

**WORTHINGTON CITY COUNCIL
REGULAR MEETING, FEBRUARY 28, 2011**

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 Kuhle, Scott Nelson, Mike Woll. Honorary Council Member: Martin Rickers. Aldermen absent: Ron Wood (excused).

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

Others present: Rod Elsing, Clyde and Mary Ann Hoffman; Shawn Noerenberg; Jim Bunner, KWOA; Brittany Workman, Daily Globe.

HONORARY COUNCIL MEMBER

Mayor Oberloh introduced Martin Rickers as the Honorary Council member for the months of February, March and April, 2011.

AGENDA APPROVED

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

CONSENT AGENDA APPROVED

The motion was made by Alderman Kuhle, seconded by Alderman Ten Haken and unanimously carried to approve the Consent Agenda as follows:

- City Council Minutes of Regular Meeting February 14, 2011 and Special Meeting of February 15, 2011.
- Minutes of Boards and Commissions - Park & Recreation Advisory Board Minutes of February 3, 2011.
- Off-Site Gambling Permit as follows:
 - Organization: Worthington Hockey Association
 - CEO: Michael Fogelman
 - Event: Raffles
 - Date/Location: March 20, 2011
Worthington Hockey Arena, 1600 Stower Drive
- Temporary On-Sale Liquor License as follows:
 - Applicant: Avera Worthington Specialty Clinics - Kelli Van Grouw
 - Address: 508 Tenth Street, Worthington, Minnesota
 - Event: 21011 Women's Expo
 - Date/Location: Saturday, March 27, 2011
Minnesota West Community & Technical College

1450 Collegeway, Worthington, Minnesota

- Application for On-Sale Beer License as follows:
Hy-Vee, Inc. (for Hy-Vee Gas Station), 1245 Oxford Street, Worthington, MN
- Bills payable and totaling \$383,779.42 be ordered paid.

RESOLUTION NO. 3460 ADOPTED APPROVING CHANGE OF CONTROL OF MEDIACOM MINNESOTA, L.L.C.

Staff presented a resolution approving the merger/change of ownership for Mediacom, who has a franchise agreement with the City of Worthington, from being a publicly held company to one under the sole ownership of Rocco Commisso or JMC Communications LLC . Pursuant to the franchise agreement, and state and federal law, the cable franchise is not transferable without the consent of City Council. Staff worked with Brian Grogan, of Moss & Barnett, who has been the City's legal counsel regarding the local franchise agreement.

The motion was made by Alderman Woll, seconded by Alderman Kuhle and unanimously carried to adopt the following resolution:

RESOLUTION NO. 3460

APPROVING THE PROPOSED CHANGE OF CONTROL OF MEDIACOM MINNESOTA, L.L.C.

(Refer to Resolution File for complete copy of Resolution)

SUMMARY OF PERFORMANCE EVALUATION - CITY ADMINISTRATOR

Mayor Oberloh gave a brief summary of the performance evaluation of City Administrator, Craig Clark, which Council discussed in closed session at their regular City Council meeting February 14, 2011. Mr. Clark was noted to have satisfactory performance and will receive a raise as determined by the City's wage and compensation plan.

LOAN TO FRIENDS OF THE AUDITORIUM APPROVED

Council considered a request received from the Friends of the Auditorium (FOTA) for a \$15,000 loan to be used as an artist contract deposit. The deposit is due March 9, 2011, and based on the past year's construction, FOTA is financially unprepared until enough ticket sales have been sold. The loan would be for 120 days and would be fully repaid by June 3, 2011.

Council expressed concern about the timing of the request as the show has already been advertised and because the deposit is due March 9th.

The motion was made by Alderman Ten Haken, seconded by Alderman Woll and unanimously carried to approve the loan to the Friends of the Auditorium in the amount of \$15,000 for 120 days.

CHANGE ORDER NO. 1 TO AIRPORT FUELING IMPROVEMENT PROJECT APPROVED

Staff presented Change Order No. 1 to the Airport Fueling Improvement Project. The change order covers additional excavation time needed for installation of the tank because of the sandy, saturated, in-silt material encountered during the excavation that caused the walls of the site to erode and collapse. The change order is for actual costs not to exceed \$16,759.50 which is eligible for a 50% matching grant from MnDOT's Department of Aeronautics. The City's share of the change order is a not to exceed amount of \$8,379.75.

The motion was made by Alderman Kuhle, seconded by Alderman Ten Haken and unanimously carried to approve the change order in a not to exceed amount of \$16,759.50, with the City's share at a not to exceed amount of \$8,379.75.

