

**WORTHINGTON CITY COUNCIL
REGULAR MEETING, APRIL 14, 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.

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

Others present: Aaron Hagen, Daily Globe; Pat Haberman.

The Pledge of Allegiance was recited.

AGENDA APPROVED/CLOSED WITH CHANGES

Staff noted the following changes/additions to the agenda:

- Replacement resolution for Item H.2 - Authorization to Issue Senior Housing Revenue Bonds - Meadows of Worthington, LLC (Ecumen)
- Addition of Approval of Summary Ordinance to Item E.1 - Third Reading Proposed Ordinance - Text Amendment (Flood Plain Management Ordinance)
- Addition of Item E.4. - Sanford Presentation/Update

The motion was made by Council Member Wood, seconded by Council Member Graber and unanimously carried to approve/close the agenda with the requested changes.

CONSENT AGENDA APPROVED WITH CORRECTION

The City Clerk noted a correction to page 3 of the minutes of the March 24, 2014 regular City Council meeting to reflect that the amount granted to the Friends of the Auditorium was \$20,000 (not \$25,000 as stated) and a \$16,000 booking loan.

The motion was made by Council Member Nelson, seconded by Council Member Kuhle and unanimously carried to approve the consent agenda, with the noted correction, as follows:

- City Council Minutes of Regular Meeting March 24, 2014 and Regular Meeting April 10, 2014
- Minutes of Boards and Commissions - Water and Light Commission Minutes of Regular Meeting April 7, 2014; Planning Commission/Board of Appeals Minutes of April 1, 2014; Area Collaborative Minutes of March 13, 2014; Center for Active Living Minutes of March 10, 2014; Worthington Area Convention and Visitors Bureau Minutes of February 26, 2014; Worthington Housing and Redevelopment Minutes of February 25 2014
- Municipal Liquor Store Income Statement for the Period of January 1, 2014 through March

31, 2014

- Approved the Municipal Liquor Store to be open on the 4th of July and to compensate employees by offering time and ½ pay
- Approved proposal from HDR for a study to investigate the potential to accept Leachate from Nobles County Landfill
- Amended the Storm Water Utility Fund Budget to increase the amount budgeted for unanticipated yard/street problems (606-49771) from \$10,000 to \$35,000 utilizing fund 606 reserves for repair of the Lake Okabena outlet pipes
- Bills payable and totaling \$842,949.85 be ordered paid

ORDINANCE NO. 1079 ADOPTED AMENDING TITLE XV OF THE CITY CODE OF WORTHINGTON, NOBLES COUNTY, MINNESOTA - FLOOD PLAIN MANAGEMENT - AND SUMMARY ORDINANCE APPROVED FOR PUBLICATION

Pursuant to published notice, this was the time and date set for the third reading of a proposed ordinance that would amend Title XV, Section 152 of the City Code of Worthington, Nobles County, Minnesota, and bring the City's Flood Plain Management Plan into compliance with federal regulations. Failure to adopt legally enforceable flood plain management measures that comply with Title 44 Code of Federal Regulations prior to the effective date of May 19, 2014 will result in the community's suspension from the National Flood Insurance Program.

Due to the length of the ordinance and the requirement for ordinance publication prior to becoming effective, staff was requesting Council approval of Summary Ordinance No. 169 for publication.

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

ORDINANCE NO. 1079

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

(Refer to Ordinance File for complete copy of Ordinance)

and to approve the following Summary Ordinance for publication:

SUMMARY - ORDINANCE NO. 1079

AN ORDINANCE AMENDING TITLE XV OF THE WORTHINGTON CITY CODE TO REGULATE DEVELOPMENT IN FLOOD HAZARD AREAS OF WORTHINGTON

THE CITY COUNCIL OF THE CITY OF WORTHINGTON, DO ORDAIN that, on April 14, 2014, Ordinance No. 1079 amended Worthington City Code, Chapter XV, Section 152. Due to the lengthy nature of Ordinance No. 1079 the following summary of the ordinance has been prepared for publication as authorized by state law:

Section I.

The ordinance adopted by the Council regulates the type of development that may occur within the flood hazard areas within the City of Worthington. The ordinance complies with the rules and regulations of the National Flood Insurance Program. The ordinance also seeks to preserve the natural characteristic and functions of watercourses and flood plains in order to moderate flood and storm water impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

Section II.

