

**WORTHINGTON CITY COUNCIL
REGULAR MEETING, MARCH 25, 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.

Staff present: Steve Robinson, City Administrator; Jason Brisson, Director of Community Development, Planning, Zoning and Building Services; Troy Appel, Public Safety Director; Dwayne Haffield, Director of Engineering; Janice Oberloh, City Clerk; Tammy Makram, Memorial Auditorium Manager.

Others present: Mark Shepherd, Special City Attorney; Randy Thompson, Worthington HRA; Ben Weber; Derek Ringhand, Congressman Hagedorn's Office.

AGENDA CLOSED / APPROVED WITH CHANGE

Mayor Kuhle noted that Item I.2 *Hotel Thompson* would be taken out of order following consideration of the consent agenda.

The motion was made by Council Member Ernst, seconded by Council Member Janssen and unanimously carried to close / approve the agenda with the noted change in order.

PUBLIC HEARING AND RESOLUTION NO. 2019-03-12 ADOPTED ORDERING IMPROVEMENT AND PREPARATION OF PLANS AND SPECIFICATIONS - EAST AVENUE STREET IMPROVEMENT

Pursuant to published notice, this was the time and date set for a public hearing regarding the East Avenue Street Improvement.

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

Dwayne Haffield, Director of Engineering, said the improvement will be from County 5 to the east through the HRA property and will include grading, base construction, and surfacing of the street. A petition was received for the improvement with the resolution was received by Council approximately a year ago. The report was received at the March 11, 2019 Council meeting, where the public hearing was ordered for tonight. If Council approves, they would order the improvement and the preparation of plans and specifications. The earliest that the assessments would come to Council for adoption would be the fall of 2020. A summary of improvement costs and proposed assessments are as follows and are only estimates at this point, and Council will need to determine the rates and if the project moves forward:

City share for non-assessable costs ¹	\$51,110.32
City share of assessable costs	<u>\$0.00</u>

Total City share	\$0.00	(28.2%)
Assessments Receivable	<u>\$129,889.68</u>	(71.8%)
TOTAL COST	\$181,000.00	

The estimated assessment rate is: \$163.14/ft

¹ Includes East Avenue frontage within the C.S.A.H. 5 right-of-way

Only two properties are involved in the improvement. Mr. Haffield explained the process for determining the assessments and also discussed urban/rural improvement and storm sewer/ditch storm management. There is a party interested in a sewer extension.

Mayor Kuhle asked if there was anyone present who wished to present testimony on the proposed improvement:

Duane Gruis: Not in City limits - owns the property to the south and would be assessed for the full frontage. His property is currently being taxed as agricultural homestead with a taxable market value of \$10,000, so there will be an issue.

Mr. Haffield said the increased value of the property based on the improvements was taken into consideration. Council and staff discussed potential options including deferred assessments, deferred payments, and going instead with additional assessments. Special City Attorney Mark Shepherd suggested that perhaps an agreement between the City and Mr. Gruis could be developed prior to getting to the final hearing, where the assessment would go with the property and not the owner.

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

The motion was made by Council Member Oberloh, seconded by Council Member Cummings and unanimously carried to adopt the following resolution ordering the improvement:

RESOLUTION NO. 2019-03-12

ORDERING IMPROVEMENT AND PREPARATION OF PLANS AND SPECIFICATIONS

(Refer to Resolution File for complete copy of Resolution)

CONSENT AGENDA APPROVED

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

- City Council Minutes of Regular Meeting March 11, 2019
- Minutes of Boards and Commissions - Heron Lake Watershed Board Minutes of January 22, 2019
- Financial Statements - Municipal Liquor Income Statement for the Period January 1, 2019 through February 28, 2019
- Proclamation - National Service Recognition Day
- Application for Exemption from Lawful Gambling Permit - Worthington Okabena Windsurfers
- Bills payable and totaling \$656,276.10 be ordered paid

HOTEL THOMPSON

Jason Brisson, Director of Community Development, Planning, Zoning and Building Services, informed Council that on March 7th Staff received electronic correspondence from Lighthouse Management Group stating that Lighthouse is proposing to auction off the Hotel with the assistance of Grafe Auction.

