

**WORTHINGTON CITY COUNCIL
REGULAR MEETING, MAY 28, 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; Janice Oberloh, City Clerk.

Others present: Justine Wettschreck, KWOA; Leah Ward, The Globe; Kathleen Kusz; Diane and Jerry Vogt; Kevin Donovan; Jerry Perkins.

The Pledge of Allegiance was recited.

AGENDA CLOSED / APPROVED WITH ADDITION

Staff requested the addition to the agenda of Item F.5. *Second Reading Proposed Ordinance to Vacate Part of Ninth Street in the City of Worthington, Nobles County, Minnesota*. Council Member Oberloh also requested that the Administrator provide an update on the Thompson Hotel during his report.

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

PUBLIC HEARING AND FIRST READING OF PROPOSED ORDINANCE TO VACATE PART OF EIGHTH STREET IN THE CITY OF WORTHINGTON, NOBLES COUNTY, MINNESOTA

Pursuant to published notice, this was the time and date set for a public hearing regarding a proposed ordinance that would vacate part of Eighth Street.

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

Dwayne Haffield, Director of Engineering, provided the hearing information, noting that the City had received a petition to vacate that part of Eighth Street abutting Lake Shore Park Condominium and lying northeast of the public walk. The vacation would allow for a deck addition on one of the properties there. Mr. Haffield said the petition had representation of 100% of the properties abutting the segment to be vacated - with 50% owned by the City - and 83.7% - with 38.7% owned or co-owned by the City - of the property within 300 feet of the ends of the segment. Upon the vacation the City would also be asked to sell the property and then would need to obtain an easement over all but a two feet of the strip of property. Mr. Haffield said the property would typically be vacated

without the City having any underlying interest in it, in other words, would not require payment. The petition does satisfy the requirements of Section 4.14 of the City Charter for vacation of a street.

Council Member Oberloh asked if it would be in the City's best interest to at least recover whatever fees may be associated with the vacation and transfer. Mr. Haffield said it would be Council's call and he would look back to see if we've done this in the past.

Mayor Kuhle asked if there was anyone present who wished to present testimony regarding the vacation. None was received

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

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

CONSENT AGENDA APPROVED

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

- City Council Minutes of Regular Meeting May 13, 2019
- City Council Minutes of Special Joint Meeting with Worthington Public Utilities May 22, 2019
- Minutes of Boards and Commissions - YMCA Board of Directors Minutes of April 29, 2019 and March 25, 2019; Heron Lake Watershed Board Minutes of March 18, 2019
- Temporary On-Sale Liquor License - Lake Okabena Improvement Association
- Application for Parade Permit or to Block Streets - UFCW 663 / St. Mary's Church
- Application for Parade Permit or to Block Streets - International Festival Cultural Awareness
- Bills payable and totaling \$649,631.11 be ordered paid

THIRD READING AND ORDINANCE NO. 1137 ADOPTED TO REGULATE ALL-TERRAIN VEHICLES ON CITY STREETS, AND SUMMARY PUBLICATION OF ORDINANCE NO. 1137 APPROVED

Pursuant to published notice, this was the time and date set for the third reading of a proposed ordinance that would regulate All-Terrain Vehicles on City Streets by creating Chapter 73 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.

In an effort to save publication costs for the six-page ordinance, staff was also requesting Council approval of publication of a summary ordinance as allowed by MN Statute 331A.01, Subd. 10, which grants Councils the ability to publish a summary. Per MN Statute 412.191, Subd. 4, the summary language must be approved by Council as clearly informing the public of the intent and effect of the ordinance, and must be approved by a four-fifths vote. As also required by Statute, a copy of the full ordinance will be available in the Clerk's office and on the internet at the City's website for review.

The motion was made by Council Member Oberloh and seconded by Council Member Janssen to give a third reading to, and subsequently adopt the following ordinance, and to approve summary publication of the ordinance. Council Member Ernst said the noise has already increased substantially from these vehicles in her neighborhood, and stated she wanted to go on record as warning operators to not abuse it. The motion was unanimously carried.

ORDINANCE NO. 1137

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

(Refer to Ordinance File for complete copy of Ordinance)

NOBLES COUNTY ATTORNEY UPDATE AND 2020 BUDGET PRESENTATION

Kathy Kusz, Nobles County Attorney, was at the meeting to present information on her proposed 2020 budget and its impact to the City prosecution agreement fees, and to provide information on the city case load history. Increased costs for personnel was discussed. Travis Smith, the Murray County Attorney, has done contract work for us and continues to do felony and misdemeanor work for us. Things have evolved with him and now he is specialized into doing appellate work. Per our current agreement, appellate work is separate. However, Ms. Kusz said she was requesting that, despite our contract, the City keep paying for a portion of Travis's work for us on the theory that it's spreading out the cost over time as that process is expensive. They were paying him \$50,000 per year and he is asking now for \$55,000 - that increase is included in the budget numbers presented by Ms. Kusz. Alternatively, she said she could just bill the City whenever there is an appeal, which is strictly what our contract says now, but appeals can be very expensive. In response to a question from Council Member Oberloh, Ms. Kusz said she has not billed the City back for any of his City related appellate cases, which may be two over the last seven years. Ms. Kusz noted that if this became part of the budget it would not be a banked item - if there were no appeals the City would