The ordinance shall be in full force and effect from and after its passage and publication and the filing of the certified copy thereof with the Recorder in and for the said County of Nobles, State of Minnesota. A printed copy of the entire ordinance is available for inspection by any person during the City's regular office hours.

RELOCATION OF CITY'S JAPANESE CANNON TO MEMORIAL AUDITORIUM GROUNDS APPROVED

The motion was made by Council Member Graber, seconded by Council Member Kuhle and unanimously carried to approve the relocation of the Japanese cannon currently located at Chautauqua Park to the Memorial Auditorium Grounds following completion of its restoration.

APPROVAL GIVEN FOR CORN MAIZE ON CITY LEASED LAND WEST OF HIGHWAY 59 AND SOUTH OF 27TH STREET

Pat Haberman currently rents agricultural land owned by the City of Worthington west of Highway 59 and south of 27th Street. He is interested in using the property this fall to have a corn maze and to sell pumpkins, gourds and other agricultural products. The area is zoned TZ, or transitional agricultural, which would require a special use permit for the maze, and which in turn requires the Mayor to sign off on behalf of the City.

The motion was made by Council Member Kuhle, seconded by Council Member Graber and unanimously carried to approve the use of the land for a corn maze and selling of pumpkins, gourds and other agricultural products, and to authorize the Mayor to sign off on behalf of the City so Mr. Haberman can apply for the special use permit.

PRESENTATION /UPDATE FROM MIKE HAMMER, CEO-WORTHINGTON REGIONAL HOSPITAL

Mike Hammer, CEO of Worthington Regional Hospital, provided a promotional video presentation in celebration of the five year anniversary of the sale of the Worthington Hospital to Sanford, and provided an update on organization's accomplishments and goals. Growth has been their theme - Mr. Hammer said their biggest challenge is physician turnover but their recruiter is doing a great job. Two of the physicians coming this summer will purchase homes here. They are targeting three issues: recruiting and retaining, growing specialty practices, and growing their education component. They hope to gain approval from Sanford for two significant projects to occur within the next two to three years.

Council thanked Mr. Hammer for the update.

BUDGET AMENDMENT APPROVED FOR PURCHASE OF MOWER FOR AIRPORT USING STATE AND ERS SERVICES

Jim Eulberg, Public Works Director, was requesting a budget amendment to replace the mower attachment for the 2005 Ford tractor used at the municipal airport. The mower required a good amount of repair and maintenance last year. Mr. Eulberg noted he had contacted MnDOT last fall for availability of funds to replace the mower, but was denied as it had not been included in our budget request to them. Projected cost of the mower is \$13,500. Mr. Eulberg has now received a call from MnDOT noting we could proceed with the acquisition of a mower and that it would be eligible for a 2/3 state (\$9,000.00) and 1/3 local (\$4,500.00) cost sharing program. Paperwork is currently being completed for the grant. The funds would come from the ERS, which currently has a balance of \$16,489.00.

The motion was made by Council Member Sankey, seconded by Council Member Kuhle and unanimously carried to approve a budget amendment to purchase a mower for the airport using state funds of \$9,000.00 and ERS reserves of \$4,500.00, contingent on getting final approval of the grant from the MnDOT Office of Aeronautics.

DOCK PERMIT FEES, NUMBER OF DOCK PERMITS AND DOCK PERMITS APPROVED

At their April 16, 2013 meeting, Council approved a Dock Policy that regulates the installation of private docks on public property. Based on that policy, staff was requesting that Council set the number of dock permits allowed in 2014 as 9, the same number allowed in 2013. The Policy also gave first option on renewals to property owners who currently had permits. Jim Eulberg, Public Works Director, noted all nine of the 2013 dock permit holders had applied for a 2014 permit, noting that the permit for the property located across from 702 W. Lake Avenue, issued in 2013 to

Doug Fransen, was actually shared by a group of four, and this year the permit would be in Paul and Alice Hoffman's name, who live directly across from the dock site.