The City was advised earlier in this process that the assessments used to recover the City's cost to repair the hazardous conditions at the property would run with the property and any sale or transfer of ownership would have no bearing on the requirement for the assessments to be paid in full per terms outlined in State law. However, Lighthouse and the City's Legal Counsel are questioning if the City would be able to recover any expenses in excess of the final auction price of the building, if it sold for less than the amount the City has expended in repairs. Costs incurred so far by the City are \$96,640.70, and the contractor has ordered the materials for the roofing project, bringing the total spent by the contractor and the City to \$179,480.70. Until the question regarding the assessments is solved, City Staff has directed the contractor to wait until further direction before moving forward with the roofing project. Mr. Brisson advised that if the City were to move ahead with the additional repairs, it could end up with ownership. He added that the auction company advised it may be best to not follow through with the repair and put it up for auction as is.

Mark Shepherd, Special City Attorney, was at the meeting and discussed the situation with Council. Council Member Ernst noted that our initial goal was to provide a roof over the tenants' heads so they had a place to live - but there is no guarantee that if the property is sold they'll have a place to live. Steve Robinson, City Administrator, said one of the options is to have an absolute auction - it sells for whatever the highest bid is unless the City would contest the sale - then it would be in the courts and they may or may not hold up the City's right to contest it. Mr. Shepherd said his personal opinion is that it should be done cooperatively, and he thinks Lighthouse is going to cooperate with us. You need to decide a minimum bid, and if no one else bids that minimum amount does the City

want the property.

Council Member Oberloh, who sits on the HRA Board said he talked to Randy Thompson from the HRA about the property, that Board will be meeting tomorrow evening. If the City ends up owning the property it would be the HRA running it - we need to have a conversation. Council Member Ernst said we need to figure out what our goal is, sell the property or provide housing. Mayor Kuhle said he is concerned that the low bidder may get the property and not have the financial resources and management to keep that building up - they'll just scrape off the rent and we'll be right back where we are now.

Mr. Shepherd said if the City, through the HRA, is interested in acquiring it then the best way to save money would be not to have an auction and just negotiate with Lighthouse and Wells Fargo - say the City will pay a dollar and we own it.

Council asked if they needed to take action tonight or if there was time to allow the HRA to talk about it tomorrow night. Mr. Robinson said the only question now was do we want to have them continue or keep them on hold for more time.

Mr. Brisson said the receiver had entered into a relationship with a broker for 120 days to try to find a buyer, and at the end of the 120 days the broker just quit. In deciding to try something different the question of an auction came up which started the events being talked about here today. It is his opinion that they are trying to find a solution, this is the route they are going to go and they have communicated and been up front in what they are trying to accomplish. Now is the time for the City to engage in this and decide what they would like to see happen. There is no auction scheduled at this time - the only thing that would give the auction some urgency is the state of the property.

Council Member Oberloh said even if the HRA was interested the City would still foot the bill for putting a roof on and manage it. Mayor Kuhle added the City could pay for the roof and the HRA could pay it back. Council Member Oberloh agreed. Mr. Brisson said in addition to the roof issue, the boiler needs to be addressed, and the other thing is they are struggling with occupancy and getting payment from the folks who are there. If the HRA is going to service some debt based on rental income, some minimum amount of renovation regarding the living conditions will need to be addressed. So we would be looking at a roof, a boiler, and some minimum amount of renovation to bring it up to a standard where the HRA would feel comfortable renting it.

Mr. Shepherd said if Council moves forward right away with putting a roof on it, it's almost a guarantee that no one will buy it. The first decision should be Council and HRA - does the HRA feel they can take the property on - if they don't, then let it go for auction at a minimum bid.

Council agreed with the recommendation. Mr. Shepherd left the meeting.

