

**WORTHINGTON CITY COUNCIL
REGULAR MEETING, FEBRUARY 11, 2019**

The meeting was called to order at 7:00 p.m. in City Hall Council Chambers by Mayor Mike Kuhle with the following Council Members present: Larry Janssen, Alan Oberloh, Chad Cummings, Amy Ernst, Mike Harmon. Honorary Council Member: Orville Janssen.

Staff present: Steve Robinson, City Administrator; Jason Brisson, Director of Community Development, Planning, Zoning and Building Services; Todd Wietzema, Public Works Director; Janice Oberloh, City Clerk.

Others present: Leah Ward, The Globe; Aaron Kinser; Kevin Donovan; Chris Kielblock; Abraham Algadi; Ben Weber.

The Pledge of Allegiance was recited.

HONORARY COUNCIL MEMBER

Mayor Kuhle welcomed Orville Janssen as the Honorary Council Member for January, February and March, 2019.

AGENDA CLOSED / APPROVED

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

PUBLIC HEARING CHARTER COMMISSION RECOMMENDATION TO AMEND CHAPTER IX, SECTION 9.01 OF THE WORTHINGTON CITY CHARTER, ENTITLED "POLICE DEPARTMENT", BY ORDINANCE TO REMOVE THE REQUIREMENT FOR A POLICE CIVIL SERVICE COMMISSION

Pursuant to published notice, this was the time and date set for a public hearing regarding a recommendation from the Worthington City Charter Commission to amend the City Charter to remove the requirement for a Police Civil Service Commission (PCSC).

The motion was made by Council Member Harmon, seconded by Council Member Ernst and unanimously carried to open the hearing.

Steve Robinson, City Administrator, provided background information noting that the City had received a recommendation from its legal counsel, Flaherty & Hood, to abolish the City's Police Civil Service Commission. The City's Charter Commission considered the recommendation at their December 12, 2018 meeting, and voted unanimously to recommend that City Council take action to amend Chapter IX, Section 9.01 of the Worthington City Charter, entitled "Police Department", by ordinance, to remove the requirement for a Police Civil Service Commission. Staff received a letter from the Charter Commission's Chairman advising of their action.

MN Statute 410.12 regulates the process for cities to adopt amendments to their Charters. Subdivision 7 outlines the process for amendment by ordinance of the City Council, which includes that the City must publish notice of a public hearing on the proposal, and the notice must contain the text of the proposed amendment. The public hearing must be held at least two weeks but no more than one month after the notice is published, which was January 23, 2019.

Mayor Kuhle asked if there was any comments or questions from Council - no comments were received.

Mr. Robinson provided information from the letter from Flaherty and Hood that included the following as a basis for their recommendation:

- Only around 20 of Minnesota's over 800 cities have Police Civil Service Commissions
- Many cities in the 2000s have abolished their Civil Service Commissions
- The City and Police Department have full-time educated, experienced, and professional management and administrative staff that oversee and direct the operations of the Police Department
- Police Department employees now have extensive employment rights and protections under law, labor contract, and personnel policy
- Control and supervision of Police Department employees implicates extensive and sometimes complex employment, labor, data, and meeting laws that individuals who exercise such control and supervision must be educated and experienced in and trained on to ensure compliance. It is difficult to sufficiently educate, train, and provide enough experience to individuals on a Commission who only exercise such control and supervision intermittently.
- The Commission is subject to the Minnesota Open Meeting Law (OML) under which Commission meetings are open to the public with certain exceptions. This results in discussions and decisions on personnel matters that may be sensitive for the individual at issue and involve private data under the Minnesota Government Data Practices occurring publicly.
- The OML results in the Commission exercising its control and supervision of Police Department employees inefficiently as it can only discuss or make decisions on such matters at a regularly scheduled meeting or at a special meeting that requires 3-days advance notice to the public.
- There are sufficient means to ensure the Police Department is accountable, such as open records laws and City Administrator and City Council oversight of the Police Department.