The motion was made by Council Member Kuhle, seconded by Council Member Nelson and unanimously carried to set the 2014 Dock Permit fee at \$135, set the number of dock permits for 2014 at 9, and to approve the 2014 Dock Permit applications as follows:

Clarence Kremer	across from 920 West Lake Avenue
Paul & Alice Hoffman	across from 702 West Lake Avenue
Dale Ryen	across from 916 West Lake Avenue
Evelyn Lambert	across from 610 West Lake Avenue
Rolf Carlson	across from 117 Lake Avenue
Tim Gaul	across from 625 Lake Avenue
Bruce Pass	across from 214 Lake Street
Dave Holinka	across from 200 Lake Street
Jenny Andersen/Arturo Martinez	across from 1977 South Shore Drive

Dock holders must provide proof of insurance and post signs that note they are for public use.

BEACH NOOK PERMIT AGREEMENT APPROVED

In 2013 the City entered into an agreement with Patricia Arnt to operate the Beach Nook in the concession building at Centennial Park. Ms. Arnt's daughter, Jessica, ran the facility. The Arnt's have submitted an application to again operate the Beach Nook in 2014.

The motion was made by Council Member Kuhle, seconded by Council Member Graber and unanimously carried to approve the agreement to operate the Beach Nook for 2014, contingent upon receipt of \$100.00 damage deposit and certificate of insurance.

CONCURRENCE OF PROFESSIONAL SERVICES SELECTION AND AUTHORIZATION TO EXECUTE MASTER SERVICES AGREEMENT AND TASK ORDERS 1 AND 2

The 2014 airport capital improvements budget includes federal and local funding for Taxiway B joint and crack repairs, and identifies and extension of Taxiway C to be completed in 2015 using federal and local funds. Design on the Taxiway B repairs project needs to commence as soon as possible for funding this year, and in order to complete the Taxiway C project next year, an Environmental Assessment needs to be completed prior to October of this year. Professional Services would be provided by the City's Airport Engineer. In order for professional services to be eligible for FAA funding, the firm(s) used for the airport projects must be procured through an open solicitation and qualification based selection process. The procurement is only valid for the projects identified in the process and for no more than five years. Because it would be five years since the last

procurement process, it was necessary to repeat the process prior to entering into any new contracts for FAA funded projects.

At their November 25, 2013 meeting, Council approved the airport consultant selection process. The Airport Consultant Selection Committee has advanced through the process, resulting in the selection of Bolton and Menk, subject to negotiation of a contract and fees for design and construction services for the Taxiway B repair project and preparation of the Environmental Assessment for the Taxiway C extension project. Bolton and Menk submitted a proposed agreement that included a master services agreement and two work orders.

The master work agreement has been reviewed by the City Attorney, the City's insurance representative and a League of Minnesota Cities Risk Management Attorney. Changes in the master agreement have been made to address their comments. Task Order 1 addresses the Taxiway B repair project and was a revised order that reduced certain costs and provides for a lump sum of \$29,325.00, and "not to exceed" fees that are a higher than a typical percent of the project. However, the administration of Federal Aviation Administration funding does require a certain amount of time that is not directly proportional to the project cost.

Task Order 2 proposes the services and fees for preparation of the Taxiway C Extension Environmental Assessment. Because the time required to complete the tasks is not clearly definable until in progress, the original lump sum, fees were changed to "not to exceed", in the amount of \$55,640.00. Dwayne Haffield, Director of Engineering, noted staff is anticipating that 90% of all the Taxiway B repair project and for preparation of the Taxiway C Environmental Assessment is anticipated to be from a Federal Aviation Administration grant. The local share (10%) would be funded by the reserves available for those projects. Mr. Haffield added that financing for the Taxiway C project next year may require an internal loan to allow construction to proceed on schedule while airport reserves temporarily directed to the multi-plane hangar project are replenished from hangar lease payments. Any potential funding MnDOT may have available to supplement federal funding will also be pursued.

The motion was made by Council Member Kuhle, seconded by Council Member Wood and unanimously carried to approve the master services agreement with Bolton and Menk and Task Orders 1 and 2.

