

**WORTHINGTON CITY COUNCIL  
REGULAR MEETING MAY 13, 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; Troy Appel, Public Safety Director; Todd Wietzema, Public Works Director; Dwayne Haffield, Director of Engineering; Jason Brisson, Director of Community Development, Planning, Zoning and Building Services; Mindy Eggers, Assistant City Clerk.

Others present: Ben Weber; Justine Wettschrek, Radio Works; Leah Ward, The Globe.

The Pledge of Allegiance was recited.

**AGENDA CLOSED / APPROVED**

Staff requested the addition of item *E.2.e. Planning Commission / Board of Appeals Minutes of May 7, 2019, item E.2.f. Traffic & Safety Committee Minutes of April 30, 2019, Community/Ec. Development case item J.4. First Reading Proposed Ordinance - Change of Zone - Certain Property South of Interstate 90 and North of Darling Drive from an Extension of Grand Avenue Heading North to Property Owned by Worthington Christian School, Community Ec./Development Case Item J.5. City Spec Building Conditional Use Permit Applicant Approval.*

The motion was made by Council Member Ernst, seconded by Council Member Harmon and unanimously carried to close / approve the agenda with the noted additions and changes.

**PUBLIC HEARING - FIRST READING OF AN ORDINANCE TO VACATE PART OF NINTH STREET APPROVED**

Pursuant to published notice, this was the time and date set for a public hearing for a first reading of an ordinance to vacate part of Ninth Street.

Council Member Oberloh stated he would be abstaining from voting because he is a participant in the project.

The motion was made by Council Member Janssen, seconded by Council Member Cummings and carried to open the hearing. Council Member Oberloh abstained.

Dwayne Haffield explained that the City has received a petition to vacate the northeasterly 8" of 9<sup>th</sup> Street from 3<sup>rd</sup> Avenue to approximately 126 feet southeast. The vacation would allow the adjacent building wall to be extended to allow for required building insulation. Owners of 100% of the abutting property and owners of 58.5% of the non-abutting properties within 300 feet of the ends of the segment to be vacated are represented on the petition. He said a similar vacation did occur in

1983 along 10<sup>th</sup> Street to allow improvements to the “Dr. Thul” building although staff and the City Attorney recommended that the vacation be denied.

Mr. Haffield, explained that there is no other provision in the Charter addressing the need for a hearing on vacating a street or alley, other than that for adopting an ordinance, nor has there been any provision found in City Code requiring such a hearing. The League of Minnesota Cities does recommend that a city provide notice to the affected public of a proposed vacation for due process reasons. Historically, the Planning Commission has held a hearing for any right of-way vacation independent of the extent or nature of the vacation. Planning Commission involvement is appropriate in any vacation that may directly or indirectly impact current or future land use or transportation planning. From time to time, limited or partial right-of-way vacations or vacations of functionally isolated rights-of-ways are petitioned for. He explained it is proposed and this case implements a change to bring vacations that would not represent a significant change in the useful function of a right-of-way directly to Council. Notices will continue to be mailed to owners of property within 300 feet of the ends of the proposed vacation and it is recommended and proposed that Council hold a hearing before giving a first reading of an ordinance to vacate any portion of right-of-way. In effect the hearings for limited vacations be moved from being held by the Planning Commission to Council so as to reduce the time line for completing minor vacations.

Section 4.14 of the City Charter, “Vacation of Streets”, states that:

Upon the petition of owners of more than fifty percent of the property fronting upon any portion of any street or public way together with a petition of the owners of more than fifty percent of the property within a distance of three hundred feet in each direction from the ends of such portion so proposed to be vacated, the City Council may by ordinance vacate the same. Such ordinance shall receive the readings, notices, and publications as provided for in Section 4.05 of this Charter. Such ordinance shall not become effective until a certified copy thereof shall have been filed for record with the register of deeds.

Mr. Haffield stated Council may wish to give first reading of the ordinance based on the precedent established to accommodate improvements to zero lot line building in the downtown area. The City did obtain underlying title of all existing streets and alleys in the original Plat of Worthington. This was obtained from the only known interest to the rights-of-way which had been dedicated with reversion rights. Upon vacation, Council will also be requested to authorize sale of the vacated segment to the abutting property owner.

He noted should Council not concur with this recommendation, the matter should be directed to the Planning Commission.

No testimony was received.

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

The motion was made by Council Member Cummings, seconded by Council Member Harmon and carried to give a first reading to the proposed ordinance.

### **CONSENT AGENDA APPROVED**

Council Member Oberloh asked to have a minor discussion on the Planning Commission / Board of Appeals Minutes of May 7, 2019, and the Application for On-Sale Beer License - Nobles County Speedway - Van Ecker Promotions.

Council Member Oberloh stated that Council received the Planning Commission / Board of Appeals minutes from the May 7, 2019 meeting this afternoon and he has an issue with the proposed sign at the Cenex gas station. He said they have done an amazing job with all of the upgrades and have an awning with an embossed sign that is keeping them from putting up an additional pizza sign. Council Member Oberloh asked what could be done to resolve this issue. Jason Brisson, Community Ec./Development Director stated that the business has the ability to appeal within seven days, the City Council would then have the opportunity to over turn the decision of the Planning Commission. Council Member Oberloh stated that he doubts whether they will come forward with an appeal as he was told they have been told no three times. Mr. Brisson stated the logo on the canopy and the pizza sign are in fact both illegal, they were aware they did not meet the legal requirements and built it anyway. He explained that a business that has a corner lot usually has double the signing that is allowed over non corner lots. Mayor Kuhle asked if they are being asked to take down both signs and Mr. Brisson said yes they are. Council Member Ernst stated that she did not think from the discussion at the Planning Commission that was the action that was going to be taken. Council Member Oberloh stated that he has never done this before and doesn't know if it is allowed but will be contacting the manager tomorrow and telling them to come in and start an appeal process.