REQUEST TO REVERSE COUNCIL ACTION AND REVERSE ANNUAL HANGAR LEASE RATE DENIED

At their December 13, 2010 meeting, Council approved an increase in 2011 Airport Hangar Lease Fees, which included increasing the fees for the dirt floor stalls in Hangar #1 from \$35/month or \$360/year if paid in full, to \$46.67/month or \$500/year if paid in full. The Airport Advisory Board was now requesting that Council reverse that action and reduce the fees back to the \$360/year based on the age of the facility and the fact that the doors are difficult to open in the winter season. Four of the six renters have already paid their 2011 fees.

Following discussion, the motion was made by Alderman Woll and seconded by Alderman Ten Haken to deny the request to reverse the lease fees. The following Aldermen voted in favor of the motion: Ten Haken, Nelson, Woll, and the following Aldermen voting against the same: Kuhle. Motion passed.

CONTRACT AWARDED FOR MILLARD/WALKER RESTROOM PROJECT

The following bids were received February 3, 2011 for the Millard/Walker Restroom project:

Doug Nau Construction	\$64,150.00
Clair VanGrouw Construction	\$62,700.00

Both bids were significantly over the estimated cost of approximately \$45,000 partially due to the necessity for a new water and sewer line and the relocation of the facility. The Park Board

considered the bids at their February 3, 2011 meeting, and voted unanimously to move forward with the project, to accept the bid submitted by Clair VanGrouw as the low qualifying bid, and to work with the contractor to identify potential cost savings without reducing quality. Staff noted that following the discussion with the contractor, a change order was drafted for a reduction to the original bid of \$1,235.00. Funds for the project will come from the \$250,000 hospital impact funds Council allocated to the Park Advisory Board for projects.

The motion was made by Alderman Woll, seconded by Alderman Nelson and unanimously carried to award the bid to Clair VanGrouw Construction as the low qualified bidder in the amount of \$62,700 and approve the change order for a reduction of \$1,235.

FIRST READING PROPOSED ORDINANCE - CHANGE OF ZONE FROM "M-1" AND "M-2" GENERAL MANUFACTURING TO "B-2" CENTRAL BUSINESS DISTRICT

At their February 14, 2011 regular meeting, Council gave a first reading to a proposed ordinance that would rezone property owned by the City of Worthington and Rickbeil's Inc. from its current "M-1" and "M-2" General Manufacturing designations to "B-2" Central Business District. A copy of the proposed ordinance was inadvertently omitted from that agenda. Based on advice from the City Attorney, staff was again presenting the application for change of zone and requesting a first reading for the proposed ordinance to rezone the following legally described property from its "M-1" and "M-2" General Manufacturing to "B-2" Central Business District:

The following legally described area, presently included in the "M-1" and "M-2" districts, shall henceforth be included in the "B-2" district:

All of Block 3, Original Plat, City of Worthington, Nobles County, Minnesota.

Together with,

That part of Auditor's Subdivision of Block 2, Original Plat, City of Worthington, Nobles County, Minnesota, and that part of the SE¼SE¼ and Government Lots 4 and 5 of Section 23, Township 102N, Range 40W, City of Worthington, Nobles County, Minnesota, and that part of the NE¼NE¼ and Government Lots 1 and 2 of Section 26, Township 102N, Range 40W, City of Worthington, Nobles County, Minnesota, described as follows:

Beginning at the most northerly corner of Auditor's Subdivision of Block 2, Original Plat, City of Worthington, Nobles County, Minnesota, according to the recorded plat thereof; thence on an assumed bearing of south 42°09'26" east, along the northeasterly line of said Auditor's Subdivision, a distance of 220.00 feet; thence north 47°52'16" east a distance of 313.00 feet; thence south 42°07'44" east a distance of 50.87 feet; thence south 43°45'51" west a distance of 92.95 feet; thence south 44°03'32" west a distance of 80.89 feet; thence south 42°04'02" east a distance of 0.50 feet; thence south 47°56' west a distance of 557.55 feet to the southeasterly extension of the northeasterly line of Lot 12 of said Auditor's Subdivision; thence north 42°09'27" west, along said southeasterly extension, a distance of 18.80 feet to the most easterly corner of said Lot 12; thence continuing north 42°09'27" west, along the northeasterly line of said Lot 12, a distance of 140.02 feet to the most northerly corner of said Lot 12; thence south 47°52'26" west, along the northwesterly line of said Lot 12, a distance of 30.00 feet

