND THE ESTABLISHED ADMINISTRATIVE FINES FOR CIVIC
CITATIONS IN THE CITY OF WORTHINGTON, NOBLES COUNTY, MINNESOTA

(Refer to Resolution file for complete copy of Resolution)

RESOLUTION NO. 3087 ADOPTED, AUTHORIZING ANIMAL LICENSE AND ADMINISTRATIVE FINES

The Police Department and Public Works have recommended a fee structure for animal licenses and administrative fees associated with animal control under the new animal ordinance recently passed by the City Council. The motion was made by Alderman Nelson, seconded by Alderman Petrich and

unanimously carried to approve the amounts shown on the resolution for licenses and administrative fees associated with animal control by adopting the following resolution:

RESOLUTION NO. 3087

A RESOLUTION TO ESTABLISH ANIMAL CONTROL AND LICENSE FEES IN THE CITY OF WORTHINGTON, NOBLES COUNTY, MINNESOTA

(Refer to Resolution file for complete copy of Resolution)

BIDS AWARDED FOR BIOSCIENCE INDUSTRIAL PARK STORM SEWER IMPROVEMENTS

Bids were received at 1:30 p.m. on November 10, 2005 for the Bioscience Industrial Park Storm Sewer Improvements. The project consists of construction of the storm water management system, including a retention basin and collection system, for the Bioscience Industrial Park. The following bids were received:

<u>Bidder</u>	<u>Base Bid</u>	<u>Alternate</u>
H & W Contracting, LLC	\$702,007.07	\$32,267.07
Svoboda Excavating, Inc.	\$813,890.49	\$44,776.80
Larson Crane Service, Inc.	\$979,141.40	\$53,564.80

The motion was made by Alderman Woll, seconded by Alderman Hain and unanimously carried to award the Base Bid and Alternate 1 to the low qualified bidder, H&W Contracting, LLC of Sioux Falls, SD.

RESOLUTION NO. 3088 AND RESOLUTION 3089 ADOPTED, DECLARING ADEQUACY OF PETITION AND ORDERING PREPARATION OF FEASIBILITY REPORT ON PROPOSED IMPROVEMENTS

Two petitions were received for certain public improvements.

The first is for improvement of certain properties in Section 15 by extension of the municipal wastewater collection system. The properties pertaining to the petitioned improvements are three tracts of land located north of Oxford Street just west of Diagonal Road. All three tracts are currently owned by the Comunidad Christiana de Worthington International Church. The Church desires to construct an additional residence in the vacant tract located east of the church site and west of an existing residence. There is no access to the sanitary sewer other than across Oxford Street. In addition to the lack of practical access for the middle tract, the westerly tract (church site) is currently served by a failing service extending down the Oxford Street Right-of-Way to Johnson Avenue and the easterly tract is served by a service extending through adjacent private property. Neither such

services would be permitted under current sewer user regulations. It is proposed that the Church may be able to pursue remedy of the sewer deficiencies through an assessable improvement (sewer extension) project. There exists precedent for remedy of deficient sewer service to existing parcels by initiation of an assessable public improvement project.

The second is improvement of proposed street, sewer, water and storm sewer extensions. The petitioned improvements will establish a street and utility corridor west from Crailsheim Drive (C.S.A.H. 35) allowing for future development west of the tier of lots platted along Crailsheim Drive. The goal to establish this corridor was first presented and planned for in the 2005 West North Interceptor Phase VI sanitary sewer project. Although the petitioned improvements would allow for the creation of additional lots along the north side of the proposed street/utility corridor, the planned storm water retention will extend along the undeveloped frontage abutting the south side of the corridor. Completion of the public infrastructure through assessable improvement project(s) is consistent with those cases involving subdivisions fronting on only one side a street when the street location is required by the City. Final design may yield the potential for one additional lot to be created on the south side of the improvements at their westerly end; however, this is not known nor would the retention basin front less than 35% of the improvement if constructed as currently planned.

Following discussion the motion was made by Alderman Petrich, seconded by Alderman Nelson and unanimously carried to accept the petition for and adopt the following resolution for Improvement of Certain Properties in Section 15 by Extension of the Municipal Wastewater Collection System:

RESOLUTION NO. 3088

DECLARING ADEQUACY OF PETITION AND ORDERING PREPARATION OF FEASIBILITY REPORT ON PROPOSED IMPROVEMENT

(Refer to Resolution file for complete copy of Resolution)

Following discussion the motion was made by Alderman Petrich, seconded by Alderman Nelson and unanimously carried (with Alderman Hain abstaining from the vote) to accept the petition for and adopt the following resolution for Improvement of Proposed by Street, Sewer, Water and Storm Sewer Extension:

RESOLUTION NO. 3089

DECLARING ADEQUACY OF PETITION AND ORDERING PREPARATION OF FEASIBILITY REPORT ON PROPOSED IMPROVEMENT

(Refer to Resolution file for complete copy of Resolution)

TERMS AND CONDITIONS FOR ACCEPTING AIRPORT IMPROVEMENTS PROGRAM GRANTS APPROVED

In April 2003 Council entered into continuing agency agreements with the Minnesota Department of Transportation (MnDOT). The agreements establish that the Minnesota Department of Transportation is to serve as an agent for the City if receiving and disbursing federal funds for highway and for airport projects. In regard to the Federal Aviation (FAA) funding, Council also accepted certain terms and conditions for accepting Airport Improvements Program (AIP) grants. The FAA has revised the terms and conditions for accepting AIP grants, and is requesting that local entities accept the revised terms and conditions. A comparison of the current and revised terms and conditions was conducted by staff. The terms and conditions remain substantially the same.