Council Member Oberloh stated that there were many complaints last year about how long the races lasted, he said there were nights that the races were still going at 12:30 a.m. Mayor Kuhle asked if it was continually or weather related. Council Member Oberloh stated that he did not think it had anything to do with weather and wondered if they could be shut down if they were still going past 11:00 p.m. Troy Appel, Public Safety Director stated that it would be better to address it up front with the promoter rather than sending officers to the races with a full grandstand of people and then try to shut them down. Council Member Oberloh stated they should only be allowed three warnings then be shut down and, if possible receive an administrative fine. Council Member Ernst stated that contact should be made with the promoters and ask them to consider starting the races earlier. Council Member Oberloh stated that the races should definitely be able to be done in a more timely manner and if not asked if the beer license could be withheld. Steve Robinson, City Administrator,

stated staff will check into what would be allowed or could be lawfully enforced concerning the matter.

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

- City Council Minutes of Regular Meeting April 22, 2019;
- Minutes of Boards and Commissions - Water & Light Commission Minutes of May 6, 2019; Water & Light Commission Minutes of April 15, 2019; Worthington Area Convention & Visitors Bureau Minutes of March 27, 2019; 2019 Local Board of Appeal / Equalization Minutes of May 1, 2019 March 18, 2019; Planning Commission / Board of Appeals Minutes of May 7, 2019; Traffic & Safety Committee Minutes of April 30, 2019
- Financial Statements - Municipal Liquor Store Income Statement for the period January 1, 2019 through April 30, 2019
- Application for Parade Permit or to Block Streets - Worthington Okabena Windsurfers
- Application for Temporary On-Sale Liquor License - Worthington Okabena Windsurfers
- Application for On-Sale Beer License - Nobles County Speedway - VanEcker Promotions
- Application for Parade Permit or to Block Streets - Solid Rock Church
- 2019 Additional Private Dock Applications
- Bills payable and totaling \$1,222,652.53 be ordered paid

**APPROVED FIRST READING - CHANGE OF ZONE - CERTAIN PROPERTY SOUTH OF INTERSTATE 90 AND NORTH OF DARLING DRIVE FROM AN EXTENSION OF GRAND AVENUE HEADING NORTH TO PROPERTY OWNED BY WORTHINGTON CHRISTIAN SCHOOL**

Jason Brisson, Community/Ec. Development Director, stated that the City of Worthington is considering a change of zone of property owned by Kelly Properties of Worthington Inc. south of Interstate 90 and north of Darling Drive from an extension of Grand Avenue heading north to property owned by Worthington Christian School. The proposed change of zone is from “R-4” - Medium Density Residential to “B-3” – General Business. The requested change of zone is to permit a proposed approximately 28,000 square foot spec building. The legal description of the property under consideration is as follows:

That part of the Northeast Quarter of the Southwest Quarter of Section 13, Township 102 North, Range 40 West, City of Worthington, Nobles County, Minnesota, described as follows:

Commencing at the Northwest corner of the plat of Northland Park Second Addition, according to the recorded plat thereof; thence on an assumed bearing of North 89 degrees 09 minutes 44 seconds West, along the south line of a tract as recorded in Document No.

260443, a distance of 155.00 feet to the Southwest corner of said tract; thence continuing North 89 degrees 09 minutes 44 seconds West a distance of 500.18 feet to the east line of a tract as recorded in Document No. 285896; thence North 0 degrees 00 minutes 30 seconds East, along said east line, a distance of 243.82 feet to the south line of a tract as recorded in Document No. 260600; thence South 89 degrees 01 minutes 16 seconds East, along said south line, a distance of 158.32 feet to the Southeast corner of said tract, said Southeast corner being the point of beginning of the tract to be described; thence North 0 degrees 00 minutes 30 seconds East, along the east line of said tract, a distance of 437.57 feet to the Northeast corner of said tract located on the southerly right of way line of Interstate Highway No. 90; thence South 89 degrees 09 minutes 45 seconds East, along said southerly right of way line, a distance of 342.23 feet to the Northwest corner of said tract as recorded in Document No. 260443; thence South 0 degrees 02 minutes 22 seconds West, along the westerly line of said tract, a distance of 438.36 feet; thence North 89 degrees 01 minutes 47 seconds West, along said westerly line, a distance of 135.00 feet; thence continuing North 89 degrees 01 minutes 47 seconds West a distance 207.01 feet to the point of beginning.

Mr. Brisson explained the Planning Commission considered the application at its May 7, 2019 meeting. After holding a public hearing, the Commission voted 4-3 to recommend the City Council not to approve the proposed change of zone.

Council Member Ernst stated that she supports the project and in defense of the Planning Commission's decision, they were basing it on the lack of buffers between the "R-2" and "R-4" zones.

Council Member Oberloh stated that he feels that it fits within the model as it does in other communities as medium density, it will have multi family housing next to a commercial area that also has single family homes in the area.

Council Member Cummings stated the City cannot buy a portion of this property and the best thing for the taxpayers is to purchase all of it. He said it provides safety along with the added amenity that has been asked for over and over. It will also allow for growth of the community by extending Cecilee all the way providing for a commercial thoroughfare that could also lead to the potential for additional housing.

Council Member Oberloh stated that the sub-committee looked at five different sites and this property was at the top of the list for the proposed theater because of the area and new sidewalks that have been added to it. He reminded Council that the first location was not seen as feasible as it had no sidewalk access to get there.

A motion was made by Council Member Oberloh, seconded by Council Member Cummings and

unanimously approved to give a first reading to the proposed ordinance.

**APPROVED CITY SPEC BUILDING CONDITIONAL USE PERMIT**

Mr. Brisson explained the City has proposed a change of zone of certain property south of Interstate 90 and north of Darling Drive from an extension of Grand Avenue heading north to property owned by Worthington Christian School from its current "R-4" – Medium Density Residential zoning designation to "B-3" - General Business to permit the City to construct a spec building intended to be leased to a movie theater operator. The land use of a theater would only be permitted on property zoned "B-3" with issuance of a conditional use permit (CUP). The required submittals for a conditional use permit application for this project have been provided to the City by a consultant firm. The City's CUP application requires a signature from both the applicant and the land owner. Mr. Brisson stated that the application will then be forwarded to the Planning Commission for consideration at the June 4, 2019 Planning Commission meeting. At that meeting, the Planning Commission will provide a recommendation regarding the application to the City Council for consideration at the June 10, 2019 City Council meeting.

