

**WORTHINGTON CITY COUNCIL  
REGULAR MEETING, JANUARY 12, 2009**

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

**CITY COUNCIL MINUTES APPROVED AND MINUTES OF BOARDS AND COMMISSIONS ACCEPTED**

The motion was made by Alderman Ten Haken, seconded by Alderman Wood and unanimously carried to approve the City Council Minutes of the Regular Meeting December 22, 2008 and the Emergency Meeting of December 24, 2008, and to accept for review the Water and Light Commission Minutes of January 5, 2009, Memorial Auditorium Advisory Board Minutes of December 2, 2008, and the Planning Commission Board of Appeals Minutes of January 6, 2009.

**BILLS PAYABLE APPROVED**

The motion was made by Alderman Woll, seconded by Alderman Wood and unanimously carried that bills payable and totaling \$753,601.87 be ordered paid.

**OUTGOING ALDERMAN BOB PETRICH**

Alderman Petrich's term of office was officially completed. Mayor Oberloh presented him with a plaque and thanked him for his years of dedicated service. Alderman Petrich thanked the Mayor and Council and noted that Council had worked together well and done a lot of good things, and he wished Council good luck in the future.

**OATH OF OFFICE FOR ELECTED ALDERMEN**

Officials elected at the November 4, 2008 General Election, and having qualified by taking their oath of office, took their seats in the official capacity:

Newly Elected:	Alderman Second Ward	Scott Nelson
Re-Elected:	Alderman First Ward	Lyle Ten Haken
	Alderman At Large	Mike Woll

**AGENDA APPROVED**

The City Clerk noted that one of the items included in the Community/Economic Development portion of the agenda was omitted on the Agenda page. Also, two pages were omitted from the copy of the contract with BKV that was included with the agenda, however, the pages were distributed prior to the meeting.

The motion was made by Alderman Woll, seconded by Alderman Wood and unanimously carried to close the agenda with the correction to the Community/Economic Development agenda items and the inclusion of the pages to the BKV contract.

### **CONSENT AGENDA APPROVED**

The motion was made by Alderman Wood, seconded by Alderman Woll and unanimously carried to approve the consent agenda as follows:

- Application for Exemption from Lawful Gambling Permit:

Organization: Worthington Area YMCA  
Chief Executive Officer: Andrew Johnson  
Types of Games: Raffles  
Date/Location of Activity: April 25, 2009  
Worthington Country Club

- On-Sale Beer Licenses for the license period January 13, 2009 through December 31, 2009:

El Taco Restaurant, 418 Tenth Street  
El Tio Nachos #2, 1719 East Avenue

### **ELECTION OF MAYOR PRO TEM**

An election of the Mayor Pro Tem to preside in the absence of the Mayor was completed by paper ballot with Alderman Ten Haken elected as Mayor Pro Tem.

### **ANNUAL COMMITTEE APPOINTMENTS**

The motion was made by Alderman Kuhle, seconded by Alderman Wood and unanimously carried to approve the annual committee appointments for 2009 as presented for a one-year term as follows, noting that Ron Wood is appointed to fill the unexpired term of Bob Petrich to the Water and Light Commission :

### **2009 COMMITTEE ASSIGNMENTS**

**Scott Nelson** Employee Advisory Committee  
Heron Lake Watershed Restoration Association  
Traffic & Safety Advisory Board  
WGTV-TV3 Public Access Channel Joint Powers Board

**Mike Woll** Employee Insurance Board of Trustees  
Downtown Parking Advisory Board  
Park & Recreation Advisory Committee  
Memorial Auditorium Advisory Board

**Mike Kuhle** Planning Commission  
Okabena Ocheda Bella Clean Water Partnership Joint Powers Board  
Convention & Visitors Bureau  
Airport Advisory Board  
Lake Improvement Committee

**Ron Wood** Prairie Justice Center - City/County Joint Building  
Golf Advisory Board  
Transit Board - Joint Powers  
Water & Light Commission  
Housing & Redevelopment Authority