be paying them for nothing. The City's share of the 2020 proposed budget for Purchased Services/Attorney + Office is \$13,750, which includes a share of the additional \$5,000. Ms. Kutz said if the City wishes to be billed on an appeal basis, she could amend the contract to read as such. Council Member Oberloh said he would be in favor of including an annual amount in the contract but to amend the contract to read that it does include appeals. Ms. Kusz said if that was Council consensus she would draft an amendment to the current contract between her office and the City that would state such, which would then need to be approved by both the City and the County.

ENTERTAINMENT SPEC BUILDING PLANS AND SPECS APPROVED WITH AUTHORIZATION TO ADVERTISE FOR BIDS

Steve Robinson, City Administrator, said SEH Architects and Engineers have completed construction and bid documents for the Entertainment Spec Building. The building is pre-engineered steel construction approximately 19,527 square feet in area and includes five theater auditoriums. Mr. Robinson said bids would be advertised to be received June 27, 2019 and considered for award on July 8, 2019 at the regular City Council meeting. Award would be contingent on successful rezoning of the intended parcel, approval of a Conditional Use Permit, entering into a lease agreement with the theater operator, and acquisition of the intended parcel.

The motion was made by Council Member Harmon, seconded by Council Member Janssen and unanimously carried to approve the plans and authorize staff to advertise for bids for the Entertainment Spec Building.

PROFESSIONAL SERVICES AGREEMENT BETWEEN SEH AND CITY OF WORTHINGTON FOR FIELD HOUSE PROJECT APPROVED

The Field House project team was recommending that the City move forward with a phased approach to the indoor Field House facility with the intent to make the necessary improvements to get the recreational amenities functional as quickly as possible. The work at this time is intended to be limited to remodeling the main area to accommodate recreational and athletic activities, and remodeling the adjacent space for office, restroom and indoor playground facilities. The Team solicited and received proposals for architectural and engineering services from two firms, Stone Group Architects and SEH. Following review of the proposals for project understanding, scope of services, and fees, the Project Team was recommending approval of the proposal from SEH at a lump sum fee of \$110,000.

The motion was made by Council Member Ernst, seconded by Council Member Harmon and unanimously carried to award the professional services to SEH at the lump sum fee of \$110,000, contingent on passage of the local option sales tax and contract review by the City Attorney, and to authorize the Mayor and Clerk to sign the agreement.

SECOND READING PROPOSED ORDINANCE TO VACATE A PART OF NINTH STREET IN THE CITY OF WORTHINGTON, NOBLES COUNTY, MINNESOTA

Pursuant to published notice, this was the time and date for the second reading of a proposed ordinance that would vacate a part of Ninth Street in the City of Worthington, Nobles County, Minnesota as follows:

Section I.

That part of Ninth Street lying between Block 8 and Block 9, Plat of Worthington, Nobles County, Minnesota described as follows is hereby vacated:

Beginning at the most westerly corner of Lot 19, Block 8 of said Plat of Worthington; thence southeasterly along the southwesterly line of said Lot 19 to the most southerly corner of said Lot 19; thence southwesterly along a southwesterly extension of the southeasterly line of said Lot 19 a distance of .67 feet; thence northwesterly along a line parallel with the southwesterly line of said Lot 19 to the southwesterly extension of the northwesterly line of said Lot 19; thence northeasterly a distance of .67 feet to the point of beginning.

The vacation was requested by petition, and was presented for a public hearing and a first reading at the May 13, 2019 Council meeting. If approved, it 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 vacated were are represented on the petition.

The motion was made by Council Member Ernst, seconded by Council Member Harmon and, with Council Member Oberloh abstaining as a property owner, was unanimously carried to give a second reading to the proposed ordinance.

PROPOSED PERMIT FEES APPROVED RELATED TO ATV ORDINANCE AND THE REGULATION OF ALL-TERRAIN VEHICLES ON CITY STREETS

Troy Appel, Public Safety Director, said that with the adoption of Ordinance 1137 regulating ATVs on City Streets, Council must determine the permit fees related to the ordinance. Staff was proposing a one (1) year permit at \$25, a two (2) year permit at \$35, and a three (3) year permit at \$45.

The motion was made by Council Member Oberloh, seconded by Council Member Janssen and unanimously carried to set the ATV permit fees as suggested by Staff.