Mr. Brisson stated that the final site plan will have some slight changes that will meet the minimum zoning standards and the design guidelines.

A motion was made by Council Member Oberloh, seconded by Council Member Janssen and unanimously approved to authorize the Mayor to execute the CUP application on behalf of the City.

**THIRD READING OF ORDINANCE - TO AMEND TITLE XV OF THE CITY CODE OF WORTHINGTON, NOBLES COUNTY, MINNESOTA, TO REZONE PROPERTY FROM "R-4" (MEDIUM DENSITY RESIDENTIAL) TO "R-5" (MULTI-FAMILY, MEDIUM AND HIGH DENSITY)**

Pursuant to published notice this was the time and date for the third reading of a proposed ordinance to Amend Title XV Of The City Code of Worthington, Nobles County, Minnesota, to Rezone Property from R-4" (Medium Density Residential) to "R-5" (Multi-Family, Medium and High Density) as follows:

*The following legally described area, presently included in the "R-4" district, shall henceforth be included in the "R-5" district:*

*That part of the West Half of the Northwest Quarter of Section 22, Township 102 North, Range 40 West, City of Worthington, Nobles County, Minnesota, described as follows:*

*Commencing at the southeast corner of the West Half of the Northwest Quarter of said Section 22; thence on an assumed bearing of North 0 degrees 13*

*minutes 00 seconds East, along the east line of said West Half of the Northwest Quarter, a distance of 710.60 feet to an iron monument; thence North 89 degrees 47 minutes 00 seconds West a distance of 281.35 feet to an iron monument; thence South 0 degrees 13 minutes 00 seconds West a distance of 353.25 feet to an iron monument located on the northeasterly line of Collegeway; thence North 62 degrees 48 minutes 04 seconds West, along said northeasterly line, a distance of 56.11 feet to an iron monument said last described iron monument being the point of beginning of the tract to be described; thence North 0 degrees 13 minutes 00 seconds East a distance of 321.33 feet to an iron monument; thence North 82 degrees 25 minutes 07 seconds West a distance of 238.42 feet to an iron monument located on the easterly right-of-way line of County State Aid Highway No. 10; thence South 43 degrees 33 minutes 11 seconds West, along said easterly right-of-way line, a distance of 215.00 feet to the northeasterly line of said Collegeway; thence South 62 degrees 48 minutes 04 seconds East, along said northeasterly line, a distance of 430.91 feet to the point of beginning.*

Mr. Brisson explained adoption of the proposed ordinance will permit a proposed 16-unit, approximately 8,350 square foot memory care expansion of the Golden Horizons Assisted Living Facility by increasing the maximum building coverage permitted to 50%.

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

**SECOND READING PROPOSED ORDINANCE TO REGULATE ALL-TERRAIN VEHICLES ON CITY STREETS APPROVED**

Pursuant to published notice this was the time and date for the second reading of a proposed ordinance to Regulate All-Terrain Vehicles on City Streets as follows:

An Ordinance to Regulate All-Terrain Vehicles on City Streets by Amending the City Code of the City of Worthington, Minnesota to Create a New Chapter 73.

The purpose of the Ordinance is to provide reasonable regulations for the use of special and recreational motor vehicles on public and private property in the city.

A complete copy of the proposed ordinance was included in the April 22, 2019 Council packet.

The motion was made by Council Member Cummings, seconded by Council Member Oberloh and unanimously carried to give a second reading to the proposed ordinance.

**APPROVED LEASE OF BIOTECHNOLOGY ADVANCEMENT CENTER BUILDING TO BISON-HOLDINGS, LLC**

Steve Robinson, City Administrator, stated that Wayne and Marc Freese approached the City earlier this summer and inquired about the possibility of entering into a long term lease of the City's BAC Building. Their interest was prompted by expansion plans of Cambridge Technologies and the need for business incubator space for animal health start-ups over the next several years. Their business growth plan necessitates remodeling of the facility and the desire to ensure that their capital investment is secure over time.

Mr. Robinson explained the BAC building began as a joint venture 15,000 SF spec building constructed in 2006. Its purpose was economic development through the creation of jobs and to incubate new businesses. The City purchased the building from the other partners in 2009 for \$412,000. Shortly thereafter, construction on the 8,500 SF office and training center began. The City was the recipient of a Federal EDA grant for the development of the facility. The City pledged \$220,000 toward the building as part of the City's grant match. These funds were not used during the initial construction and have been held in reserve dedicated to the unfinished office/laboratory area.

He said from 2008 through April 2019, the City has received \$516,435 in rental income and incurred \$430,877 in operating expenses resulting in a positive cash flow of \$85,558 over the past ten plus years.

The facility currently generates \$75,433 annually in rental income. The City's annual expenses are \$50,091 leaving a positive annual cash flow of \$25,342. The current tenants and their annual rents are as follows:

University of Minnesota Extension:

	\$27,245
• Minnesota. Department of Agriculture:	\$2,400
• Ani Logics (PHG):	\$42,120 (plus \$3668, utility reimbursement)
Total:	\$75,433

He explained that the simplest way to explain the financial terms is that in return for the long-term lease and buyout, Bison-Holdings, LLC will ensure that the City receives \$42,000 annually in rent for all space within the BAC building. Rent received from the Minnesota Department of Agriculture and the University of Minnesota Extension will be credited to Bison-Holdings, LLC toward their annual commitment of \$42,000. If one of those tenants leaves or has their lease modified, Bison-Holdings, LLC will be responsible for making up the difference. In addition, Bison-Holdings, LLC will take on responsibility for all operational expenses that are attributed to the space they occupy

or are financially responsible for. He noted that under this proposal, the City's projected cash flow and income will be substantially more than the current arrangement over the lease period through a reduction in expenses. The lease and Memorandum of Understanding, have been reviewed by the City Attorney and would be between the City and Bison-Holdings, LLC notes the City's ongoing commitment to use the reserve funds of \$220,000.00 toward the build out of the unfinished areas and/or other mutually agreed upon improvements.

