

**WORTHINGTON CITY COUNCIL  
REGULAR MEETING, APRIL 25, 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. Aldermen absent: Ron Wood and Honorary Council Member, Martin Rickers (excused).

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

Others present: Ryan McGaughey, Daily Globe; various interested persons.

**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 April 11, 2011
- Water and Light Commission Minutes of Regular Meeting April 18, 2011
- Financial statements - Municipal Liquor Store Income Statement for the period January 1, 2011 through March 31, 2011; General Fund Statement of Revenues and Expenditures - budget and actual- for the period January 1, 2011 through March 31, 2011
- On-Sale Beer License for Mini Market Lupita, Maria Parga - 1906 Oxford Street
- Permits to install a dock on public property for the following:
  - Clarence Kremer                      Across the street from 916 West Lake Avenue
  - Rolf Carlson                              Across the street from 117 Lake Avenue
  - David Holinka                              Across the street from 200 lake Street
  - Contingent upon receipt of insurance certificate and permit fee:*
  - Dale Ryen                                      Across the street from 920 West Lake Avenue
  - Evelyn Lambert                              Across the street from 610 West Lake Avenue
  - Doug Fransen                                Across the street from 702 West Lake Avenue
  - Roger Nelson                                Across the street from 620 West Lake Avenue
  - Bruce Pass                                    Across the street from 214 Lake Street
  - Tim Gaul                                        Across the street from 625 Lake Avenue
- Reappointed Myra Onnen as the City Weed Inspector for 2011
- Grass and Weed Control categories and fees for 2011 as follows:
  - Category 1 — \$110.00 (up to 7,500 sq. feet, exceeds 6 inches, no spraying)
  - Category 2 — \$135.00 (over 7,500 sq. ft. but less than 1500 sq. ft., exceeds 6 inches, no spraying)

Category 3 — \$135.00 (for each 15,000 sq. ft., exceeds 6 inches, no spraying)

Category 4 — \$135.00 plus chemical (under 7500 sq. ft., requires spraying or removal of material prior to mowing)

Category 5 — \$170.00 plus chemical (over 7,500 sq. ft. but less than 15,000 sq. ft., requires spraying or removal of material prior to mowing)

Category 6 — \$170.00 (for each 15,000 sq. ft. plus chemical (exceeds 15,00 sq. ft., requires spraying or removal of material prior to mowing)

Category 7 — Actual cost plus administrative fee (continuous violations after notification by certified mail, or no response to certified mail, minimum of \$110.00 plus \$15.00 administrative fee, plus surcharge of \$100.00 for excessive consumption of city services to be assessed after the second and each additional mowing operation)

- Bills payable and totaling \$761,281.16 be ordered paid

**SECOND READING PROPOSED ORDINANCE AMENDING TITLE IX CHAPTER 99.02 OF THE WORTHINGTON CITY CODE - RELATING TO RECREATIONAL VEHICLES IN A RESIDENTIAL NEIGHBORHOOD**

Staff was requesting that Council give a second reading to a proposed ordinance amending Title IX, Chapter 99.02 (K), that would allow a recreational vehicle to be parked occupied in a zoned residential district. Council expressed concern that such an ordinance would appear to not be friendly to visitors to the community. Mike Cumiskey, Public Safety Director, explained that the current law does not allow for recreational vehicles to be occupied while parked in a driveway, nor does it allow for utility hookups. The proposed ordinance would allow for occupancy up to three days with hookups, with a City issued permit. The proposed cost of the permit would be \$50.

Following discussion, the motion was made by Alderman Nelson to deny the second reading of the proposed ordinance. Motion died for lack of a second.

Following further discussion, the motion was made by Alderman Ten Haken and seconded by Alderman Woll to give a second reading to the proposed ordinance, with the following Aldermen voting in favor of the motion: Ten Haken, Woll, and the following Aldermen voting against the same: Nelson, Kuhle. With the tie vote, Mayor Oberloh cast his vote in favor of the second reading to the proposed ordinance. Motion passed.