**Lyle Ten Haken** Economic Development Revolving Loan Fund  
Transit Board - Joint Powers  
Prairie Justice Center - City/County Joint Building  
Southwest Regional Development Commission  
City/County/School Joint Powers Board  
S.W. MN Regional Radio Advisory Committee

**Alan Oberloh** Nominating Committee  
Okabena-Ocheda-Bella Clean Water Partnership Joint Powers Board  
Liquor & Gambling Committee  
Economic Development Revolving Loan Fund  
Lake Improvement Committee  
E.O. Olson Trust Fund Board  
City/County/School Joint Powers Board

\*\*Scott Nelson will replace Bob Petrich and serve with Mike Woll on the Worthington Re-Discovered Committee and will replace Bob Petrich and serve with Mike Kuhle on the Highway 60 Pedestrian and Landscaping Committee.

**CITY COUNCIL MEETING DATES AND TIME SET**

The motion was made by Alderman Ten Haken, seconded by Alderman Woll and unanimously carried to set the City Council meeting dates and time as the second and fourth Mondays of each

month at 7:00 p.m., noting that in the event a legal holiday falls on the second or fourth Monday, the Regular City Council meeting will be held on the following day (Tuesday).

**OFFICIAL NEWSPAPER DESIGNATION**

The motion was made by Alderman Wood, seconded by Alderman Woll and unanimously carried to designate the Daily Globe as the official newspaper for the publication of all matters required by law to be published.

**ANNUAL APPOINTMENT - CITY CLERK**

The motion was made by Alderman Ten Haken, seconded by Alderman Wood and unanimously carried to appoint Janice Oberloh as City Clerk for the City of Worthington for a one-year term.

**SECOND READING PROPOSED ORDINANCE VACATING A PORTION OF A PLATTED UTILITY EASEMENT IN SUNGOLD HEIGHTS MOBILE HOME PARK**

The motion was made by Alderman Woll, seconded by Alderman Wood and unanimously carried to give a second reading to a proposed ordinance vacating a portion of a platted utility easement in Sungold Heights Mobile Home Park and legally described as follows:

The south 40.73 feet of the west 10.00 feet of Lot 6, and the west 10.00 feet of Lot 7, all in Block 4, Sungold Heights Mobile Home Park, City of Worthington, Nobles County, Minnesota.

**JOINT CITY COUNCIL RESOLUTION NO. 3372 / WATER AND LIGHT COMMISSION RESOLUTION NO. 2009-1 ADOPTED INCREASING THE ANNUAL TRANSFER RATE FROM ELECTRIC FUND TO GENERAL FUND**

The motion was made by Alderman Wood, seconded by Alderman Kuhle and unanimously carried to adopt Joint City Council Resolution No. 3372 / Water and Light Commission Resolution No. 2009-1 increasing the annual transfer rate from the Electric Fund to the General Fund to \$0.003 per kilowatt-hour of retail sales beginning in January 2009 as follows:

CITY COUNCIL RESOLUTION NO. 3372  
WATER AND LIGHT COMMISSION RESOLUTION NO. 2009-1

CITY OF WORTHINGTON WATER AND LIGHT COMMISSION AND CITY COUNCIL JOINT RESOLUTION - ELECTRIC UTILITY FUND TRANSFER

(Refer to Resolution File for complete copy of Resolution)

**2009 INDUSTRIAL WASTEWATER FACILITY FUND BUDGET APPROVED**

The motion was made by Alderman Woll, seconded by Alderman Ten Haken and unanimously carried to approve the 2009 Industrial Wastewater Facility Fund Budget.

**APPEAL OF ORDER AUTHORIZED WITH ASSISTANT CITY ATTORNEY DAVE VON HOLTUM AUTHORIZED TO FILE SAID APPEAL**

The motion was made by Alderman Woll, seconded by Alderman Wood and unanimously carried that:

Resolved, the appeal of the order by the District Court in relation to New Vision and Frank McDowell be filed and Assistant City Attorney Von Holtum is authorized and instructed to file the said appeal.