SPECIAL USE PERMIT APPROVED - 1501 DOUGLAS AVENUE

Worthington Christian Church applied for a special use permit for property it owns at 1501 Douglas Avenue that would allow them to construct a 42' x 100' addition to its existing religious facility. Religious institutions are only permissible through the issuance of a special use permit in the "R-1" One Family Detached Residential District, which is the zoning classification for the subject property, legally described as follows:

Commencing at a point on the west line of the Southeast Quarter of Section 13, Township 102, North, of Range 40, West of the 5th P.M., a distance of 410 feet north of the southwest corner of said quarter section as place of beginning; thence north on the west line of said quarter section, a distance of 538 feet; thence east and parallel with the south section line of said Section 13, a distance of 409.8 feet to the west line of Douglas Avenue, extended; thence south along the west line of Douglas Avenue, extended, a distance of 538 feet to the north line of a tract of land heretofore conveyed to Eileen Mickelson by deed recorded in Book 89 of Deeds on page 624 in the office of the Register of Deeds for Nobles County, Minnesota; thence westerly in a direct line to the place of beginning being a distance of approximately 400.5 feet, together with an easement for driveway and street purposes over and across Douglas Avenue extended north of U. S. Highway 16 for a distance of 1018 feet, being 70 feet in width; and also a further easement for driveway and street purposes over a tract of land 70 feet in width north and south, which tract lies immediately north of the property herein conveyed and extending from the west line of said quarter section to the west line of Douglas Avenue, extended.

The Planning Commission considered the application at its April 1, 2014 meeting, and after holding a public hearing, voted unanimously to recommend Council approve the special use permit subject to the following:

1. The applicant agrees to prohibit simultaneous use of the facility in writing;
2. The applicant hard surface the required parking as outlined in City Code;
3. The applicant maintain the sight obscuring buffer along the north property line as required by City Code;
4. The applicant establish and maintain an exterior trash enclosure as required by City Code;
5. All site improvements are completed as were illustrated.

The motion was made by Council Member Nelson, seconded by Council Member Graber and unanimously carried to approve the special use permit for 1501 Douglas Avenue, subject to the conditions set forth by the Planning Commission.

AUTHORIZATION FOR ISSUANCE OF SENIOR HOUSING REVENUE BONDS - MEADOWS OF WORTHINGTON, LLC (ECUMEN)

Meadows of Worthington, LLC, operating under the corporate umbrella of Ecumen, has requested the City of Worthington to issue tax-exempt Revenue Bonds not to exceed \$7,000,000 (initially \$6,730,000) on its behalf to refinance the revenue bonds issued in 2009 for the construction of a 42-unit addition to its senior housing facility (The Meadows) located at 1801 Collegeway. The City is authorized to issue the bonds under State Statute Chapter 462C, which relates to multi-family housing, and lend the proceeds to Meadows of Worthington, LLC, the sole member of which is Ecumen. Payment on the loan would be to the City pursuant to a loan agreement between the parties, and would also be guaranteed by Ecumen. The bonds would not be general or moral obligations of the City, and the City's credit, assets, and taxing powers would not be pledged to make

payments due on the bonds. In return for use of the City's bonding authority, Ecumen will be responsible to pay the City a \$8,750 fee (1/8 of 1%) and all legal expenses it incurs with the project.

The motion was made by Council Member Wood, seconded by Council Member Kuhle and unanimously carried to adopt the following resolution authorizing issuance of Senior Housing Revenue Bonds - Meadows of Worthington, LLC (Ecumen):

RESOLUTION

A RESOLUTION AUTHORIZING THE ISSUANCE
OF HOUSING AND HEALTH CARE REVENUE REFUNDING BONDS
(MEADOWS OF WORTHINGTON PROJECT), SERIES 2014

BE IT RESOLVED by the City Council of the City of Worthington, Minnesota (the "City"), as follows:

1. City. The City is authorized by its charter and the laws of the State of Minnesota, including Minnesota Statutes, Chapter 462C, as amended (the "Act"), to issue and sell its revenue bonds for the purpose of financing or refinancing the cost of multifamily housing developments for the elderly and related health care facilities and to enter into agreements necessary or convenient in the exercise of the powers granted by the Act.