The motion was made by Alderman Woll, seconded by Alderman Nelson and unanimously carried to authorize the Mayor to execute the revised terms and conditions for accepting AIP grants.

FIRST READING PROPOSED ORDINANCE TO AMEND STORM WATER UTILITY RATES

The motion was made by Alderman Petrich, seconded by Alderman Woll and unanimously carried to give a first reading to the proposed ordinance to amend Storm Water Utility Rates. At its December 8, 2003 meeting, the City Council adopted an ordinance establishing the City's storm water system as a utility. The ordinance set the annual storm water fee or rate for residential use. The annual rate is adjusted by a multiplier based on land use, multiplied by the property area, and billed in 12 monthly payments.

The proposed 2006 storm sewer fund budget requires \$20,500 more in revenue than the 2005 budget. In part, the increase is a \$4,600 increase in street cleaning costs and the addition of \$15,000 for utility billing omitted from the 2005 budget. The rate increase required to generate the additional revenue is 6%.

The proposed ordinance establishes the annual fee per acre for residential at \$168.50. The area of a residential lot is defined at .24 acres yielding a 2006 monthly residential charge of \$3.37. The per acre rates for land uses other than residential (1 through 3 units) are as follows:

<u>Land Use</u>	<u>Rate/Acre</u>
Commercial	\$28.22
Industrial	\$23.45
Multi Family	\$20.78
Institutional	\$28.22

PARTIAL RELEASE OF MORTGAGE APPROVED

In 2004, Prairie Ventures purchased Lot 1, Block 1, Prairie Expo First Addition from several parties, including the State of Minnesota and the City of Worthington, to ultimately create a campus for the operations of itself and its sister companies under the Prairie Holdings umbrella. Recently, City Council approved a minor subdivision request from Prairie Ventures to subdivide the property into

three parcels. The company intends to deed one of the parcels to its sister company, Newport Laboratories, for the construction of a R & D facility.

According to the loan documentation recorded, certain agencies, including the City of Worthington have a mortgage lien on the improved portions of Lot 1, Block 1, Prairie Expo First Addition. In order for the real estate transaction to take place, the company is requesting all affected parties release its mortgage lien interest on the portion of the real estate being sold to Newport. The remaining real estate mortgaged would remain under the mortgage lien. Council should note that the terms of the purchase agreement only allow Prairie Ventures to sell/transfer property to a "qualified business" as defined by Minnesota Statute (Tax Abatement) without penalty, including the loss of tax abatement.

The motion was made by Alderman Woll, seconded by Alderman Petrich and unanimously carried to agree to release the mortgage lien on the portion of the real estate proposed to be purchased by Newport and authorize the Mayor and City Clerk to execute the legal documentation.

AUTHORIZATION TO COMMENCE LITIGATION

In June 2001, the City entered into a business agreement with ReiTech Corporation of Burnsville, Minnesota. This agreement committed ReiTech to relocate its production and customer service divisions to Worthington and create a minimum of 75 full-time equivalent positions within two years in exchange for financial assistance (RLF). To date, the company has no presence in the community, no local employees and has not lived up to the terms of the loan agreement.

The \$200,000, 7% interest loan was amortized over ten years with a 5 year balloon (July 2006). The company did not begin to make payments until April 2004. At that time, the company presented a revised payment schedule it wanted to proceed with. The company had made prompt payments through November 2004. The City has not received payment since (a total of 12 payments). The outstanding balance of the loan is \$221,818.20, which includes accrued interest.

Though the City continues to seek resolution with the Company, the motion was made by Alderman Hain, seconded by Alderman Petrich and unanimously carried to authorize the City Attorney to commence litigation on this matter.

APPROVED AMENDMENTS TO THE ARTICLES OF INCORPORATION AND BY-LAWS OF THE WORTHINGTON FIRE DEPARTMENT RELIEF ASSOCIATION

At the April 26, 2005, annual meeting of the Worthington Fire Department Relief Association, the membership approved amendments to both the Articles of Incorporation and the By-Laws of the organization. City Council approval of the amendments is also required prior to final approval by the Secretary of State (Articles of Incorporation) and the State Auditor (By-Laws).

The amendment to the Articles of Incorporation changes the composition of the elected Board of Trustees of the organization. Formerly, the elected Board was required to consist of four active and

two retired members of the Fire Department. With the advent of the lump sum pension payment option, the number of retired members eligible to serve as Trustees (those receiving monthly pensions) has decreased and that trend is expected to continue. The amendment provides that one of the six elected Trustees *may* be a retired member who is receiving a monthly service pension. This amended language brings the Association into compliance with State Statute.