**PREVIOUS CONTRACT WITH ARCHITECT RESCINDED - MAYOR AUTHORIZED TO EXECUTE REVISED CONTRACT WITH BKV GROUP, INC AND TO EXECUTE CONSTRUCTION MANAGER CONTRACT WITH RJM CONSTRUCTION**

The motion was made by Alderman Ten Haken, seconded by Alderman Woll and unanimously carried that the October 27, 2008 acceptance of the previous architect contract be rescinded and the Mayor be authorized to execute the revised contract with BKV Group, Inc. and to execute the construction manager contract with JRM Construction with the elimination of the arbitration provisions 1.3.5 and Article 8 respectively in each document, and upon the condition of receipt of a memorandum of understanding regarding change orders and drawings.

**2009 SCHEDULED POLICE VEHICLE REPLACEMENTS CONFIRMED**

The motion was made by Alderman Woll, seconded by Alderman Wood and unanimously carried to confirm the equipment purchase replacement of Animal Control Truck - 1999 Ford F-150, Detective Car - 2001 Chevrolet Malibu, Detective Car - 2001 Chevrolet Malibu, Patrol Car - 1999 Ford Crown Victoria, and the Patrol car - 2005 Ford Crown Victoria, according to the budgeted Police Department's 2009 vehicle replacement schedule and authorize the Patrol K-9 squad purchase with savings generated from vehicle purchases.

**CONSIDERATION OF REQUEST TO PURCHASE TRUCK UNIT**

Council considered a request from staff to purchase a new 2010 truck to replace two truck units currently in use by the Public Works Department. The unit is included in the 2009 budget. After discussion, Council determined to not take action on this item at this time but to consider it again once the 2009 Local Government Aid cuts are known.

**REVISED BIKEWAY CONCEPT PRESENTED**

Council heard information on the revised off street bikeway system design that has been altered due to safety concerns along C.S.A.H. 10. No action was requested.

**RESOLUTION NO. 3373 AND NO. 3374 ADOPTED DECLARING ADEQUACY OF PETITION AND ORDERING PREPARATION OF FEASIBILITY REPORT ON PROPOSED IMPROVEMENTS**

The motion was made by Alderman Woll, seconded by Alderman Ten Haken and unanimously carried to adopt Resolution No. 3373 and Resolution No. 3374 as follows:

RESOLUTION NO. 3373

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

(Refer to Resolution File for complete copy of Resolution)

RESOLUTION NO. 3374

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

(Refer to Resolution File for complete copy of Resolution)

**FIRST READING PROPOSED ORDINANCE AMENDING TITLE XV OF THE CITY CODE OF THE CITY OF WORTHINGTON - GARAGE SALES/SWIMMING POOLS**

The motion was made by Alderman Kuhle, seconded by Alderman Ten Haken and unanimously carried to give a first reading of a proposed ordinance amending Title XV of the City Code of the City of Worthington, Accessory Uses as follows:

**Section I.**

That Worthington City Code, Title XV, Section 155.059 shall be amended to read as follows:

**155.059 ACCESSORY USES.**

Except as otherwise provided below, accessory uses shall be permitted in each district where they are incidental to the uses therein.

(A) Accessory uses in residential districts shall be permitted according to the terms of §§ 155.075, and according to the terms of division (B) below of this section.

(B) The following accessory uses shall not be allowed unless they comply with the following conditions and requirements.

(1) ~~Private swimming pools.~~ ~~Private nonportable~~ swimming pools may not be located closer than ten feet to any property line and shall be walled or fenced to a height of ~~six~~ four feet to prevent uncontrolled access by children from the street or from adjoining properties. A swimming pool shall be defined as any structure intended for swimming, recreational bathing or wading which contains or which is designed to contain water over 24 inches deep. This includes in-ground, above-ground and on-ground pools; indoor pools; hot tubs or spas without operable and securable safety covers; and fixed-in-place wading pools.