2. Authorization of Project; Documents Presented. Meadows of Worthington, LLC, a Minnesota limited liability company (the "Borrower") whose sole member is Ecumen, a Minnesota nonprofit corporation, has proposed to this Council that the City issue and sell its Housing and Health Care Revenue Refunding Bonds (Meadows of Worthington Project), Series 2014 (the "Bonds"), as "Additional Bonds" in substantially the form set forth in and pursuant to the Indenture (as hereafter defined), pursuant to the Act. The proceeds of the Bonds will be loaned to the Borrower to refund and redeem the outstanding principal balance of the City's \$6,730,000 Housing and Health Care Revenue Bonds (Ecumen Corporate Guaranty - Meadows of Worthington Project), Series 2009A (the "Prior Bonds") issued to finance costs of construction and equipping of 42 units of additional congregate senior housing and the conversion of 14 units of existing assisted living into memory care units at the Borrower's existing facility located at 1801 Collegeway in the City (the "Project"). Forms of the following documents relating to the Bonds have been submitted to the City:

(a) Loan Agreement (the "Loan Agreement") dated as of May 1, 2007, as amended by a First Amendment to Loan Agreement dated as of May 1, 2009, as further amended by a Second Amendment to Loan Agreement dated as of May 1, 2014, each between the City and the Borrower, whereby the City agrees to loan to the Borrower the proceeds of sale of the Bonds and the Borrower agrees to pay amounts sufficient to provide for the full and prompt payment of the principal of, premium, if any, and interest on the Bonds; and

(b) Indenture of Trust (the "Indenture") dated as of May 1, 2007, as amended by a First Supplemental Indenture of Trust dated as of May 1, 2009, as further amended by a Second Supplemental Indenture of Trust dated as of May 1, 2014, each between the City and U.S. Bank National Association, as trustee (the "Trustee"), authorizing the issuance of and pledging certain revenues, including those to be derived from the Loan Agreement, as security for the Bonds, and setting forth proposed recitals, covenants and agreements relating thereto; and

(c) Second Amendment to Combination Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents executed by the Borrower and the Trustee (but not the City) which further amends the Combination Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents, dated as of May 1, 2007, as amended by a First Amendment to Combination Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents, dated as of

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May 1, 2009, executed by the Borrower in favor of the City, by which the Borrower grants a mortgage lien on and security interest in certain mortgaged property, as described therein, as further security for the payment of the Bonds; and

(d) Bond Purchase Agreement (the "Bond Purchase Agreement"), among Dougherty & Company LLC (the "Underwriter"), the Borrower and the City, providing for the purchase of the Bonds from the City by the Underwriter and setting the terms and conditions of purchase; and

(f) Preliminary Official Statement (the "Preliminary Official Statement") to be used by the Underwriter to sell the Bonds.

3. Findings. Based solely on the representations of the Borrower, its counsel, and Bond Counsel, it is hereby found, determined and declared that:

(a) Refinancing of the Project will further the policy of the Act.

(b) The Bonds will be issued by the City upon the terms set forth in the Indenture, under the provisions of which the City's interest in the Loan Agreement (except for certain reserved rights of the City) will be pledged to the Trustee as security for the payment of principal of, premium, if any, and interest on the Bonds.

(c) The Loan Agreement provides for payments by the Borrower to the Trustee for the account of the City of such amounts as will be sufficient to pay the principal of, premium, if any, and interest on the Bonds when due. The Loan Agreement obligates the Borrower to pay for all costs of operation and maintenance of the Project, including adequate insurance, taxes and special assessments. A reserve fund has been established under the provisions of the Indenture in connection with the issuance of the Bonds, which reserve fund will not be initially funded but the future funding of which will be guaranteed by Ecumen.

(d) Under the provisions of the Act, and as provided in the Loan Agreement and Indenture, the Bonds are not to be payable from nor charged upon any funds of the City other than amounts payable pursuant to the Loan Agreement and moneys in the funds and accounts held by the Trustee which are pledged to the payment thereof; the City is not subject to any liability thereon; no owners of the Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay any of the Bonds or the interest thereon, nor to enforce payment thereof against any property of the City; the Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City (other than the interest of the City in the Loan Repayments to be made by the Borrower under the Loan Agreement); and each Bond issued under the Indenture shall recite that such Bond, including interest thereon, shall not constitute or give rise to a charge against the general credit or taxing powers of the City.

4. Approval and Execution of Documents. Subject to the provisions of paragraphs 5 and 8, hereof, the forms of Loan Agreement, Indenture, and Bond Purchase Agreement referred to in paragraph 2 (collectively, the "Bond Documents"), are approved in substantially the forms submitted. Subject to the provisions of paragraphs 5 and 8 hereof, the Bond Documents shall be executed in the name and on behalf of the City by the Mayor and the City Clerk.