**WORTHINGTON ADVENTURE CENTER PROPOSAL FOR REDEVELOPMENT OF 10<sup>TH</sup> AVENUE GRAIN ELEVATOR FACILITY**

Jay Milbrandt, along with a delegation of interested people, was present at the meeting to present a proposal to redevelop the Tenth Avenue grain elevator facility into a climbing facility. The proposal included a \$400,000 funding solicitation from the City for renovation and an addition to the facility,

which is estimated to have annual operating expenses from \$60,000 to \$95,000. Currently, the facility has a demolition date of May 15, 2011 as determined through legal process with the current owner. Mr. Milbrandt noted they estimate the facility would bring in 7,500 visitors annually, and suggested they could set up a self generating demolition fund at \$10,000/year to be used if they cease operation.

Council expressed appreciation for the enthusiasm for the project, but noted several concerns, including code issues, parking, liability, and the looming May 15<sup>th</sup> demolition deadline - with a window that is supposed to be met in less than 30 days. Alderman Ten Haken said we worked hard for the May 15<sup>th</sup> deadline and not in favor of extending that window. Mayor Oberloh and Alderman Nelson suggested the current owner could remove the wood portion of the grain storage facility by May 15<sup>th</sup> as a show of good faith, and could escrow the demolition money into an account. Council also suggested that perhaps Mr. Milbrant's group could look for grant funding and promote some fund raising.

The motion was made by Alderman Kuhle and seconded by Alderman Woll that if, by May 15, 2011, the current owner takes down the wooden portion of the structure and provides \$40,000 in an escrow account retained by the City for demolition of the remaining structure, a year extension on complete demolition would be granted for the project to materialize. The following Aldermen voted in favor of the motion: Kuhle, Nelson, Woll; with the following Aldermen voting against the same: Ten Haken. Motion carried.

#### **MEMORANDUM OF UNDERSTANDING FOR SUMMER HOURS FOR LOCAL 49 APPROVED**

The motion was made by Alderman Woll, seconded by Alderman Kuhle and unanimously carried to approve the Memorandum of Understanding for Summer Hours for Local 49, which allows them to work longer days and received Friday afternoons off.

#### **SOUTHWEST INITIATIVE FOUNDATION ANNUAL FUNDING REQUEST**

Sherry Ristau, President/CEO of the Southwest Initiative Foundation, was present at the meeting per Council's request for a discussion regarding the Initiative's earlier request for funding in the amount of \$7,500. Discussion was held on information presented at the Foundation's 25<sup>th</sup> Anniversary meeting in respect to the amount of funds the Foundation shows they bring to our area. Ms. Ristau answered questions and provided additional information on the Foundation.

Following discussion, the motion was made by Alderman Woll seconded by Alderman Kuhle and unanimously carried to reauthorize the funding payment of \$7,500 to the Southwest Initiative Foundation, as was provided in the 2011 budget.

**SECOND READING PROPOSED ORDINANCE AMENDING CHAPTER 72, SECTION 72.07 OF TITLE VII OF THE WORTHINGTON CITY CODE**

Pursuant to published notice, this was the time and date set for the second reading of a proposed ordinance amending Title VII, Chapter 72, Section 72.07 of the Worthington City Code as follows:

**§ 72.07 PARKING VEHICLES TO FACILITATE SNOW REMOVAL.**

- (A) Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
- (1) Emergency official shall be the superintendent of public works or his designee.
  - (2) Emergency means a condition created on city streets because of the presence of snow, freezing rain, sleet, ice or snow drifts thereon, which creates or is likely to create hazardous road conditions or impede or are likely to impede the free movement of fire, health, police, snow removal equipment, or other emergency traffic or citizen's travel.
  - (3) Street and alley shall mean the entire width of any public roadway within the City and it shall not be limited to those roadways designated as "street" but to include avenues and all other names by which a public roadways are designated.
- (B) Declaration of Snow Emergency.
- (1) After or during the fall of snow, freezing rain, sleet, ice or accumulation of snow drifts on any day between October 15 and April 15, the Emergency Official is authorized to declare in writing a snow emergency which shall be announced by radio broadcast as soon as possible on the local radio station(s). Four (4) hours after the declaration of a snow emergency it shall be in effect. A declared snow emergency shall expire 48 hours later unless the snow emergency is either renewed or terminated early by the Emergency Official. If renewed or terminated early, it will be publicized in the same manner as the original declaration.
  - (2) Parking during declaration of snow emergency. It shall be unlawful for any person to allow a vehicle parked upon any public street or alley which interferes with the removal of snow from streets or alleys in the City or impedes the free movement of fire, health, police, snow removal equipment, emergency or other vehicular traffic when such emergency has been declared.
- (C) Odd-Even Parking. From and after November 15 through March 31 of each year with enforcement time from 12:01 a.m. to 3:00 p.m. each day, the parking of vehicles on the streets in the city on odd-numbered dates shall be allowed only on sides of the streets which have buildings with addresses ending in an odd number and on those dates parking shall be