Seat removal and disposal:	\$2,500.00
Under seat floor preparation, paint:	\$2,000.00
Carpet:	\$10,200.00
New seats:	\$139,606.80
Contingency (5%):	<u>\$7,715.00</u>
Total	\$162,022.80

Also, following issuance of the agenda, Staff had obtained a quote of \$430 for cleaning of the balcony carpet instead of replacement, which will save approximately \$10,000. There was an alternate to add cup holders at an additional cost of \$3,280 , which is not included in the quote from Davis. Total cost of the project is \$152,200, and up to \$155,500 with the cup holders. Council Member Cummings said the feeling of the Board and comments from attendees are that cup holders should be installed. Mr. Robinson noted that the cup holders that were installed in the lower level will not work in the balcony so installation of them will be contingent on Davis Seating coming up with a style that will work there. Staff was recommending award of the quote to Davis Seating in the amount of \$139,606.80.

The motion was made by Council Member Oberloh, seconded by Council Member Ernst and unanimously carried to award the quote for the Auditorium balcony seat replacement to Davis Seating, to include the option of cup holders, and that staff should move forward with the project.

AUTHORIZATION TO ADVERTISE FOR CITY PLANNER POSITION

At their March 11, 2019 meeting, Council approved a City Planner position to be added to the City's Position Classification Plan. The position is classified as a non-exempt 9 with a minimum hourly wage of \$24.80.

Staff was now requesting Council authorization to advertise the position and fill it with the best available qualified candidate.

The motion was made by Council Member Oberloh, seconded by Council Member Cummings and unanimously carried to authorize Staff to advertise for the City Planner position.

PROPOSAL FOR OWNER'S REPRESENTATIVE APPROVED

Steve Robinson, City Administrator, said the City of Worthington is undertaking a number of projects including the Splash Pad, Beach Nook, Public Works Facility, Memorial Auditorium Seat Replacement, and the Entertainment Building, in addition to potential additional sales tax projects upon legislative approval of that tax. A proposal for Owner's Representative services was requested of APX Construction Group and their local representative to assist City Staff with construction administration services including construction observation, review of pay applications, monitor

status of inspections, and ensuring compliance with construction documents. The work is proposed to be done on an hourly basis at a rate of \$75.00/hour, limited to 15 to 20 hours per week during the height of the summer and fall construction season. Council Member Oberloh asked if the company was insured and bonded. Mr. Robinson said he would follow up on that.

The motion was made by Council Member Ernst, seconded by Council Member Janssen and unanimously carried to approve the proposal from APX Construction Group for owner's representative services as provided, contingent on receipt of proof of insurance and bond.

**RESOLUTION NO. 2019-03-11 ADOPTED APPROVING CLARITY TELECOM, LLC
CONSENT TO ASSIGNMENT OR TRANSFER OF CONTROL OF CABLE TELEVISION
FRANCHISE**

Staff had received a request of consent for transfer of control from clarity Telecom, LLC, doing business as Vast Broadband. The parent company has entered into an agreement that will result in a new equity investor sharing control of Clarity. The firm of Moss & Barnett, the City's franchise legal counsel, reviewed the application and financial qualifications, and prepared a resolution approving the transfer of the cable franchise, advising that the City cannot reasonably deny Clarity's request to transfer the system.

The motion was made by Council Member Oberloh, seconded by Council Member Harmon and unanimously carried to adopt the following resolution:

RESOLUTION NO. 2019-03-11

APPROVING THE PROPOSED TRANSFER OF THE CABLE FRANCHISE CURRENTLY
HELD BY CLARITY TELECOM, LLC

(Refer to Resolution File for complete copy of Resolution)

INCREASE TO ANIMAL POUND DAILY BOARDING FEE APPROVED

The City's impound fee for its Animal Pound has been set at \$15 per day for at least 20 years. Troy Appel, Public Safety Director, was requesting Council approval to increase the fee to \$25 per day to cover related costs.

The motion was made by Council Member Oberloh, seconded by Council Member Cummings and unanimously carried set the daily impound fee for the City's Animal Pound as \$25 per day.