Council Member Oberloh asked if a provision was written in the contract that would allow the city to take in more money if Bison Holdings, LLC would have a new renter at an increased rate compared to what the occupants are paying now. Mr. Robinson said that the City's share would stay the same as agreed by both parties.

Council Member Cummings stated this opportunity allows for this building to be exactly what it is meant to be allowing for the City to reduce expenses and still make profit while having a company that has access to other businesses of this nature that the City does not.

Council Member Harmon stated that this will have the potential for 20-40 employees at higher paid wages.

The motion was made by Council Member Oberloh, seconded by Council Member Cummings and unanimously carried to approve the lease of the Biotechnology Advancement Center Building to Bison-Holdings, LLC.

**EXTENSION OF ENTERTAINMENT BUILDING REAL ESTATE PURCHASE AGREEMENT OPTION APPROVED**

Mr. Robinson stated that the February 11, 2019 meeting, City Council approved and authorized the Mayor and Clerk to execute an agreement, included with Kelly Properties of Worthington, Inc. for the exclusive and irrevocable 90 day option to purchase Parcel #31-3845-000, 11.36 acres, for a sum of \$369,200.00. He explained that the City has paid to the Owners \$5,000.00 in consideration of the option. The option money applies to the purchase price at closing. Per the agreement, the option needs to be extended and the option included a provision to extend it for an additional 90 days for an additional \$10,000.00. The additional option money would apply to the purchase price at closing.

The motion was made by Council Member Oberloh, seconded by Council Member Cummings and unanimously carried to approve the extension of the option with the additional \$10,000.00 that would be applied to the purchase price.

**WORTHINGTON FIREFIGHTER'S RELIEF ASSOCIATION PENSION ADJUSTMENT APPROVED**

Mr. Robinson explained at the voluntary firefighters meeting eligibility requirements are entitled to receive retirement benefits in the form of a lump sum payment. Each eligible firefighter receives the benefit level in effect at the time of their retirement from active service. The benefit level has been adjusted from time to time to reflect inflation and to remain attractive in recruiting new volunteers. The current benefit is \$2,864.00 per year of active service. Mr. Robinson stated that the last adjustment occurred in January 2017 and the relief association is requesting a two percent adjustment effective January 1, 2019 representative of an annual adjustment of one percent. The new retirement benefit will then be \$2,921.00.

Council Member Harmon asked the average length of service for a fighter. Mr. Robinson stated that the target seems to be twenty years of service but it is not unusual to see twenty-five years.

Mayor Kuhle asked what the payout is after twenty-years. Mr. Robinson stated that under the current rate it would be \$57,280.00 and it is received as a lump sum from the firefighter pension plan.

A motion wade by Council Member Mike Harmon, seconded by Chad Cummings and unanimously carried to approve the two percent adjustment to the firefighter retirement benefit.

**CONSIDERATION OF EXECUTION OF A CONTRACT FOR RANGE AGREEMENT BETWEEN THE CITY OF WORTHINGTON AND NOBLES COUNTY**

Troy Apple, Public Safety Director explained that the Nobles County Sheriff's Office conducts firearms training separate from the Worthington Police Department. He said that Nobles County has sent a deputy to fire arm training and has requested continued use of the Worthington Pistol Range.

Mr. Appel explained the City attorney has reviewed the agreement and is recommending the City enter into a license agreement with Nobles County for any continued use of the range.

A motion was made by Council Member Oberloh, seconded by Council Member Janssen and unanimously carried to approve the Range Agreement between the City of Worthington and Nobles county.

**RESOLUTION NO. 2019-05-21 ADOPTED AUTHORIZING EXECUTION OF MINNESOTA DEPARTMENT OF TRANSPORTATION AIRPORT MAINTENANCE AND OPERATIONS GRANT AGREEMENT**

Todd Wietzema, Public Works Director, stated the City of Worthington biannually enters into a grant agreement, with the State of Minnesota DOT Aeronautics division, for partial reimbursement of our airport maintenance and operation cost. He said the proposed grant will cover the state fiscal years of 2020 and 2021. Mr. Wietzema explained the City of Worthington will be paid for 75% of the eligible maintenance and operations cost, not to exceed \$77,251.00 of state aid for each fiscal year.

It was unanimously carried to adopt the following resolution:

RESOLUTION NO. 2019-05-21

**AUTHORIZATION TO EXECUTE MINNESOTA DEPARTMENT OF TRANSPORTATION  
AIRPORT MAINTENANCE AND OPERATION GRANT AGREEMENT**

(Refer to Resolution File for complete copy of Resolution)

**APPROVED DECLARATION OF TWO CITY VEHICLES AS SURPLUS PROPERTY**

Mr. Wietzema explained in accordance with the City of Worthington's Disposal Policy, City Council needs to declare City owned vehicles as surplus property before they can be listed for sale. He said staff would like council to declare the following two vehicles as surplus so they can be disposed of:

- 2007 Ford F450 One Ton Truck with 88,700 miles.
- 2001 Chevy ½ Ton Pickup with 107,676 miles.

He explained staff is proposing that these surplus vehicles be sold by sealed bid. Staff will place For Sale signs in these surplus vehicles with information on how they can be purchased. He noted that both of the proposed vehicles were scheduled to be replaced in the 2019 budget.

A motion was made by Council Member Cummings, seconded by Council Member Janssen, and unanimously approved to declare the two listed vehicles as surplus property and allow staff to advertise them for disposal.

**APPROVED A BUDGET AMENDMENT TO PURCHASE A NEW PARK MOWER**

Mr. Wietzema stated City Public Works staff is requesting councils approval to replace a 2002 Kubota F2560, with a new 2019 Kubota F2690. He explained when the City Parks department bought the 2002 Kubota mower new in 2002, its years of useful life was determined to be 12 years. When this mower was to be replaced in 2014 it was determined that we could not replace it with a new mower that would have a high lift grass catcher. These mowers are what park personnel use to go around each fall and clean up leaves in the parks. When this mower was to be replaced in 2014, staff decided not to replace it until we could come up with an option to replace it with what we currently have, Park Superintendent Scott Rosenberg, has now found a replacement option.