prohibited on the sides of the streets which have buildings with addresses ending in an even number. During the same time period, the parking of vehicles on the streets in the city on even numbered dates shall be allowed only on the sides of the streets which have buildings with addresses ending in an even number and on those dates parking shall be prohibited on the sides of the streets which have buildings with addresses ending in an odd number. If a Snow Emergency is declared pursuant to (B) above, Odd-Even Parking shall be in effect even if such Snow Emergency occurs or extends outside of the period between November 15 and March 31.

- (D) Nothing in this section authorizes the parking of a vehicle for a period of time or in a place when or where otherwise prohibited or restricted by signs or otherwise including but not limited to, emergency snow route signs, odd/even parking signs or time restricted parking signs. Except as to a declared snow emergency, all temporary and permanent City signs which direct that parking should occur in a different way on any street shall have priority over the other provisions of this Ordinance.
- (E) No vehicle shall be parked upon any street, alley or right-of-way outside of the designated parking lanes so as to block the removal of snow from any such street, alley or right-of-way.
- (F) Ticketing and towing of vehicles. Pursuant to Minn. Stat. 169.041 and § 72.13 of this Code, any law enforcement official shall be authorized to ticket and tow, or have removed and towed away by any commercial towing service, any vehicle which is parked in violation of this Ordinance or in any place where such parked vehicle creates or constitutes a traffic hazard or obstructs, or may obstruct the movement of any emergency or snow removal equipment, or unreasonably interferes with the removal of snow.
- (G) Violation of this section shall be a petty misdemeanor.

The motion was made by Alderman Nelson, seconded by Alderman Woll and unanimously carried to give a second reading to the proposed ordinance.

**SECOND READING PROPOSED ORDINANCE VACATING PORTIONS OF FIRST AVENUE AND NINTH STREET**

Pursuant to published notice, this was the time and date set for the second reading of a proposed ordinance that would vacate portions of First Avenue and Ninth Street to allow for the construction of the new fire hall as follows:

All that par of 9<sup>th</sup> Street and First Avenue abutting Block 3, Plat of Worthington, Nobles County, Minnesota, also described as 9<sup>th</sup> Street and First Avenue from the southeasterly line of Second Avenue to the southwesterly line of 10<sup>th</sup> Street is hereby vacated.

The motion was made by Alderman Kuhle, seconded by Alderman Woll and unanimously carried to give a second reading to the proposed ordinance.

**RESOLUTION ADOPTED AUTHORIZING EXECUTION OF MN DOT AGREEMENT NO. 98199 REGARDING RELOCATION OF ELECTRIC DISTRIBUTION FACILITIES ASSOCIATED WITH THE TH 59/60 PHASE II PROJECT**

Council considered an agreement between the Minnesota Department of Transportation and the City of Worthington regarding relocation of electric distribution facilities associated with the TH 59/60 Phase II project, which will be completed the City of Worthington Public Utilities Electric Department. In addition to establishing the conditions under which the relocations must be conducted, the agreement also provides for the reimbursement of “first move” relocations. MNDOT has determined that actual costs up to \$334,259.70 are eligible for reimbursement. Current estimated costs for the electric relocations are \$429,447, leaving an estimated utility cost of \$95,187.