to the southwesterly line of the northeasterly 30.00 feet of said Lot 12; thence south 42°09'27" east, along said southwesterly line, a distance of 140.02 feet to the southeasterly line of said Auditor's Subdivision; thence south 47°52'16" west, along said southeasterly line, a distance of 448.53 feet to the east line of Government Lot 2 of said Section 26; thence south 0°29'15" east, along said east line and the southeasterly line of said Auditor's Subdivision, a distance of 8.02 feet; thence south 47°52'27" west, along said southeasterly line, a distance of 69.96 feet to the northeasterly line of the southwesterly 6.00 feet of Lot 19 of said Auditor's Subdivision; thence northwesterly, along said northeasterly line, along a non-tangential curve, concave to the northeast, having a radius of 1141.83 feet, a central angle of 13°48'33", the chord of said curve bears north 31°44'19" west, a chord distance of 274.53 feet, an arc distance of 275.20 feet to the northwesterly line of said Auditor's Subdivision; thence north 47°52'26" east, along said northwesterly line, a distance of 922.17 feet to the point of beginning.

Together with,

That part of the Southeast Quarter of the Southeast Fractional Quarter of Section 23, Township 102 North, Range 40 West of the 5th P.M., bounded as follows: Beginning at the point of intersection of the southeasterly extension of the southwesterly line of Tenth Street and the southeasterly line of First Avenue; thence northeasterly along said southeasterly line of First Avenue, a distance of 90 feet; thence southeasterly, along a line at right angles to the last described course, an approximate distance of 46 feet to a point distant 9 feet northwesterly, as measured at right angles, from the center line of a Spur Track (I.C.C. No. 158) of the Chicago, St. Paul, Minneapolis and Omaha Railway Company, as said track is now located and established; thence southwesterly, along a line parallel with said Spur Track center line, a distance of 90 feet, more or less, to the point of intersection of said southeasterly extension of the southwesterly line of Tenth Street; thence northwesterly, along said extension of the southwesterly line of Tenth Street, to the point of beginning.

and

That part of the Southeast Quarter of the Southeast Fractional Quarter of Section 23, Township 102 North, Range 40 West of the 5th P.M., bounded as follows: on the northwest by the southeasterly line of First Avenue; on the southwest by a line drawn at right angles to said southeasterly line of First Avenue from a point on said southeasterly line which is distant 313 feet northeasterly, as measured along said southeasterly line, from the southeasterly extension of the southwesterly line of Ninth Street; on the southeast by a line drawn parallel with and distance 50 feet northwesterly, as measured at right angles, from the center line of the main track of the Chicago, St. Paul, Minneapolis and Omaha Railway Company, as now located and established; and on the northeast by the southeasterly extension of the southwesterly line of Tenth Street. Except easements of record.

The motion was made by Alderman Kuhle, seconded by Alderman Nelson and unanimously carried to approve the application to rezone and give a first reading to the proposed ordinance.

PETITION FOR SURFACING OF 27TH STREET, 29TH STREET AND NORTH ROSE AVENUE CONSIDERED, ADVANCEMENT TO PROJECT HEARING DENIED

Council considered a petition received for surfacing of North Rose Avenue, 27th Street and 29th Street, executed by owners of 37.4% of the property abutting the segments petitioned to be surfaced, or 42% of the abutting property excluding that owned by the City. The petition is for improvement by necessary grading and base, and by bituminous surfacing, and does not meet the level of public

improvement intended by standards. It is the City Attorney's opinion that the City is not required to move forward merely because a sufficient number of persons sign a petition. Dwayne Haffield, Director of Engineering, noted that the City could assess for the initial improvement, but based on the assessment policy, would not be able to assess maintenance costs when the road fails. Payment instead, would be from the general fund, meaning the general taxpayer would be picking up the tab.

Staff was recommending that Council not pursue development of the project as it would be significantly inconsistent with our assessment policy, and substantially contrary to design standards.

Clyde and Mary Ann Hoffman, and Shawn Noerenberg all of whom signed the petition, were present at the meeting and spoke in support of the project.

Following discussion, the motion was made by Alderman Woll and seconded by Alderman Kuhle to proceed to hearing for the project. The following Aldermen voted in favor of the motion: Woll, Kuhle, with the following Aldermen voting against the same: Ten Haken, Nelson. Based on the tie vote, Mayor Oberloh cast his vote against proceeding to the hearing. Motion failed.

Mayor Oberloh, Aldermen Kuhle and Ten Haken, and Dwayne Haffield will meet with property owners in an attempt to find a solution.