Aaron Kinser, Charter Attorney for the City of Worthington, was present at the hearing and told Council that a Police Civil Service Commission actually stops a City from taking action when deemed necessary - and it is hard to find people from a community to serve on a PCSC who are willing to step up and do that. Eliminating the Commission gives the City more authority and the ability to act quicker. He also noted that the City's Charter Commission agreed unanimously with

the recommendation.

Mayor Kuhle asked if there was anyone present who wished to present testimony and speak for or against the recommendation. None was received.

The motion was made by Council Member Cummings, seconded by Council Member Ernst and unanimously carried to close the hearing.

A proposed ordinance amending the Worthington City Charter will be presented for Council action later in the meeting.

CONSENT AGENDA APPROVED

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

- City Council Minutes - Strategic Planning Session Minutes of January 23, 2019 and continuation January 24, 2019; Regular City Council Meeting Minutes of January 28, 2019
- Minutes of Boards and Commissions - Worthington Area Convention and Visitors Bureau Minutes of December 19, 2018; Center for Active Living Committee Minutes of December 10, 2018
- Bills payable and totaling \$1,984,329.88 be ordered paid

POSITION CLASSIFICATION APPROVED - MEMORIAL AUDITORIUM MANAGER

Following approval of making the Memorial Auditorium Manager a full time position effective January 1, 2018, Staff was presenting updated position guidelines for Council approval, which would add the position to the City's wage and compensation plan. Steve Robinson, City Administrator, said positions at the City and Public Utilities are classified for salary grade based on nine separate factors. The cumulative score of those factors determines the salary range classification of the position. Human Resource and Finance staff scored the position based on the position factors, and the result placed it as a Non-Exempt Grade 7, which has a minimum wage rate of \$23.10/hour and is an adjustment to the current salary.

The motion was made by Council Member Oberloh, seconded by Council Member Cummings and unanimously carried to approve the position classification for the Memorial Auditorium Manager.

REAL ESTATE PURCHASE OPTION AGREEMENT APPROVED - PARCEL NO. 31-3845-000

Based on Council direction at their closed session at their January 28, 2019 regular meeting, Staff

presented a real estate purchase option agreement for property identified as Parcel No. 31-3845-000. The real estate includes 11.36 acres priced at \$32,500 per acre, for a total of \$369,200. The City would pay the seller \$5,000 for the exclusive and irrevocable option to purchase at any time 90 days from the execution of the option. The option can be extended for an additional 90 days for an additional sum of \$10,000. Special assessments certified for payment payable in 2019 will be prorated between Buyer and Seller, and the Buyer shall assume all other levied and pending special assessments.

The motion was made by Council Member Oberloh, seconded by Council Member Janssen and unanimously carried to approve the real estate purchase option agreement for Parcel No. 31-3845-000, and to authorize payment to the seller in the amount of \$5,000 for the exclusive and irrevocable option at any time 90 days from the execution of the option.

PROFESSIONAL SERVICES AGREEMENT APPROVED FOR PROPOSED ENTERTAINMENT SPEC BUILDING PROJECT

Steve Robinson, City Administrator, said Staff requested a proposal from SEH for architecture and engineering services for design and to develop construction and bid documents for an entertainment spec building project that may accommodate a movie theater business. Mr. Robinson provided a copy of the proposal to Council noting the document had been received Saturday night and had not been reviewed by the City Attorney. He also noted that SEH had deleted items 1 and 2 under Section IV, Item C. *Limitations on Consultant's Liability*, which are common requests of our City Attorney. The proposed fee for the services is a lump sum \$158,000, or about 7% of the estimated construction cost, which is generally in line with a total fee of this nature. Mr. Robinson said it was his recommendation to move forward with the proposal based on our experience working with this architect. The proposal will take us through the bid and through construction, and will include grading work for the entire site.