The By-Laws amendments occur in Payment of Benefits.

- * Section 1 is amended to eliminate the monthly service pension option for any retirements occurring after April 26, 2005.
- * Section 2 amendments accomplish three objectives:
 1. Clarify which table to use for calculating partial pensions
 2. Further clarify the elimination of the monthly service pension option
 3. Better identify those retirees who are and those who are not eligible for post-retirement pension increases
- * Section 3 amendments change the way that death benefits are paid. As amended, those eligible to receive a death benefit have the opportunity to designate a beneficiary to receive the proceeds of any such benefit. The amendment further provides that if no beneficiary is designated or if the designated beneficiary is deceased, the proceeds shall be paid to the estate of the deceased member. Previously, the by-laws provided for death benefit payments to a member's "surviving spouse", which was narrowly defined, or to a deceased member's "child or children".

The By-Laws have been amended also, to reflect the change of the pension increase from \$280/month (\$46,250 lump sum) to \$310/month (\$51,200 lump sum) effective January 1, 2006. This had been approved by the City Council at their October 10, 2005 regular meeting.

The motion was made by Alderman Hain, seconded by Alderman Woll and unanimously carried (with Alderman Petrich abstaining from the vote) to approve the amendments made to the Articles of Incorporation and By-Laws of the Association.

RESOLUTION ADOPTED, APPROVING NOBLES COUNTY ELECTION EQUIPMENT PLAN

Staff has been working with the County Auditor/Treasurer's Office along with other cities, townships, and school district in the creation of the Nobles County election Equipment Plan. This is to meet federal and state laws passed requiring that every polling place location used in Minnesota for federal, state, and local elections be equipped with an assisted voting technology machine that allows voters with disabilities the opportunity to cast their vote in private. The Secretary of State's Office is suggesting Joint Powers Agreements between entities, and we are hoping that by adopting a resolution stating acceptance of the plan will suffice. The motion was made by Alderman Nelson, seconded by

Alderman Woll and unanimously carried to adopt the following resolution:

RESOLUTION
ELECTION EQUIPMENT

WHEREAS, the Federal Government passed the Help America Vote Act (HAVA) to provide for equality and uniformity in the elective process, and:

WHEREAS, the Federal Government has provided funding to each state to comply with the Help America Vote Act for the purchase and maintenance of electronic voting equipment, and;

WHEREAS, the City of Worthington, has been invited to participate in and supported the creation of an "Election Equipment Plan" for Nobles County.

NOW THEREFORE, BE IT RESOLVED, that the City of Worthington, Nobles County, Minnesota, accepts the "Election Equipment Plan" and recommends its submission to the Secretary of State and its adoption by the Nobles County Board of Commissioners.

APPROVED ELECTED OFFICIAL OUT-OF-STATE TRAVEL POLICY

To comply with a new state law, by January 1, 2006, the City is required to develop a policy that controls travel outside the state of Minnesota for elected officials. A draft copy of the proposed policy was previously distributed to Council members for review and comments. Following discussion the motion was made by Alderman Woll, seconded by Alderman Nelson and unanimously carried to approve the policy as presented.

APPLICATION FOR EXEMPTION FROM LAWFUL GAMBLING APPROVED

The motion was made by Alderman Nelson, and seconded by Alderman Hain and unanimously carried to approve the following Application for Exemption from Lawful Gambling as requested as follows:

Organization:	Ducks Unlimited
Chief Executive Officer	Lonny Johnson
Types of Games	Raffles
Date of Activity	Saturday, December 3, 2005, Long Branch Saloon, 206 Tenth Street, Worthington

NOMINATING COMMITTEE RECOMMENDATIONS APPROVED

Upon recommendation of the Nominating Committee, the motion was made by Alderman Petrich, seconded by Alderman Woll and unanimously carried to approve the following reappointments:

Ec. Development Revolving Loan Fund

Reappoint Royce Boehrs to a three-year term
expiring January 2008

Reappoint Kenton Meier to a three-year term
expiring January 2008.

COUNCIL REPORTS

Mayor Oberloh, reported on EO Olson

Alderman Hain, Nothing

Alderman Petrich, Water & Light Commission - Lewis and Clark Funding was a disappointment

Alderman Nelson, Nothing

Alderman Woll, Nothing

Alderman Ten Haken, City/County/School, Oxford Street intersection by Davis Typewriter obstruction of vision is the issue. Noted December 13, Joint Truth and Taxation Hearing 7:00 p.m., Minnesota West Fine Arts Theatre.

CITY ADMINISTRATOR REPORT

Coalition of Greater Minnesota Cities fall conference will be this week in Alexandria. Union negotiations will be starting November 30. Letter from the Mayor of Apple Valley, they want to stay engaged.

BILLS PAYABLE

The motion was made by Alderman Nelson, seconded by Alderman Ten Haken and unanimously carried that the bills payable and totaling \$810,477.97 be ordered paid.

ADJOURNMENT

The motion was made by Alderman Woll, seconded by Alderman Ten Haken and unanimously carried to adjourn the meeting at 8:31 p.m.

Karen Buchman
City Clerk