**BUDGET AMENDMENT / EXPENDITURE OF ALARM RESERVE FUNDS FOR BWC
PROGRAM APPROVED**

Troy Appel, Public Safety Director, said the Police Department was seeking a budget amendment for expenditure of Alarm Reserve funds to supplement the Equipment Revolving Schedule funds designated for the purchase of body worn cameras (BWC). WPD is proposing the purchase of WatchGuard Vista XLT Body Cameras and received a quote of \$31,510 for 20 cameras and the related equipment needed to implement a BWC program. In addition to the \$25,000 scheduled in the ERS, \$6,510 would be transferred from the Alarm Fund Reserves to complete the purchase.

The motion was made by Council Member Cummings, seconded by Council Member Oberloh and unanimously carried to approve the budget amendment / expenditure of Alarm Reserve funds for the Body Worn Cameras program as requested.

RESOLUTION NO. 2019-03-13 ORDERING PREPARATION OF FEASIBILITY REPORT ON PROPOSED IMPROVEMENT AND RESOLUTION NO. 2019-03-14 RECEIVING REPORT AND CALLING FOR HEARING ON PROPOSED IMPROVEMENT ADOPTED - HOMEWOOD HILLS STREET RECONSTRUCTION IMPROVEMENT PROJECT

Staff presented a resolution ordering preparation of a feasibility report on the proposed improvement of the following streets in Homewood Hills by necessary regrading, base construction, surfacing, and curb and gutter construction:

- Bantom Drive - Miles drive to north end
- Birchwood Place - Miles Drive to south end
- Briarwood Drive - Oakwood Drive to Homewood Avenue
- Fairway Lane - Miles Drive to Oxford Street
- Greenview Road - Miles Drive to Homewood Avenue
- Homewood Avenue - W. Line of Homewood Hills Eighth addition to Viking Road
- Johnson Lane - Miles Drive to south end
- Maplewood Drive - Oakwood Drive to Pinewood Drive
- Miles Drive - Oakwood Drive to Diagonal Road
- Oakwood Drive - Oxford Street to Briarwood Drive
- Pinewood Drive - Maplewood Drive to north line of Homewood Hills 9th Addition
- Rust Road - Miles Drive to Homewood Avenue
- Sally's Alley - Maplewood Drive to Oxford Street
- Viking Road - Miles Drive to Diagonal Road

A feasibility report was also provided to Council, along with preliminary assessment rolls for the project. Dwayne Haffield, Director of Engineering, said Staff was requesting that Council accept the report and call for a hearing on the proposed project at 6:00 p.m. on Wednesday, April 10, 2019 at the Worthington Fire Hall, 830 Second Avenue. Following discussion, it was determined that the time will be moved to 5:00 p.m. instead of 6:00 p.m.

The motion was made by Council Member Cummings, seconded by Council Member Harmon and unanimously carried to adopt the following resolutions ordering the feasibility report and receiving the report and calling for a public hearing to be called on the proposed improvement 5:00 p.m. on Wednesday, April 10, 2019 at the Worthington Fire Hall, 830 Second Avenue:

RESOLUTION NO. 2019-03-13

ORDERING PREPARATION OF FEASIBILITY REPORT ON PROPOSED IMPROVEMENTS

(Refer to Resolution File for complete copy of Resolution)

RESOLUTION NO. 2019-03-14

RECEIVING REPORT AND CALLING FOR HEARING ON PROPOSED IMPROVEMENT

(Refer to Resolution File for complete copy of Resolution)

CONTRACT AWARDED FOR REPLACEMENT OF MAN HOLES ON INDUSTRIAL SANITARY SEWER LINE

The following bids were received on March 22, 2019 for the 2019 Industrial Sanitary Sewer Manhole Work project:

Engineer's Estimate	\$114,731.25
Larson Crane Service, Inc	\$152,215.20
Duininck, Inc.	\$153,552.00

Dwayne Haffield, Director of Engineering, said something happened with Item 115 of the bid, Jet Cleaning of the Sanitary Sewer 18" Clay Main, which was estimated at \$6,610.00, but was bid at \$42,500.00 and \$40,000.00 by the bidders. The contractor was asking that Council not award that item. Mr. Haffield said it was an issue of them paying bond costs up front, and it does not impact the low bid. They are not sure what went wrong with this cleaning.