Honorary Council Member Janssen asked why Council would not consider the current Shopko site in light of the recent closing announcement. Council Members responded that the property is owned by a holding company and may not even be for sale, and the property may be tied up for a long while in bankruptcy court. Council also noted the proposed location of the spec building will allow the City to complete the infrastructure there, in addition to providing additional lots.

The motion was made by Council Member Janssen, seconded by Council Member Harmon and unanimously carried to approve the professional services contract with SEH for the proposed entertainment spec building project.

FIRST READING AND ORDINANCE NO. 1134 ADOPTED AMENDING CHAPTER IX, SECTION 9.01 THE WORTHINGTON CITY CHARTER ENTITLED "POLICE DEPARTMENT" TO REMOVE THE REQUIREMENT FOR A POLICE CIVIL SERVICE

COMMISSION

Following the public hearing earlier in the meeting, and based on a recommendation of the City's Charter Commission and Labor Attorney, staff presented a proposed ordinance that would amend Chapter IX, Section 9.01 the Worthington City Charter entitled "Police Department" as follows:

Section I.

Chapter Nine, Section 9.01, of the Worthington City Charter is hereby amended to read as follows:

Section 9.01 is hereby repealed in its entirety and shall have no further force or effect.

The ordinance would be enacted if it receives the affirmative vote of all members of the City Council and is approved by the Mayor and published as in the case of other ordinances. If within 60 days of the passage and publication of the ordinance, a petition signed by registered voters equal in number to at least five percent of the registered voters in the city, or 2,000, whichever is less, requesting a referendum on the ordinance is filed with the City Clerk, the ordinance shall not become effective until it is approved by the voters.

The motion was made by Council Member Cummings and seconded by Council Member Ernst to adopt the proposed ordinance amending Section 9.01 of the Worthington City Charter to remove the requirement for a Police Civil Service Commission, with the following Council Members voting in favor of the motion: Janssen, Oberloh, Cummings, Ernst, Harmon; and the following Council Members voting against the motion: none. Motion carried.

APPLICATION FOR NEW 3.2% OFF-SALE BEER LICENSE APPROVED - LAKESIDE TRAVEL PLAZA LLC

Staff presented a new application for a 3.2% Off-Sale Beer License from Lakeside Travel Plaza. Council Member Oberloh noted that it was his recollection that we required an alcohol license application include a local person, and the signature on the application was not a local person. The Clerk said she contacted the applicant and was informed that one of the other members would submit new paperwork. Steve Robinson, City Administrator, pointed out that one of the partners listed on the application did have a Worthington address but that it was rural - Council could approve the license subject to it meeting the requirements.

The motion was made by Council Member Oberloh, seconded by Council Member Cummings and unanimously carried to approve the new 3.2% On-Sale Beer License for Travel Plaza LLC for the license period February 12, 2019 through December 31, 2019, contingent on clarification from the

City Attorney that the application met the requirements.

INFORMATIONAL ITEM - 2019 LOCAL BOARD OF APPEAL AND EQUALIZATION

The City received notice from the Nobles County Assessor's Office that the City of Worthington Local Board of Appeal and Equalization has been set for 9:00 a.m. on Wednesday, May 1, 2019 in the Nobles County Commissioners Room. If necessary, the meeting will be continued to a future date in City Hall Council Chambers.

Staff noted that the Nobles County Board of Appeal and Equalization has been scheduled for 6:00 p.m. on Tuesday, June 18, 2019 in the Nobles County Commissioners Board Room.

CENTENNIAL PARK BEACH NOOK BATHROOM BUILDING PLAN APPROVAL AND AUTHORIZATION TO ADVERTISE FOR BIDS

At their September 10, 2018 regular meeting, Council voted to reject the bids received for the Beach Nook Bathroom project in Centennial Park because the bids were well over estimate. The City's Community Growth Committee met with the architect and recommended some cost saving changes to the project. Brunton Architectural and Engineers completed the redesigned plans and construction documents, and staff was requesting Council approval of the proposed design and to authorize staff to advertise for bids to be received March 11th and considered at the March 11, 2019 regular City Council meeting.

