

**WORTHINGTON CITY COUNCIL
REGULAR MEETING, JANUARY 13, 2014**

The meeting was called to order at 7:00 p.m. in City Hall Council Chambers by Mayor Alan E. Oberloh with the following Council Members present: Mike Kuhle, Diane Graber, Rod Sankey, Ron Wood, Scott Nelson. Honorary Council Member: Andy Johnson.

Staff present: Craig Clark, City Administrator; Brad Chapulis, Director of Community/Economic Development; Jim Eulberg, Public Works Director; Janice Oberloh, City Clerk.

Others present: Aaron Hagen, Daily Globe; Mike Woll.

The Pledge of Allegiance was recited.

HONORARY COUNCIL MEMBER

Mayor Oberloh welcomed Andy Johnson as the Honorary Council Member for the months of January, February and March, 2014.

AGENDA CLOSED/APPROVED

The motion was made by Council Member Wood, seconded by Council Member Nelson and unanimously carried to close/approve the agenda as presented.

CONSENT AGENDA APPROVED

The motion was made by Council Member Wood, seconded by Council Member Graber and unanimously carried to approve the consent agenda as follows:

- City Council Minutes - Regular meeting December 23, 2013; Special meeting January 8, 2014; Joint City Council/Nobles County Board of Commissioners/WREDC Board of Directors meeting January 10, 2014
- Minutes of Boards and Commissions - Water and Light Commission Minutes of regular meeting January 6, 2014; Center for Active Living Committee minutes of December 10, 2013
- Designated the time and place for regular City Council meetings as 7:00 p.m. on the second and fourth Mondays of each month in City Hall Council Chambers, noting the holiday exceptions of Memorial Day and Veterans Day, where the meetings will be held on the next immediate Tuesday at the same time and place (a list of the meeting dates is available at the office of the City Clerk)
- Appointed Janice Oberloh as the City Clerk for the period January 1, 2014 through December 31, 2014, and appointed Mindy Eggers as the Assistant City Clerk to act in the absence of the Clerk
- Designated the Daily Globe as the official newspaper for the publication of all matters required by law to be published

- Designated the official depositories for the City of Worthington for 2014 as: Bank of the West, First State Bank Southwest, Fulda Area Credit Union, Rolling Hills Bank, United Prairie Bank, Wells Fargo Bank - and investments: Worthington Federal Savings Bank, SWS Financial Services, Ameriprise Financial, Edward Jones Investments, and 4M Fund (League of MN Cities sponsored money market)
- Appointed Mark W. Shepherd as the City Attorney and James E. Malters as Assistant City Attorney for a one year term from and after January 1, 2014 until December 31, 2014 at the proposed hourly rate of \$160 plus expenses
- Bills payable and totaling \$556,041.46 be ordered paid

COUNCIL MEMBER RON WOOD ELECTED AS MAYOR PRO TEM

Section 2.02 of the Worthington City Charter says that Council shall elect by ballot a Mayor Pro Tem to preside over the meetings of the City Council during the absence of the Mayor from the City, or upon the inability of the Mayor, from any cause, to discharge the duties of the office. Following distribution of paper ballots by the City Clerk, the following votes were cast by Council:

Ron Wood - four (4)
Mike Kuhle - one (1)

Council Member Wood will serve as Mayor Pro Tem until a successor is appointed in 2015.

ORDINANCE NO. 1077 ADOPTED AMENDING TITLE XV OF THE CITY CODE OF WORTHINGTON, NOBLES COUNTY, MINNESOTA - ZONING FEE SCHEDULE

Pursuant to published notice, this is the time and date set for the third reading of a proposed ordinance amending Title XV of the City Code of Worthington as follows:

That Worthington City Code, Title XV, Section 155.224 shall be re-titled “Zoning Fee Schedule” and amended to read as follows:

Zoning Fees shall be assessed for work governed by this Title with the fee schedule established from time to time by Resolution of the City Council. Such fees shall be non-refundable.