Mr. Wietzema explained the new mower that is proposed to be purchased is a 2019 Kubota F2690, will cost \$38,699.00. The city would be receiving a trade in value, on our 2002 Kubota F2560, of \$9,984.00. The out of pocket purchase price would be \$28,685.00. The 2019 E.R.S. reserve balance for replacing the 2002 mower is \$18,563.00, leaving us \$10,122 below our replacement amount.

Staff has replaced 2 new Toro mowers in 2019, and they were \$15,870.70, under budget. He said staff is proposing that we use these funds to replace the remaining shortfall for this new 2019 Kubota mower. The 2019 E.R.S. reserves dedicated for all three mowers the parks budget would still be under budget by \$5,748.70. He noted that the proposed budget amendment would have no effect on the 2019 Public Works budget.

A motion was made by Council Member Cummings, seconded by Council Member Janssen and unanimously carried to approve the budget amendment to purchase the new park mower.

**APPROVED CONSULTANT AGREEMENT FOR 2021 FEDERAL AID PROJECTS**

Dwayne Haffield, Director of Engineering stated the 2021 Capital Improvements includes two proposed federal aid projects. The significantly larger of these projects is the reconstruction of Oxford Street from McMillan Street to Humiston Avenue. The project will be a joint City/County project. Although construction is scheduled for 2021, the extent of project development efforts required for the project dictates that final planning, design, environmental review and the land acquisition process begin as soon as possible. He said that project development is significantly influenced by urban/City considerations, it is proposed that the City take the lead in advancing the project by entering into the contract for the professional services required.

Mr. Haffield explained the second 2021 federal aid project is the Transportation Alternative Program trails project. This involves extending a trail from Knollwood Drive to the Prairie Elementary school and a trail from Cecilee Street to the TH 60 trail. The only services proposed to be obtained from a consultant for this project are those pertaining to the services required to complete the Social, Economic and Environmental (SEE) Impacts sections of the Project Memorandum.

Bolton and Menk and SEH submitted proposals. The City and County Engineers met to evaluate the proposals and found both firms to be adequately qualified and based on the firm's approach to community outreach and land acquisition services as well as fees, SEH was selected as the preferred firm.

***SEH***

	Oxford	Trails	Total
Total preliminary and final design	\$266,700.00	\$6,800.00	\$273,500.00
"Worst case" land acquisition	\$181,050.00	--	\$181,050.00
Total	\$447,750.00	\$6,800.00	\$454,550.00

Mr. Haffield explained the specific tasks needed under preliminary and final design include finalization of the layout plan, preparation of the Project Memorandum required for federal funding,

determination of the limits of temporary and any additional permanent right-of-way required (none assumed at this time), development of costs estimates and funding plan, as well as preparation of plans and specification. This work is to also include community outreach activities as plans are being developed. The extent of services needed for tasks is somewhat defined and the fees (not to exceed) are expected to be near that proposed.

Council Member Oberloh asked if these projects were 50/50 with the County. Mr. Haffield stated that it is an Urban project and the City and County would share in the costs but the City will pay for all of the costs up front before being reimbursed.

A motion was made by Council Member Cummings, seconded by Council Member Ernst and unanimously carried to authorize SEH as the selected firm and to amend the 2019 budget moving up the fees to this year.

**AIRPORT CONSULTANT CONTRACT AND APRON A RECONSTRUCTION DESIGN TASK ORDER APPROVED**

Mr. Haffield explained the City agrees to certain terms and conditions for receiving Airport Improvements Program (AIP) grants funded by the Federal Aviation Administration (FAA). These requirements include those pertaining to the procurement of professional services such as:

- > The consultant is to be selected through a qualifications based selection process.
- > The selection process must allow for open and free competition.
- > The services to be solicited are limited to identified projects that are initiated within five (5) years of the date the contract is signed by the consultant.

The previous Professional Services contract with the firm of Bolton and Menk, approved by Council on April 14, 2014, is no longer in effect. He reminded Council at its January 14, 2019 meeting, Council approved a process for selecting the airport consultant for the next five years for projects listed in a Request for Statement of Qualifications (SOQ) which includes those listed in the Airport's Capital Improvement's budget. The process was to include:

A request for SOQ's be published and direct mailed to firms known to be providing airport services in the State.

Three to five firms be selected on the basis of specific criteria to request proposals from or, alternately, to interview without requesting proposals.

A firm be selected on the basis of specific criteria to enter into fee negotiations with. This may or may not follow interviews with one or more of the firms if proposals are requested.

These steps were conducted by a selection committee consisting of a member of the Airport Committee to be appointed by the committee (Brian Larsen), a representative of the FBO (Cameron Johnson), the Director of Public Works, and the City Engineer.

He explained SOQs were mailed or emailed to sixteen firms either from the list of known firms or following a request for the SOQ (7 firms). Four SOQs were received. The firms submitting were Bolton & Menk, Inc., Bollig Inc., KLJ, and TKDA. The selection committee met on March 13, 2019 and determined that, based on the information submitted in the SOQs, the firms of Bolton & Menk, KLJ, and TKDA should be interviewed. Ranking was completed immediately following the interviews and the committee selected the firm of Bolton and Menk.

Mr. Haffield stated the master services agreement establishes the terms and conditions that may be common to all airport projects undertaken by the firm. Work Orders address the scope of services and any other specific terms relating to specific projects. He noted the Master Agreement has been reviewed by the City Attorney and the City's insurance agent.

#### ***South Apron A Reconstruction and Master Agreement Work Order 1***

Mr. Haffield stated the next federally funded project proposed in the current Airport Capital Improvements Program is the reconstruction of the South Concrete Apron which is anticipated to be completed in 2020 with AIP entitlement funds. This portion of the concrete Apron A (located in the terminal area) abuts the majority of the FBO Hangar and provides access to the jet fueling. Although the apron reconstruction is not scheduled until 2020, it is proposed to utilize part of the existing entitlement balance to fund the project design in federal fiscal year 2019. Completing design in FY 2019 will maximize use of entitlement funds which may only accumulate for three years.