The motion was made by Council Member Oberloh, seconded by Council Member Ernst and unanimously carried to approve the plans for the Centennial Park Beach Nook Bathroom Building and authorize staff to advertise for bids to be received March 7, 2019 and submitted to Council for consideration of award at the March 11, 2019 Regular City Council meeting.

Todd Wietzema, Public Works Director, said the targeted completion date for the building is September 15, with a completion date of November 15th for the utilities and trails portion of the project. The current Beach Nook building will remain operational through the season.

CENTENNIAL PARK BEACH NOOK BATHROOM TRAIL AND UTILITIES PLAN APPROVAL AND AUTHORIZATION TO ADVERTISE FOR BIDS

One of the measures taken by the Community Growth Committee to bring the cost of the Beach Nook Bathroom project in-line with what they felt was a reasonable cost, was to split the project into two parts - the bathroom building and the trail/utilities. Bolton and Menk completed the trail and utility plans, which include trail restoration, landscaping, hard surfacing, and utility upgrades. Staff was requesting Council approval of the plans and authorization to advertise for bids to be received March 7, 2019 and submitted to Council for consideration of award at the March 11, 2019 regular

City Council meeting.

The motion was made by Council Member Cummings, seconded by Council Member Ernst and unanimously carried to approve the plans for the Centennial Park Beach Nook Bathroom Trail and Utilities project and authorize Staff to advertise for bids.

COUNCIL COMMITTEE REPORTS

Mayor Kuhle - He, Council Member Cummings and Darlene Macklin went to meet with the Shopko people regarding their planned closing of the local store- he has a call in to the company.

Council Member Janssen - The NEON meeting was cancelled. Attended an Airport Advisory Board meeting - they were told they need to promote the airport more - he agrees.

Council Member Oberloh - The ATV Committee is working on the third draft of an ATV ordinance - it will hopefully be presented at the March 11, 2019 Council meeting.

Council Member Cummings - Memorial Auditorium Advisory Board - they've seen a good increase in movie attendance. Plans are in the beginning stages for the upper seat replacement.

Council Member Ernst - No report.

Council Member Harmon - No report.

CITY ADMINISTRATOR'S REPORT

Steve Robinson, City Administrator, noted that Tuesday, February 19th at 4:00 p.m. had been selected as the time and date for the special joint meeting with Nobles County, and said if Council had any items they would like added to the agenda they should get those in to him. Council Member Oberloh said he would like to have a discussion about the County's proposed sales tax. Council Member Cummings said he would like to discuss a trail system to get to the regional park if we get that designation. Mayor Kuhle suggested a discussion regarding the future of County Road 10.

Mr. Robinson also noted that last week he, Jason Brisson and Brian Kolander attended an Ehlers Financial Seminar. He spoke to Gary Carlson from the LMC while he was there about the hearing for our proposed local option sales tax and Mr. Carlson thought there would be no hearings until March. Senator Weber expected our sales tax bill to be completed by the Revisor either today or tomorrow. Mr. Robinson also reminded Council of the upcoming LMC Legislative Conference February 20th - 21st. Currently, he and the Mayor are planning on attending.

Mr. Robinson and Jason Brisson attended a joint Rock/Nobles County Committee meeting regarding the Buffalo Ridge Rural Rail System. Mr. Brisson said he thought it was a stand-alone committee just for that rail authority. They are looking at their rail-to-truck transport facility just outside of Org.

ADJOURNMENT

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The motion was made by Council Member Oberloh, seconded by Council Member Ernst and unanimously carried to adjourn the meeting at 8:05 p.m.

Janice Oberloh, MCMC
City Clerk