The motion was made by Council Member Kuhle, seconded by Council Member Nelson and unanimously carried to give a third reading to, and subsequently adopt, the following ordinance:

ORDINANCE NO. 1077

AN ORDINANCE TO AMEND TITLE XV OF THE CITY CODE OF WORTHINGTON,

NOBLES COUNTY, MINNESOTA

(Refer to Ordinance File for complete copy of Ordinance)

PRESENTATION / UPDATE ON RECREATION ACTIVITIES BY THE YMCA

Andy Johnson, YMCA Executive Director/CEO, presented an update to Council on activities provided by the YMCA, their partnerships in the community and their role in helping to make Worthington a stronger community. The presentation included information on Board members and staff; Strategic Plan and Goals; membership (3,100 currently); Strong Kids Campaign; fund raising; facility/event highlights, programming and partnerships. Mr. Johnson also provided information on the recreational program the YMCA coordinates and runs for the City.

Council expressed concern over the lack of annual pool memberships that were sold. Mr. Johnson said that most of the passes sold are daily passes - with monthly revenues from \$800 to \$2,000.

Council thanked Mr. Johnson for his presentation.

RESOLUTION AND ADJUSTMENT TO CITY FLEXIBLE SPENDING ACCOUNT CAFETERIA PLAN APPROVED

The motion was made by Council Member Nelson, seconded by Council Member Wood and unanimously carried to adopt the following resolution approving the attached amendment to the City's flexible spending cafeteria plan that would allow employees to carry over up to \$500 to flexible spending account for the following plan year, and repeal the current grace period option, and to authorize the Mayor to sign and Clerk to attest:

RESOLUTION

ACTION TAKEN AND RESOLUTION ADOPTED BY CONSENT OF CITY OF WORTHINGTON

The undersigned, being representatives and/or officers of CITY OF WORTHINGTON (the "Employer"), hereby adopt the following Resolution by unanimous consent and direct that this Consent Resolution be entered in the minute books of the Employer.

WHEREAS, the Employer previously adopted a Code Section 125 plan, also known as the Cafeteria Plan, (the "Plan");

WHEREAS, effective immediately, Internal Revenue Service Notice 2013-71 (the "Notice") modified the "use-or-lose" rule for health flexible spending arrangements (FSAs) to allow, at the plan sponsor's option, employees participating in health FSAs to carry over up to five hundred dollars (\$500.00) of unused amounts remaining at year-end; and

WHEREAS, effective 01/01/2014 the Employer desires to amend the Plan as set forth in the attached Amendment and Summary of Material Modifications to make changes to allow employees a carryover of up to \$500.00 to the flexible spending account, consistent with the requirements set forth in the Notice.

NOW, THEREFORE, BE IT RESOLVED that the Employer has hereby reviewed the attached Amendment and Summary of Material Modifications and does hereby approve the adoption of the Amendment as set forth therein;

BE IT FURTHER RESOLVED that the officers of the Employer are authorized and directed to take any and all action as may be necessary to effectuate this Resolution.

FIRST AMENDMENT TO THE CITY OF WORTHINGTON
CAFETERIA PLAN

THIS AMENDMENT TO THE CITY OF WORTHINGTON CAFETERIA PLAN (the "Plan") is adopted by CITY OF WORTHINGTON, effective as of the dates set forth herein.

NOW, THEREFORE, effective as set forth below, the Plan is amended as follows:

- A. Effective 01/01/2014, pursuant to Internal Revenue Service Notice 2013-71, Article IV A is hereby amended to remove the Grace Period option, if offered by the Employer and as outlined in Sections 4.01A and 4.02A of the Plan, and allow Participants to carry over up to five hundred dollars (\$500.00) of unused Health FSA amounts at the end of the Plan Year to their Health FSA balance for the subsequent Plan Year. To the extent that the Plan contains the Grace period option language, said language for any grace period for the health flexible spending account (Health FSA) will be voided for Plan years following the Plan year that the carryover is adopted and such language shall be replaced with the carryover language in the SSM provided. For avoidance of doubt, the carryover of up to \$500.00 does not impact the subsequent maximum Health FSA Participant Salary Reduction amount set by the IRS.

2014 AGREEMENT WITH YMCA FOR PROMOTION AND MANAGEMENT OF THE CITY'S SUMMER YOUTH RECREATION PROGRAMS APPROVED

Staff presented the 2014 Agreement with the YMCA for promotion and management of the City's summer youth recreation programs. Jim Eulberg, Public Works Director, noted the agreement is basically the same as the previous year, but includes a 3% fee increase over last year, for a total cost of \$45,000.

The motion was made by Council Member Wood, seconded by Council Member Sankey and unanimously carried to approve the 2014 Agreement with the YMCA for promotion and management of the City's summer youth recreation programs at the contract fee of \$45,000.