The proposed Work Order 1 under the Bolton and Menk Master Agreement addresses the professional services needed for design through the bidding phase of the Apron A reconstruction. Although the City's preference for fees is hourly not to exceed, current application of FAA requirements directs the use of lump sum for services such as design and hourly plus fixed fee for services such as those for construction phases. The rates applied to derive the fixed fee proposed in the work order were compared to a current and a proposed professional services agreement and found to be at or below the rates used in those agreements. The hours assigned to derive the fee are found to be reasonable.

Mr. Haffield said the airport budget does not currently include expenditures in 2019 for the project. The City's Airport CIP lists the project in 2020 at a total cost of \$519,642 with a local share of \$51,964 being financed from use of reserves. The \$43,500 in fees should be addressed through budget amendments reflecting a \$43,500 expenditure, \$39,150 federal (AIP entitlement funds) and \$2,175 in MnDOT state revenues, and a local share of \$2,175 funded by use of airport reserves for capital improvements.

The grant agreements will be submitted to Council at a later date for approval.

A motion was made by Council Member Oberloh, seconded by Council Member Janssen, and unanimously carried to approve the budget amendments as outlined and authorize execution of the Master Agreement and Work Order 1.

### **AUTHORIZED EXECUTION OF PETITION TO VACATE PART OF 8<sup>th</sup> STREET**

Mr. Haffield noted that the petition to vacate part of 8<sup>th</sup> Avenue should have been listed as street in the heading, he stated it is correctly referred to in the case item.

Mr. Haffield explained the condominium association for Lake Shore Park Condominium, located at Lake Street (8th Street) and 4th Avenue, is interested in modifying certain number of the decks facing the lake along Lake Street. In order to enlarge the decks, a portion of the street right-of-way will need to be vacated. With the street vacated, the association will need to amend the condominium plat and the Planned Unit Development for the redevelopment area.

Mr. Haffield explained the area desired to be vacated is that between the existing right-of-way line and 1 foot, more or less, from the sidewalk. This portion of the right-of-way was dedicated as 8<sup>th</sup> Street in the original Plat of Worthington. Although labeled as "Park & Street" in the plat of Lake Shore Park Subdivision, the City Attorney concurs that the area is right-of-way as dedicated in the original plat and should be described as part of 8th Street.

Mr. Haffield explained the City Charter requires a petition representing over 50% of the property abutting the street segment to be vacated and over 50% of the property within 300 feet of the ends of the segment. The party interested in the vacation has submitted a petition that does not satisfy either requirement. The extent of city ownership or city co-ownership makes it impossible (abutting requirement) or, as a practical matter, difficult (non-abutting requirement) for the party to submit an adequate petition. In regard to properties abutting the portion desired to be vacated, it is not possible to satisfy this requirement without the City joining the petition because the City owns the park area abutting the street. In regard to property within 300 feet of the ends of the desired vacation, the interested party has sought to contact all applicable property owners. It is reported that none declined but some did not respond to attempts to be contacted. As shown in the map below, the City does own or is co-owner (parking lot in west quadrant of 9<sup>th</sup> Street and 4<sup>th</sup> Avenue intersection co-owned with the County) of a substantial amount of the property (about 38%) within 300 feet of the ends of the segment.

Mr. Haffield said the interested party is also requesting that the City join the petition. To formally represent city ownership of the property. If Council authorizes the execution of the petition, it will be processed as an adequate petition and brought back to Council after proper notice has been provided of a hearing on the vacation.

Council Member Ernst inquired about the small trapezoid piece that is not included in the request. Mr. Haffield stated that the small area was not included in the petition request.

A motion was made by Council Member Oberloh, seconded by Council Member Ernst and unanimously carried to authorize the Mayor to execute the petition and move forward with the proposed vacation for the public hearing and ordinance readings.

**ADOPTED RESOLUTION NO. 2019-05-22 DECLARING ADEQUACY OF PETITION AND ORDERING PREPARATION OF FEASIBILITY REPORT ON PROPOSED IMPROVEMENT**

Mr. Haffield explained DK Buildings LLC is proposing to develop a portion of the former Rock Island railroad right-of-way in the southwest quadrant of the CSAH 5 and East Avenue intersection. The development is proposed to consist of multiple lots.

He stated the property is not currently served by sanitary sewer (wastewater collection). The owner has submitted the petition for improvement of the property's frontage along East Avenue by extension of the wastewater collection system. It is assumed the property would be served by an extension from the sanitary sewer located in the east part of the CSAH 5 right-of-way and in the middle of East Avenue although other options should be explored as part the feasibility study phase of the project. At a minimum, a public extension either across CSAH 5 or from the west through the adjacent park to the property would, by practice and precedent, be a public improvement. Whether the extension along the property frontage should be a developer installed improvement or part of the public extension would be evaluated in a feasibility study of the petitioned improvement. The determination of whether the extension along the property is to be developer installed or part of a public improvement is dependent on whether other properties should or would be served by an extension to serve the subject property.

Mr. Haffield said the petitioner did state the interest in having sewer available this year. Typically a petition submitted after October of any year is not acted upon for construction the following year. This reflects the need to initiate survey work before the winter design season. Council has accepted petitions for expedited projects particularly when consulting services are available and factors warrant immediate attention. In the case of this project, the potential for a conflict with the East Avenue paving improvement provides further justification to pursue an expedited project to facilitate additional housing development as soon as possible.

It was unanimously carried to adopt the following resolution:

RESOLUTION NO. 2019-05-22

DECLARING ADEQUACY OF PETITION AND ORDERING PREPARATION OF FEASIBILITY

## REPORT ON PROPOSED IMPROVEMENT

(Refer to Resolution File for complete copy of Resolution)

A motion was made Council Member Cummings, seconded by Council Member Harmon and unanimously approved to authorize execution of the proposal from Midwest Engineering.

### **ADOPTED RESOLUTION NO. 2019-05-23 APPROVING PLANS AND AUTHORIZED ADVERTISEMENT FOR BIDS FOR HOMEWOOD HILLS STREET IMPROVEMENTS**

Mr. Haffield explained staff has prepared the plans for the improvement of the streets in Homewood Hills that were presented and approved at the April 10, 2019 improvement hearing.