The agreement also calls for the City to quitclaim deed any interests it has, including easements, in certain tracts of lands being acquired for right-of-way, and legally described as:

That part of City of Worthington’s easements (Documents Numbered 222998 and 222999) over, under and across that part of the Northwest Quarter of Section 25, Township 102 North, Range 40 West, shown as Parcel 14 on Minnesota Department of Transportation Right of Way Plat No. 53-34; also that part of said easements over, under and across that part of the Southwest Quarter of the Southeast Quarter of Section 24, Township 102 North, Range 40 West, shown as Parcel 36 on Minnesota Department of Transportation Right of Way Plat No. 53-36; also that part of said easements over, under and across that part of the Southwest Quarter of the Southeast Quarter of Section 24, Township 102 North, Range 40 West, shown as Parcels 61 and 62 on Minnesota Department of Transportation Right of Way Plat No. 53-40; also that part of said easements over, under and across that part of the Southwest Quarter of the Southeast Quarter of Section 24, Township 102 North, Range 40 West, lying within the boundary of Minnesota Department of Transportation Right of Way Plat No. 53-43; all of said Right of Way Plats are on file and of record in the office of the County Recorder in and for Nobles County, Minnesota.

As stated in the agreement, MnDOT will be conveying its interest in this property as well as that over the remainder of the offtake ditch following completion of the project to the City.

The motion was made by Alderman Woll, seconded by Alderman Kuhle and unanimously carried to adopt the following resolution entering into MNDOT Agreement Number 98199 and authorizing the Mayor and Clerk to execute the agreement:

**CITY OF WORTHINGTON  
RESOLUTION**

IT IS RESOLVED that the City of Worthington enters into Mn/DOT Agreement Number 98199 with the state of Minnesota, Department of Transportation, for the following purpose:

To describe the payment by the Minnesota Department of Transportation to the City of Worthington for its share of costs of the relocation and other associated construction to be performed on, along, and adjacent to Trunk Highway Number 60 from Paul Avenue to 1100 feet past County State Aid Highway 35 in the corporate City limits under State Project Number 5305-58 (T.H. 60).

BE IT FURTHER RESOLVED that the Mayor and the Clerk are authorized to execute the Agreement and any amendments to it.

**PROFESSIONAL SERVICES CONTRACT WITH MEAD AND HUNT FOR DESIGN OF APRON A RECONSTRUCTION PROJECT APPROVED**

Council reviewed a proposal from Mead and Hunt, Inc. for services to develop plans for reconstruction of the southerly portion of Apron A, which is the bituminous pavement beginning at a projection of the south edge the FBO hangar and continuing through the maintenance building. The 2011 Airport budget includes \$559,233 for the reconstruction. Prior to submitting the project to the State for consideration in the State's Capital Improvement Program, the project estimate was revised to \$534,343. The project as listed in the State's CI budget includes \$507,626 of Federal Aviation Administration (FAA) Airport Improvement Program (AIP) funding (95%). The City's budget includes use of \$27,962 (\$26,717 revised) in reserves designated for such projects. Dwayne Haffield, Director of Engineering, said there are advantages to having project plans completed prior to being assured of funding, and City has been notified that the project is in position for possible funding this year. Staff was recommending proceeding in procuring the services of Mead and Hunt, Inc. to develop construction plans for the project to allow for a bid opening in late June or early July.

Mead and Hunt has the proposed Task Order #10, which supplements the Personal Services contract with the firm approved by Council April 14, 2008, and which reflects a reduction in services for the original proposal in an effort to reduce fees. The Task Order does not include construction and closeout phases of work. The \$62,376 in fees associated with the Task Order will be temporarily funded in full from the airport improvement reserves and ultimately included as part of the total project funding.

The motion was made by Alderman Ten Haken, seconded by Alderman Kuhle and unanimously carried to approve Task Order No. 10 with Mead and Hunt, Inc. for design of Apron A

Reconstruction Project.

**REQUEST TO DECLARE SURPLUS PROPERTY APPROVED WITH AUTHORIZATION FOR DISPOSAL BY DIRECT SALE**

Bedford Industries has offered to purchase City owned real estate located 157 feet west of the Rowe Avenue right-of-way approximately 815 feet north of Oxford Street, and which measure 200' x 360.74' in size. The property is currently utilized, along with the adjoining City owned property to the south, by various City departments for stockpiling aggregate materials. According to the City's Property Disposal Policy, the City Council may dispose of real property only after it has declared the property as surplus and has determined whether the said property is to be conveyed to the Economic Development Authority or sold by public or direct sale.