AUTHORIZATION TO EXECUTE CONTRACT FOR STRUCTURAL ASSESSMENT OF FORMER K-MART BUILDING

Last August, Council declared the former K-Mart building a "hazardous building" in accordance to Minnesota Statute § 463 and issued an order to abate the violations within a given period of time. The owner failed to properly respond, and the City sought the issuance of a judgement through District Court to obtain authority to abate the "hazardous building." On October 31, 2013, Judge Moore issued a Court Order giving the City the right of entry to properly assess the state of repair and disrepair of the building for purpose of determining the most appropriate method to abate the issues. The City's findings are to be submitted to the Judge for authorization to proceed. Based on the City's concerns regarding the K-Mart building's structural dependence/independence with the remainder the mall structure, staff sought requests for proposals from structural engineering firms to review available design information, perform on-site inspections, perform an assessment of the structure and exterior envelope, review the mechanical, electrical, and plumbing systems, prepare an opinion of estimated costs for rehabilitation and demolition, and prepare a report with observations, findings and recommended options. The following proposals were received:

Wenzel Eng.	\$19,722 plus reimbursable expenses
SEH	\$21,250 plus reimbursable expenses (estimated \$1,250)
Clark Eng.	\$30,000 plus reimbursable items billed at cost
BKBM Eng.	\$24,840

Brad Chapulis, Director of Community/Economic Development, noted all the proposals require the City to be responsible for any repair work resulting from intrusive investigation, if applicable. The scope of work in the RFP did not allow for variation, therefore, selection of a firm is solely dependent on price, experience/expertise and quality references. Mr. Chapulis provided the following options for Council consideration to continue with the abatement:

- I. Authorize execution of a contract
- II. Authorize execution of a contract on February 1st
- III. Take the proposals under advisement

Should Council opt for execution of a contract or execution of a contract February 1st, staff's recommendation would be to hire Wenzel Engineering.

City expenditures related to the abatement of the matter is ultimately the responsibility of the property owner. Minnesota statute provides that a local unit of government may obtain a judgement against the owner of the real estate or place a lien on the real estate to recover the cost of abatement. Mr. Chapulis stated the City Attorney has already placed a lien on the property for future costs.

The motion was made by Council Member Kuhle and seconded by Council Member Graber to go with the first option and authorize execution of a contract, with the following Council Members voting in favor of the motion: Kuhle, Graber, Sankey, Nelson; and the following Council Members

voting against the same: Wood. Motion carried.

COUNCIL COMMITTEE REPORTS

Mayor Oberloh - would defer to the Administrator for a report on the presentation by the Scott County Administrator.

Council Member Kuhle - the SRDC has scheduled a meeting on February 6th at the Fulda Legion for a discussion on regional fire protection - it would be good to have a couple of City representatives there.

Council Member Graber - She and Craig Clark met with the Friends of the Auditorium on their future and that of the Auditorium. Also attended a CAL meeting today, point of discussion was their request for a "No Parking" from the alley end but they don't have enough in their budget for a sign. The Administrator will look into the issue. Ms. Graber participated in the lunch program at the CAL and said it was excellent and would recommend other Council Members try it.

Council Member Sankey - nothing to report.

Council Member Wood - nothing to report other than the Water and Light Commission did approve the solar lighting for the city entrance signs.

Council Member Nelson - nothing to report.

CITY ADMINISTRATOR'S REPORT

The meeting with the Scott County Administrator at the Fire Hall was good - his organization was very successful. Minnesota Energy Resources will provide a check for \$5,000 for the fire station - they were very impressed with the facility. The presentation will be Wednesday afternoon. Trying to schedule legislative meetings individually with our legislators - Hamilton and Shumacher are busy with preliminary committee meetings - will try for a meeting with Bill Weber on the 28th at 11 or 12.

Council Member Wood requested that a list be obtained of legislators who represent the area of the Lewis and Clark project to contact some of them regarding the money included by the Governor in the bonding bill for the project.

Mayor Oberloh noted that he would be at an Area Transportation Meeting this Friday in Mankato - all their legislators will be there.

Brad Chapulis reported to Council that Consolidated Construction Company, who built the Event Center, received an award for the project.

ADJOURNMENT

The motion was made by Council Member Nelson, seconded by Council Member Wood, and

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unanimously carried to adjourn the meeting at 8:06 p.m.

Janice Oberloh, MCMC
City Clerk