5. Approval, Execution and Delivery of Bonds. Subject to the provisions of paragraph 8 hereof, the City shall proceed forthwith to issue the Bonds in an aggregate principal amount of not to exceed \$7,000,000, in the form and upon the terms set forth in the Indenture, which terms are for this purpose incorporated in this resolution and made a part hereof; provided, however, that the aggregate principal amount of the Bonds, the maturities of the Bonds, the interest rates thereon, and any provisions for mandatory redemption thereof shall all be as set forth in the final form of the Indenture to be approved, executed and delivered by the officers of the City authorized to do so by the provisions of this

Resolution, which approval shall be conclusively evidenced by such execution and delivery; and provided further that, in no event, shall such rates of interest produce a net interest cost in excess of 8.50% per annum, and the final maturity shall not be later than May 1, 2039. The Underwriter has agreed pursuant to the provisions of the Bond Purchase Agreement, and subject to the conditions therein set forth, to purchase the Bonds at the purchase price set forth in the Bond Purchase Agreement, and said purchase price shall be accepted by the execution of the Bond Purchase Agreement by the Mayor and the City Clerk. The Mayor, City Clerk and other City officers are authorized and directed to prepare and execute the Bonds as prescribed in the Indenture and to deliver them to the Trustee, together with a certified copy of this Resolution and the other documents required by Article II of the Indenture, for authentication, registration and delivery to or at the direction of the Underwriter. As provided in the Indenture, each Bond shall contain a recital that it is issued pursuant to the Act, and such recital shall be conclusive evidence of the validity and regularity of the issuance thereof.

6. Official Statement. The City hereby consents to the preparation and distribution of the Preliminary Official Statement and a final Official Statement to brokers, dealers and other potential purchasers; provided that it is understood that the City has not participated in the preparation of or reviewed, and will not participate in the preparation of or review, the Preliminary Official Statement or the Final Official Statement, and has not made and will not make any independent investigation of the facts provided therein, and has solely relied upon the Borrower and the Underwriter and legal counsel retained by them to assure the accuracy and completeness of the information set forth in the Preliminary Official Statement and Final Official Statement, and therefore the City makes no representations or warranties regarding the information contained therein, except under the heading "THE CITY," and the City assumes no responsibility with respect to the Preliminary Official Statement or the Final Official Statement, including without limitation as to matters relating to the accuracy, completeness, or sufficiency of the Preliminary Official Statement or the Final Official Statement.

7. Records and Certificates. The Mayor, City Clerk and other officers of the City are authorized and directed to prepare and furnish to bond counsel and the Underwriter, when issued, certified copies of all proceedings and records of the City relating to the Bonds, and such other affidavits and certificates as may be required to show the facts appearing from the books and records in the officers custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements contained therein.

8. Changes in Forms Approved; Absent and Disabled Officers. The approval hereby given to the various documents referred to above includes approval of such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate, the appropriate City staff person or by the officers authorized herein to execute or accept, as the case may be, said documents prior to their execution; and said officers or staff members are hereby authorized to approve said changes on behalf of the City. The execution of any instrument by the appropriate officer or officers of the City herein authorized shall be conclusive evidence of the approval of such document in accordance with the terms hereof. In the event of absence or disability of the officers, any of the documents authorized by this Resolution to be executed may be executed without further act or authorization of the City Council by any member of the City Council or any duly designated acting official, or by such other officer or officers of the City Council as, in the opinion of Counsel to the City, may act in their behalf.

9. Qualified Tax Exempt Obligations. The Borrower designated the Prior Bonds as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). Based on the representations of the Borrower and advice of Bond Counsel, the Bonds are being issued to refund, not "advance refund" within the meaning of Section 149(d)(5) of the Code, and to the extent that the principal amount of the Bonds does not exceed the outstanding amount of the Prior Bonds, such principal amount of the Bonds will be deemed designated for purposes of Section 265(b)(3) of the Code. To the extent that the principal amount of the Bonds exceeds the outstanding principal amount of the Prior Bonds, the City hereby designates such excess amount as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code for calendar year 2014.