(2) *Temporary uses.* Buildings, construction trailer, equipment and materials used in conjunction with construction work shall be removed upon completion of said construction work and issuance of a certificate of occupancy.

(3) *Amateur radio towers.* Amateur radio towers shall comply with the same setback requirements of the principal structure in the district it is located in and not exceed a height of 50 feet.

(4) *Garage Sales.* Garage sales may be held on residential property by the owner or resident of that property for no more than three consecutive days, on four separate occasions per calendar year.

## **FIRST READING PROPOSED ORDINANCE AMENDING TITLE XV OF THE CITY CODE OF THE CITY OF WORTHINGTON - CONSTRUCTION OF IMPROVEMENTS**

The motion was made by Alderman Kuhle, seconded by Alderman Ten Haken and unanimously carried to give a first reading to a proposed ordinance amending Title XV of the City Code of the City of Worthington, Construction of Improvements, as follows:

### **Section I.**

That Worthington City Code, Title XV, Section 154.36 shall be amended to read as follows:

#### **154.36 CONSTRUCTION OF IMPROVEMENTS.**

(A) Before any final plat or minor subdivision is approved by the City Council or recorded, the subdivider shall make and install the applicable improvements listed in division (E) of this section. In lieu of completion prior to final approval, the city shall require a contract secured by a cash deposit, certified check, or bond in an amount and with surety and conditions satisfactory to it, to assure the city that such improvements will actually be constructed and installed according to the approved specifications within one year of final approval. No building permits will be issued for construction within the subdivision prior to the construction of the improvements in divisions (E)(1) through (5) below.

A final plat or minor subdivision shall be exempt from the requirements of division (A) if the improvements are otherwise financed pursuant to the terms of the Workforce Housing Program, which was adopted by the City Council on November 10, 2008.

### **PURCHASE OF REAL ESTATE SIGNS APPROVED**

The motion was made by Alderman Ten Haken, seconded by Alderman Wood and unanimously carried to purchase two 8 x 16 foot signs and four 4 x 8 foot signs to promote the availability of City owned property for sale, utilizing WRH Impact Funds to hire Harvey Signs to construct the signs at an amount not to exceed \$3,000, and to work up a design concept for an additional 8 x 16 foot sign for the green park.

### **COUNCIL COMMITTEE REPORTS**

Mayor Oberloh - nothing to report.

Alderman Ten Haken - attended an SRDC meeting last week, and reminded Council there is an SRDC orientation workshop on January 24<sup>th</sup>. Noted that Dave Benson is the new District 7 representative to the Area Transportation Partnership. Also, we need to start preparing now for the upcoming 2010 census to ensure accuracy.

Alderman Kuhle - attended a Convention and Visitors Bureau meeting, the CVB paid for a "rolling billboard" advertising the city of Worthington on a semi-trailer belonging to Smith Trucking.

Alderman Nelson - Thanked Mayor Oberloh for his appointment to the Traffic and Safety Board.

Alderman Wood - Regarding the YMCA construction - there are holes dug and the pre-cast should be coming somewhere between February 9<sup>th</sup> to February 16<sup>th</sup>, and can expect to be able to work inside a portion of the building by mid March. Things are moving forward on the testing and training facility.

Alderman Woll - will be attending a Memorial Auditorium Advisory Board meeting next Thursday; did attend a Senior Center meeting - that committee will be coming to Council for guidance and will submit their budget at the next Council meeting.

### **CITY ADMINISTRATOR REPORT**

Nothing to report.

### **ADJOURNMENT**

The motion was made by Alderman Wood, seconded by Alderman Woll and unanimously carried to adjourn the meeting at 9:11 p.m.

Janice Oberloh  
City Clerk