The motion was made by Council Member Janssen, seconded by Council Member Oberloh and unanimously carried to award the contract for replacement of man holes on the industrial sanitary sewer line, excluding the jet clean sanitary sewer item, to Larson Crane Service, Inc. as the low qualified bidder in the amount of \$109,715.20.

RESOLUTION NO. 2019-03-15 ADOPTED VACATING A PORTION OF AN EASEMENT IN THE SOUTHEAST QUARTER SECTION 24-102-40

Staff presented a resolution vacating a portion of an easement in the southeast quarter section 24-102-40 as follows:

1. That portion of the easements described in Document No. 222998 and Document No. 222999, recorded in the office of the County Recorder, Nobles County, Minnesota, lying within the following described property be hereby vacated and released:

That part of the 3.08 acre tract located in the south half of the Southeast Quarter of Section 24, Township 102 North, Range 40 West, formerly Railroad Right of Way between Sunny View Addition and Circle Addition (a/k/a Parcel #2 Map #V-10-M-1) lying east of a line which passes through the east corner of Block 10, Sunny View Addition, which line is parallel to the east line of Section 24, Township 102 North, Range 40 West, and lying west of a line 33.00 feet west of and parallel with said east line of Section 24, all in the City of Worthington, Nobles County, Minnesota;

together with:

That part of the tract located in the South Half of the Southeast Quarter, Section 24, Township 102 North, Range 40 West, formerly Railroad Right of Way south of Sunny View Addition (a/k/a Parcel #3 Map #V-9-M-4) lying east of a line which passes through the east corner of Block 10, Sunny View Addition, which line is parallel to the east line of Section 24, Township 102 North, Range 40 West, and lying west of a line 33.00 feet west of and parallel with said east line of Section 24, all in the City of Worthington, Nobles County, Minnesota.

Dwayne Haffield, Director of Engineering, said this is included in an abandoned rail line which has easements all over it, and sometimes the description and lines don't come together, which is the case here. The electric line that is the subject of this easement has been relocated at the Electric Department's expense. The Water and Light Commission considered the request at its last meeting and concurred with staff's recommendation to vacate that portion of the easement.

The motion was made by Council Member Cummings, seconded by Council Member Harmon and unanimously carried to adopt the following resolution vacating a portion of the easement:

RESOLUTION NO. 2019-13-15

VACATING PORTION OF AN EASEMENT IN THE SOUTHEAST QUARTER SECTION 24-102-40

(Refer to Resolution File for complete copy of Resolution)

WORKFORCE HOUSING APPLICATION APPROVED 2235 CASTLEWOOD DRIVE

An application has been received from Tu Too for a forgivable loan through the City's Workforce Housing Program for eligible developer installed infrastructure improvements installed for the newly constructed house he purchased at 2235 Castlewood Drive. Jason Brisson, Director of Community Development, Planning, Zoning and Building Services said the loan would be structured as a five-year loan and for each year the applicant owns and resides in the home the annual mortgage payment would be forgiven - after five years it would be fully forgiven.

Following review of the application it was determined that the value of the eligible expenditures is \$18,664.00, and that the applicant meets the eligibility criteria and is eligible for the loan. Staff was recommending approval of the five-year forgivable loan in the amount of \$18,664.00 with an interest rate of 5%.

The motion was made by Council Member Oberloh, seconded by Council Member Ernst and unanimously carried to approve the five-year loan as recommended by Staff.

LEAD FOR AMERICA FELLOWSHIP APPROVED

Jason Brisson, Director of Community Development, Planning, Zoning and Building Services, said the City had been contacted by Lead for America about partnering on a fellowship for Andrea Duarte, who grew up in Worthington and will graduate from St. Catherine University this spring. The first year of the proposed two-year fellowship would consist of organizing and staffing the City's Census Complete Count Committee, which is a volunteer effort aimed at ensuring that everyone that lives within the City of Worthington is counted by the Census. The second year of the fellowship is tentatively proposed for a Community Network Analysis to assist the City in future outreach efforts. The fellowship would run from May 2019 to May 2021. Typical match provided from local governments for the Fellowship is \$15,000 per year - however, the Minnesota Service Cooperatives has pledged \$11,500 towards the fellowship, and Lead for America has agreed to fund the rest of the fellowship for the first year if the City contributes \$5,000. The cost to the City for the second year would be the full contribution of \$15,000. The first \$5,000 would come from the Community Development existing budget and paid in full in May of 2019. The payment for the second year, running from May 2020 to May 2021, would be paid in full May of 2020. The proposed budget is:

2019: \$5,000
2020: \$7,500
2021: \$7,500

The funds for each payment would be paid to the Southwest Initiative Foundation for professional

consulting service and SWIF would pay the City's match to Lead for America.

The motion was made by Council Member Oberloh, seconded by Council Member Ernst and unanimously carried to approve the Lead for America Fellowship.

FIRST READING PROPOSED ORDINANCE - TEXT AMENDMENT TO REMOVE "L-ZONED" PROPERTIES FROM CERTAIN PROVISIONS OF CITY CODE SECTION § 155.145 (B)(2)(b)(5)

At their March 11, 2019 meeting, City Council gave a first reading to a proposed ordinance for a text amendment to remove "L" Zoned properties from certain zoning provisions of City Code Section § 155.145 (B)(2)(b)(5). Following that reading Staff discovered that the wording of the text amendment would not only allow for water supply and sewer treatment facilities in water accessory structures, but would also allow for habitation, which was not the intent of the text amendment. The City Attorney reviewed the proposed ordinance as presented at the March 11, 2019 meeting, and concurred and advised that a language change should be made to reflect Council's intent, and that the amended Ordinance should be presented for a first reading.

Staff presented the revised proposed ordinance that would amend City Code Section § 155.145 (B)(2)(b)(5) as follows:

Section 1.

Title XV, Chapter 155.145, Section (B)(2)(b)(5) of the Worthington City Code is hereby amended to read as follows:

The structure or facility must not be designed or used for human habitation and, with the exception of "L" - Lakeshore zoned properties, must not contain water supply or sewage treatment facilities;

In response to a question from Council Member Oberloh, Mr. Brisson verified that the structure height limitation is still 10 feet, and that there no land use applications have been received in this matter.

The motion was made by Council Member Ernst and seconded by Council Member Cummings to give a first reading to the proposed ordinance with the following Council Members voting in favor of the motion: Janssen, Cummings, Ernst, Harmon; and the following Council Members voting against the motion: Oberloh. Motion carried.

COUNCIL COMMITTEE REPORTS

Mayor Kuhle - He and Council Member Janssen met with Staff regarding the Hockey Arena. Letters were sent to potential stake holders - a meeting will be set for 5:00 on April 29, 2019.

Council Member Janssen - No report.

Council Member Oberloh - No report.

Council Member Cummings - Attended another housing meeting last week - there were several contractors and a couple of Realtors there also and they discussed what types of housing they thought would sell. They will be meeting again in a couple of weeks - June 10th is the deadline for the purchase agreement. The YMCA Board met today, the Cruise Dinner is Friday and there are a few tickets available. April 2nd is World Autism Day - hopes everyone participates.

Council Member Ernst - Also attended the Housing meeting - the contractors are very positive.

Council Member Harmon - Water and Light Commission met last Monday, they talked about the leaks in the L & Clark waterline and the repair work - the farmers are not happy. Also attended the Joint City/County/College/School Board meeting - the School District has an interest in sharing space with us when we develop the Field House.

CITY ADMINISTRATOR'S REPORT

Steve Robinson, City Administrator, noted the hearing is Thursday morning in front of the Sales Tax Committee for our proposed sales tax. Regarding WREDC, the article in Saturday's paper had a misstatement in it - WREDC took action in relation to a building contractor/developer, and it said WREDC had contributed \$183,000, it was not a contribution but approval of a loan. They also approved a loan for development costs for the WIN / Forbidden Barrel project.

ADJOURNMENT

The motion was made by Council Member Janssen, seconded by Council Member Cummings and unanimously carried to adjourn the meeting at 8:50 p.m.

Janice Oberloh, MCMC
City Clerk