ORDER FOR REPAIR / DEMOLITION OF NORTHLAND MALL TABLED

On March 10, 2014, the City sent a letter to the owner of the Northland Mall outlining several items observed by City staff, including the City's Building Official, that were in violation of various codes / regulations with the Northland Mall building, 1635 Oxford Street. The letter provided the owner with 30 days in which to present a written plan to City staff to address the issues. The 30 days expired on Saturday, April 12th, but in accordance with statute the first opportunity for the City to act is the next business day, or today. Staff was recommending that the City move forward to require the owner to repair or demolish the building pursuant to state law. Minnesota Statute Chapter 463 allows local units of government to declare a building to be "hazardous" and to order the owner(s) to abate (repair or demolish) the structure and to include an established time frame to do so. If the owner fails to comply with the Order, the next step would be for the City to seek an Order from the District Court to enforce the City's Order to demolish/repair the "hazardous" building. On March 31, 2014, without consultation with City staff, a roofing contractor came to town and obtained a permit to perform roof repairs on a section of the mall.

Brad Chapulis, Director of Community/Economic Development, told Council that as of the writing of the agenda case item there had been no conversations with the owner of the mall property regarding his intentions to respond to the letter we sent March 10th. However, shortly after the case item had been completed, staff received a phone call, and a follow-up email from the owner outlining his plan of action. Mr. Chapulis said that staff's intentions had been to continue the legal proceedings with Northland Mall Realty Management, LLC, however, because we had received a plan of action, the City Attorney has advised us to follow through on that plan of action and do our due diligence as Mr. Kohen had technically provided a response and plan within the 30 day time period. Staff was now requesting Council to table action on this item to the next Council meeting to allow staff to investigate whether Mr. Kohen's plan is valid and to come forth with a recommendation to Council. Mayor Oberloh expressed his frustration with the situation and this new delay. Mr. Chapulis assured Council that the order for demolition of the KMart portion of the building still stands and that timeline is proceeding. Council Member Kuhle stated we need to keep putting pressure on this and requested that the Administrator keep them informed in his Friday at 5 reports.

The motion was made by Council Member Wood, seconded by Council Member Kuhle and unanimously carried to table this item until the next regular City Council meeting to allow staff to perform their due diligence.

COUNCIL COMMITTEE REPORTS

Mayor Oberloh - attended the joint meeting at the BAC - some good ideas came forth there and it seems like the collaboration is gaining traction. In light of the planned restoration of the cannon in Chautauqua Park, he would like to donate restoration of the eagle that sits next to the cannon, and

perhaps it could be moved to the lobby at the auditorium. Mayor Oberloh did request assistance from City staff in moving the eagle to his shop and then to the Auditorium. Council thanked him and accepted the offer.

Council Member Kuhle- nothing to report.

Council Member Graber - attended a Heron Lake Watershed meeting - Mike McCarvel was re-elected as President - they also talked about hiring a consultant to mediate staff and Board relationships. The Library Committee met at Mark Shepherd's office regarding the ballot question. The Auditorium Advisory Board met April 8th - the Friends are still requesting a rental reduction for the Friends to be in the Auditorium. The Board is still waiting for a report from the structural engineer on the ceiling and they had a long discussion on directional signs - they also talked about ticket sales - Gone Country was excellent. Also attended the collaborative meeting - good meeting. The CAL meeting was held this morning - went through their activities, membership renewals, their review of the budget, attendance, etc. The meeting became controversial when it was stated that some Council members had made comments to several members of the advisory committee, causing confusion on the City's future funding for the Center. Ms. Graber also noted they will look at bingo to make money.

Council Member Sankey - no committee reports.

Council Member Wood - would like everyone to hope for rain at frost out to recharge the wells - watering ban will probably stay in effect until we see recharge.

Council Member Nelson - CVB met a couple of weeks ago - they're planning on raising \$7,000 by fund raiser for flags on Oxford Street. The Worthington Concierge Service has been used 3 to 4 times. There is a meeting tomorrow morning to try to put a name to the County collaborative effort.

CITY ADMINISTRATOR'S REPORT

Craig Clark, City Administrator, noted thanks to everyone who attended the BioScience Conference - went well. Also mentioned the visit by Lieutenant Governor candidate Tina Smith - visited with her about housing and its importance to the community. Thanks to Senator Weber for his efforts to bring to the floor work force housing and our challenges here and other parts of the state.

ADJOURNMENT

The motion was made by Council Member Sankey, seconded by Council Member Wood and unanimously carried to adjourn the meeting at 8:10 p.m.

Janice Oberloh, MCMC
City Clerk