Mr. Haffield explained the project also includes the optional sidewalk extensions to form several street crossings. In regard to the street crossings, the construction plans include a certain switch in crossing locations. The original proposal included a north-south crossing of Briarwood Drive at Donavon Drive but did not included a crossing of Miles Drive at or near Fairway Lane. Further evaluation found that Briarwood Drive crossing was a low priority because it did not perpetuate or extend a north-south sidewalk route. Conversely, a crossing of Miles Drive near or at the east side of Fairway Lane would provide continuity in the route from the northeasterly part of Homewood Hills to the crossing of Oxford Street (CSAH 35) which provides access to the multi-use trail on the south side of Oxford Street.

It was unanimously carried to adopt the following resolution:

RESOLUTION NO. 2019-05-23

APPROVING PLANS AND SPECIFICATIONS AND ORDERING ADVERTISEMENT FOR BIDS

(Refer to Resolution File for complete copy of Resolution)

### **PLANS FOR 2019 SEAL COATING PROJECT APPROVED**

Mr. Haffield explained the 2019 Construction Fund (Fund 401) budget includes \$400,000 for current year contract maintenance. As programmed for the 2019 current and future year contract maintenance, an additional \$66,000 is available for curb ramp work that was originally planned to be completed late in 2018 in preparation for an overlay of Lake Street from Tower Street to 8th Street. Contract maintenance typically includes overlays, seal coating, joint sealing or other street preservation or minor rehabilitation work. It is proposed to dedicate \$333,000 of the \$466,000 in available funds to the Lake Street overlay leaving \$133,000 for seal coating or other contract maintenance.

He said research supports the use of seal coating as a cost effective method of maximizing the useful life of bituminous surfacing when applied early in the life cycle of the pavement. Indications are that the benefit of seal coating is minimal if not applied within about four years after surfacing. In consideration of this information, it is promoted that priority be given to a seal coat program to address recently surfaced streets. It is proposed to seal coat (chip seal) all the streets resurfaced in the northeast portion of the community (highlighted in black below) in 2018 and McMillan Street north of Oxford (reconstructed in 2017) this year. The total estimated cost of this work including engineering and contingencies is \$123,000.

A motion was made by Council Member Oberloh, seconded by Council Member Janssen and unanimously carried to approve plans for the 2019 seal coating project.

**FIRST READING PROPOSED ORDINANCE - CHANGE OF ZONE - CERTAIN PROPERTY LOCATED ALONG SOUTH CRAILSHEIM ROAD SOUTH OF SUTHERLAND DRIVE APPROVED**

Jason Brisson, Community/Ec. Development Director explained Dan Wagner has submitted a petition to rezone 8 acres that is owned by Timothy Blume. The subject property is located along South Crailsheim Road (CSAH 10) just south of Sutherland Drive. The applicant is requesting to rezone the property from its current “R-1” - One Family Detached designation to “R-2” - One Family, Low Density. The legal description of the property under consideration is as follows:

That part of the South Half of the Northeast Quarter and the North Half of the Southeast Quarter of Section 28, Township 102 North, Range 40 West, City of Worthington, Nobles County, Minnesota, described as follows:

Beginning at the southeast corner of Glenwood Heights First Addition, according to the recorded plat thereof; thence on an assumed bearing of South 89 degrees 37 minutes 02 seconds West, along the south line of said Glenwood Heights First Addition, a distance of 330.01 feet to the southwest corner of said Glenwood Heights First Addition; thence continuing South 89 degrees 37 minutes 02 seconds West a distance of 107.17 feet to an iron monument; thence South 0 degrees 24 minutes West a distance of 120.01 feet to a stone monument; thence continuing South 0 degrees 24 minutes West a distance of 671.74 feet to an iron monument; thence North 89 degrees 37 minutes 02 seconds East a distance of 443.18 feet to an iron monument located on the west right of way line of County State Aid Highway No. 10; thence North 0 degrees 02 minutes 04 seconds West, along said west right of way line, a distance of 791.70 feet to the point of beginning.

The Planning Commission considered the application at its May 7, 2019 meeting. After holding a public hearing, the Commission voted unanimously to recommend the City Council approve the

proposed change of zone.

Mr. Brisson explained the subject property is 8 acres but only 5 of them can be developed due to a stormwater easement on the south 3 acres. Once the required land for a street is removed, the minimum lot size requirements would permit 29 lots to be created. The creation of 29 lots on 5 acres would result in a density of just under 6 units per acre. However, given the street frontage and minimum lot width requirements of the "R-2" district, only 14 lots can be created on this site. The resulting density of 14 homes on 5 acres would result in a density of just under 3 units per acre, or half the guidelines established by the Comprehensive Plan.

A motion was made by Council Member Cummings, seconded by Council Member Oberloh and unanimously approved to give a first reading to the proposed ordinance.

**APPROVED CONDITIONAL USE PERMIT APPLICATION - SOUTH LAKE DEVELOPMENT, LLC FIRST AVENUE SOUTHWEST**

Mr. Brisson stated Dan Krueger, on behalf of South Lake Development, is seeking a conditional use on certain property east of a southerly extension of Knollwood Drive south of First Avenue Southwest. A conditional use permit was issued for the development of 24 townhomes on the subject property in 2016. An amended conditional use permit to include an additional unit was issued in 2017. If approved, the conditional use would return the density to the original 24 units and would allow these townhomes / condominiums in an R1 District. The legal description of the subject property under consideration is as follows:

That part of the Northwest Quarter of the Northeast Quarter of Section 34, Township 102 North, Range 40 West, Nobles County, Minnesota described as follows:

Commencing at the North Quarter corner of said Section 34; thence on an assumed bearing of North 85 degrees 31 minutes 44 seconds East, along the north line of said section, a distance of 231.00 feet to an iron monument, said iron monument being the point of beginning of the tract to be described; thence South 0 degrees 54 minutes 01 seconds East a distance of 212.00 feet; thence North 85 degrees 31 minutes 44 seconds East a distance of 132.00 feet; thence North 50 degrees 08 minutes 05 seconds East a distance of 74.45 feet; thence North 0 degrees 54 minutes 01 West a distance of 168.79 feet to the north line of said section; thence North 85 degrees 31 minutes 44 seconds East, along said north line, a distance of 20.04 feet; thence South 0 degrees 54 minutes 01 seconds East a distance of 162.97 feet; thence South 39 degrees 51 minutes 55 seconds East a distance of 137.99 feet to the northwesterly right of way line of a railroad; thence South 50 degrees 08 minutes 05 seconds West, along said northwesterly right of way line, a distance of 677.73 feet to the north-south quarter line of said section; thence North 0 degrees 54 minutes 01 seconds West, along said north-south quarter line, a distance of

635.90 feet to the southerly right of way line of First Avenue Southwest; thence North 69 degrees 46 minutes 58 seconds East, along said southerly right of way line, a distance of 121.62 feet to the north line of said section; thence North 85 degrees 31 minutes 44 seconds East, along said north line, a distance of 116.00 feet to the point of beginning.

Mr. Brisson said the Planning Commission considered the application at its May 7, 2019 meeting. After holding a public hearing, the Commission voted unanimously to recommend the City Council approve the requested conditional use permit subject to the following conditions:

1. The applicant agrees in writing to the rescinding of the previous conditional use permits approved for this development; and
2. The development maintain compliance with all applicable local, State and Federal requirements.

A motion was made by Council Member Ernst, seconded by Council Member Harmon and unanimously carried to approve the conditional use permit application for South Lake Development, LLC First Avenue Southwest.

**APPROVED AUTHORIZATION OF ORTHODOX CHURCH SUBDIVISION CONCEPT, CUP APPLICATION AND LAND SURVEY COSTS**

Mr. Brisson stated at the July 18, 2018 City Council meeting, the City Council took action to sell 5.5 to 7 acres of land to Tsadenkane Mariam Ethiopian Tewehdo Church at \$25,000 per acre with the buyer assuming all assessments. City staff met with representatives of the church in November of 2019 to review a draft subdivision and site plan. City staff provided some feedback regarding the subdivision and the representatives indicated they were going to enlist the services of an architect to ensure that the development's site plan would support the church's space needs. In April of 2019, City staff received the proposed subdivision, site plans and elevations featured in Exhibit 3A. City staff would like Council's feedback on the proposed subdivision shown in Exhibit 3A.

Mr. Brisson explained the subject property is zoned "B-3" – General Commercial and the land use of church is permitted in this district by conditional use only. City staff request that the Council move to authorize the Mayor to sign the conditional use permit (CUP) application as the landowner so the church may submit an application for a CUP at the next available Planning Commission meeting.

Mr. Brisson said the State of Minnesota requires that a public hearing must be conducted before a City can issue a CUP. Such notice of a public hearing be published at least ten days prior to the hearing date in the City's official newspaper. The public hearing requires that a legal description describing the property be included as part of the public notice. A legal description for this property will need to be developed for the public notice of the CUP hearing, the CUP document, the purchase

agreement and other legal documents.

A motion was made by Council Member Oberloh, seconded by Council Member Cummings and unanimously carried to authorize the Mayor to sign the conditional use permit application.

A motion was made by Larry Janssen, seconded by Mike Harmon and unanimously approved for the City to pay for the surveying of the property and have the cost come off of the net sale price that will be paid to the E.O. Olson Trust Board.

### **COUNCIL COMMITTEE REPORTS**

Mayor Kuhle - no report.

Council Member Janssen - Attended Airport meeting on May 2nd, very interesting, there's a lot to learn. Attended the Truth & Taxation (Board of Appeals Meeting) meeting on May 1st.

Council Member Oberloh - Attended meeting on Rental Housing with Steve, Jason, Chad, and Jeff Flynn. Jeff Flynn recommended not changing anything in our rental ordinance because everything is in the ordinance that is needed but we need to follow through with the steps for non-compliance issues. Al suggested having a work session on this so the entire City Council is on the same page. Also attended the retirement party for Tim Flaherty last Thursday, very nice party with a lot of people attending. Talked to a Senator Baak and Senator Marquardt on the Local Option Sales tax, things seem to be progressing.

Council Member Cummings - Added that our rental ordinance is for the betterment of our community. Attended a YMCA Board meeting, last couple of weeks 350 2<sup>nd</sup> graders are participating in the Jamie Cummings learn to swim program. There is a large increase in the youth soccer program, summer day camp is already seeing an increase in participation. The Memorial Auditorium is approximately 4 weeks away from the balcony seat replacement project. A rolling platform that fits behind the last row of seating in the balcony has been purchased for the light/sound tech which is much safer than the extension ladder that was being used.

Council Member Ernst - no report.

Council Member Harmon - Attended the Water & Light Commission meeting on May 6<sup>th</sup> - Lewis & Clark is providing water at full capacity of 1.9 million gallons per day as of today, a letter has been received from Troy Larson, Lewis & Clark and the reserve tank that holds 200 million gallons of water has been filled, tested, and sanitized so the City is set.

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

Steve Robinson, City Administrator, had Todd Wietzema, Public Works Director give an update on the patching of potholes. Mr. Wietzema stated that the asphalt company in Worthington is not open yet but plans to open next Monday. Mr. Wietzema explained the Street Department is currently having someone drive to Sioux Falls every morning to get black topping so potholes can be filled around town depending on the weather. Grading of gravel roads and alleys is also being done and gravel will be added in areas needed as weather and time permits.

Mr. Robinson reported that Council voted to abolish the Police Civil Service Commission on February 11<sup>th</sup>, 2019, there was a ninety day waiting period for comments and at this time none have been received. The waiting period will expire on May 14<sup>th</sup> and then the Charter Committee will be able to meet and make the change. We are still waiting to hear on the Local Option sales Tax and at this point there aren't any issues, the last day of the session is Monday and I may go to the cities to follow the action depending on how things are going, looks like there may be a lot of unfinished business.

**ADJOURNMENT**

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

Mindy Eggers, MCMC  
Assistant City Clerk