PROPOSAL TO CLEAN LIMESTONE PIECES IN MEMORIAL AUDITORIUM AND CHANGES TO ENGRAVED MESSAGE APPROVED

Council considered a proposal for cleaning of the limestone pieces from Central Elementary School and now installed in Memorial Auditorium. Three of the five stones were installed at eye level on a short wall in front of the restrooms created as a feature wall utilizing Vance trust funds. The proposal included sandblasting of the five stones, which have paint, stain, and dirt debris attached to them, and also engraving of a statement of thanks to Jim and Florence Vance as major benefactors of the Memorial Auditorium remodel and addition at an estimated cost of \$6,991. The contingency fund balance is expected to be adequate to complete the project. Prior to the Council meeting, Council members met at the Auditorium to view the stones and the feature wall.

Discussion was held on the difficulty of sandblasting now that the stones were in place, and that perhaps a general cleaning would suffice. Also discussed was the message to be engraved on the feature wall. Mayor Oberloh suggested the message should more appropriately be a more general rededication message, and the thank you's to benefactors should be by plaque on a different wall.

The motion was made by Alderman Ten Haken, seconded by Alderman Nelson and unanimously carried to have Alderman Woll and Dwayne Haffield negotiate a cleaning of the stones up to the proposed number but with reason taken into account and to remove the Vance portion to be addressed in another way.

COUNCIL COMMITTEE REPORTS

Mayor Oberloh - Attended some meetings regarding potential cost savings on the ARMER System. Also looked for ways to work with the County to get economic value from the wind towers.

Alderman Ten Haken - Attended a Regional Dispatch Center meeting - they continue to work at looking to the LEC for record keeping and 911 calls - they have the ability to collaborate with other counties to house those recorded calls. Worthington is pointed to as the spot for that to happen - we need to work to get there.

Alderman Kuhle - nothing to report.

Alderman Nelson - Attended his first CVB and Chamber meeting - Glenn Thuringer presented with WREDC and convinced both the CVB and Chamber to be sponsors for the Bio Science Conference. They also reviewed the new CVB brochure.

Alderman Woll - Participated in a Parks discussion on the dock issued - the requests continue to increase and he would appreciate any input - to this point there are 8 private docks on public property. The design for the Senior Center is starting - they've had one meeting should have some conceptual drawings soon - they've also been working on the business mode.

CITY ADMINISTRATOR'S REPORT

Craig Clark, City Administrator, reported that on March 10th the CGMC is planning another day at the Capitol if Council was interested in attending. There will be a joint City, County, School District, Township meeting is on the 24th of March.

Alderman Nelson noted that he would not be in attendance at the next City Council meeting. Alderman Ten Haken stated he had already notified the Clerk he would be gone that day. Alderman Nelson said he would be able to attend on the 15th if the meeting were moved to that day. Staff will do some checking and notify Council.

CLOSED SESSION UNDER MINN, STAT § 13D.05 SUBD. 3(C)(3) - PURCHASE OR SALE OF REAL OR PERSONAL PROPERTY - CONSIDERATION OF SETTLEMENT FOR ACQUISITION OF RIGHT OF WAY AND EASEMENTS FOR RYAN'S ROAD/RAY DRIVE PROJECT (PARCEL #31-3857-500)

Mayor Oberloh announced that Council would be going into closed session for consideration of purchase or sale of real or personal property as allowed under Minn. Stat. § 13D.05 Subd. 3 (C)(a). Upon roll call, the following were in attendance for the closed session: Janice Oberloh, Lyle Ten Haken, Mike Kuhle, Martin Rickers, Scott Nelson, Mike Woll, Craig Clark Alan Oberloh, Mark Storm, Dwayne Haffield.

The motion was made by Alderman Kuhle, seconded by Alderman Woll and unanimously carried to close the meeting at 8:55 p.m.

The motion was made by Alderman Woll, seconded by alderman Kuhle and unanimously carried to reopen the meeting at 9:15 p.m.

The motion was made by Alderman Kuhle, seconded by Alderman Nelson and unanimously carried to accept the negotiated recommended verbal agreement from the Krafts for \$120,000 for the parcel identified as #31-3857-500 for right of way and easement purposes for the Ryan's Road/Ray Drive project.

ADJOURNMENT

The motion was made by Alderman Nelson, seconded by Alderman Ten Haken and unanimously carried to adjourn the meeting at 9:17 p.m.

Janice Oberloh
City Clerk