Brad Chapulis, Director of Community/Economic Development, noted Council should consider the following when determining if the property is disposable and under what terms the City would sell it:

- Stock piles would need to be relocated. The stockpiles could be relocated to the remainder of the City property directly south, however, if such relocation is not acceptable to Council, the City would have to look at acquiring property. Either way, a cost will be associated with a sale.
- The Okabena Ocheda Watershed District has a maintenance easement along the abutting ditch. The buyer would have to obtain the necessary approvals from the Watershed District to allow for construction of any building.
- There are two existing utility easements on the subject property. Both serve a regional purpose and must be retained or relocated at the buyer's expense.
- The property of interest is located in the flood plain and is subject to impervious limitations. If a buyer were to make improvements to the property (i.e., construct a building, install impervious surfaces), they must be constructed in conformance with all applicable laws (i.e., flood plain regulations, impervious coverage).

Staff noted that a direct sale would be the only method of disposal that should be considered due to the property's lack of street frontage and direct access to sewer and water, which prohibits development of the property unless it is combined with an abutting property. Besides the City, abutting property owners are Bedford Industries to the North and Schaap Moving & Storage (Arnold Waldner) to the East. Mr. Waldner was also at the meeting said he had nothing against the Bedford project but had approached the City twice on this for a project and was told by the City he couldn't do his project. Mr. Chapulis noted the concern was that Mr. Waldner was already at 98% of impervious coverage on his lot and that he was told it would take significant modification of his property for his project to happen, or he would need to either receive a variance or redevelop the property to rebuild. Through this process, it was discovered that two of Mr. Waldner's buildings encroach upon the City's property. When staff contacted Mr. Waldner to discuss the encroachments,



he expressed interest in the property under consideration. Staff was recommending that, no matter what the decision was on the subject property, Council should declare the easterly 7 feet of the property as excess property and issue a Quit Claim Deed to Schaap Moving & Storage to clear the building's encroachment problem.

Council was requested to determine the following:

1. Declare the easterly 7 feet of the property as surplus property and issue a Quit Claim Deed to Schaap Moving & Storage to clear the building's encroachment problem;
2. Determine if the remainder of the property is surplus property;
3. If declared surplus, instruct staff as to which method of disposal (public or direct) it would like to proceed with; and
4. Instruct staff as to any terms or conditions to a sale if appropriate.

Mr. Chapulis also noted Bedford would need to do due diligence on the easements on the property if they want to make an offer. Should Council declare the property as surplus and determine it would consider a direct sale to Bedford, their offer will be presented to Council at its May 9, 2011 meeting.

The motion was made by Alderman Woll, seconded by Alderman Nelson and unanimously carried to declare the subject property as surplus, to go with a direct sale method of disposal, to issue a Quick Claim Deed to Schaap Moving & Storage as proposed, and that if Bedford purchases the lot their building be constructed within a year.

Alderman Woll also noted to Mr. Waldner that the City would be interested in working with him on a new project.

### **COUNCIL COMMITTEE REPORTS**

Mayor Oberloh - Nothing to report.

Alderman Ten Haken - Attended a Law Enforcement Center Joint Powers Board meeting - they decided they would purchase equipment for the next generation 911 which would pinpoint and target the call location on the computer screen for location, including cell phones.

Alderman Kuhle - Attended a Cable 3 Board meeting - they are in the process of renegotiating with one of the cable companies. They will be scheduling a "vision" meeting to talk about taking this to a better level for the community.

Alderman Nelson - Nothing to report.

Alderman Woll - nothing to report.

### **CITY ADMINISTRATOR'S REPORT**

Craig Clark, City Administrator, noted he would not be in attendance at the May 9<sup>th</sup> Council meeting

as he would be in attending a meeting, along with other City staff and Nobles County representatives, regarding libraries and different initiatives they may be working on. Mr. Clark reminded Council of the Special City Council meeting scheduled for 7 a.m. tomorrow morning, and added to Alderman Ten Haken's report on the next generation 911 that it would also add the ability to send text messages and photos.

**ADJOURNMENT**

The motion was made by Alderman Nelson, seconded by Alderman and unanimously carried to adjourn the meeting at 9:18 p.m.

Janice Oberloh  
City Clerk