CHANGE ORDERS FOR PUBLIC WORKS REMODELING PROJECT APPROVED

Todd Wietzema, Public Works Director, said Wilcon Construction has submitted the following eight change orders for the Public Works Remodeling Project:

1.	Change counter tops from stainless to laminate:	Deduct	\$-6,879.00
2.	Soil corrections under wash bay footings:	Add	\$ 7,179.52
3.	Remove extra office concrete flooring:	Add	\$ 1,652.04
4.	Install fire rated coiling door on the second floor:	Add	\$ 5,669.47
5.	Install drain tile under shop floor:	Add	\$19,783.79
6.	Electrical changes in the shop area:	Add	\$11,085.20
7.	Door and hallway changes to office area:	Deduct	\$-1,953.13
8.	Relocate sprinkler heads sunder wash bay precast	Add	\$ 3,902.89

The change orders result in a net increase of \$40,458.78 to the project bid of \$1,907,110, bringing the new contract sum to \$1,947,568.78, which is still below the architects estimate of \$2,035,710 for the project.

In response to a question from Council, Mr. Wietzema clarified that Change Order #5 was to install tile under the shop floor and not to install a drain.

The motion was made by Council Member Janssen, seconded by Council Member Cummings and unanimously carried to approve Change Orders 1 through 8 for the Public Works remodeling project.

BID FOR 10TH AVENUE RIDGE REPLACEMENT REJECTED

Dwayne Haffield, Director of Engineering, said a single bid had been received on May 21, 2019 for the 10th Avenue bridge replacement. The bid was \$1,674,208.44 submitted by Henning Construction, and was \$648,644.19, or 63% over the Engineer's estimate. It was determined that delayed delivery of the box culvert segments compressed the time available for completing the project, which is believed to be deterrent to bidders. The project consultant and Staff were recommending that Council reject the bids and re-advertise this winter for 2020 construction.

The motion was made by Council Member Harmon, seconded by Council Member Ernst and unanimously carried to reject the bids and re-bid the project in December as recommended.

CENTENNIAL PARK PEDESTRIAN BRIDGE APPROVED

Dwayne Haffield, Director of Engineering said the intention had been to replace the 10th Avenue bridge this year and the Centennial Park pedestrian bridge next year, however, based on the rebid of the 10th Avenue Bridge, staff explored the potential to pursue replacement of the Centennial Park

pedestrian bridge this year. The current lead time for fabrication is 16 to 20 weeks, making it possible to have the replacement completed before next year. The alternative would be to wait and complete the project in 2021 so that both bridges are not out of service at the same time. Staff was recommending that Council select one of the two options:

1. Pursue bridge replacement as originally planned this year with placement extending into the 2019/2020 winter.
2. Delay the bridge replacement until 2021.

The motion was made by Council Member Oberloh, seconded by Council Member Cummings and unanimously carried to go with Option #1 and replace the pedestrian bridge this year.

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

At their May 13, 2019 regular meeting, Council gave a first reading to a proposed ordinance, on a vote of 5-0, that would rezone 8 acres owned by Timothy Blume and located along South Crailsheim Road south of Sutherland Drive, from its current "R-1" - One Family Detached designation to "R-2" - One Family, Low Density designation.

Following the May 13th meeting, it was discovered that the proposed ordinance was not included in the Council packet for that meeting. Staff determined that because of the omission, the ordinance had not been presented to Council properly and should be submitted again for a first reading.

The property under consideration is legally described as:

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; thence South 0 degrees 24 minutes West a distance of 120.01 feet; thence continuing South 0 degrees 24 minutes West a distance of 671.74 feet; thence North 89 degrees 37 minutes 02 seconds East a distance of 443.18 feet 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.

Dan Wagner had submitted the petition to rezone the property, which would allow for single family homes to be physically attached to each other providing they have a horizontal orientation and the density does not exceed six (6) units per acre of land, which also applies to detached forms of housing. The Planning Commission considered the request at their May 7, 2019 meeting, and after holding public hearing, voted unanimously to recommend City Council approval of the rezoning.

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

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

At their May 13, 2019 regular meeting, Council gave a first reading to a proposed ordinance, on a vote of 5-0, that would rezone 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 to "B-3" - General Business. Rezoning of the property would permit a proposed approximately 28,000 square foot spec building.

Following the May 13th meeting, it was discovered that the proposed ordinance was not included in the Council packet for that meeting. Staff determined that because of the omission, the ordinance had not been presented to Council properly and should be submitted again for a first reading.

The property under consideration is legally described as:

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.

The Planning Commission considered the request at its May 7, 2019 meeting, and after holding a public hearing, voted 4-3 to recommend City Council not approve the proposed change of zone based on several considerations. However, at the May 13th meeting, several Council Members had expressed their reasons to support the rezoning.

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

REQUEST FOR SITE PREPARATION ASSISTANCE PAYMENT APPROVED - 1426 OXFORD STREET

At their April 22, 2019 meeting, Council approved an application for Site Preparation Assistance from Juan and Angela Palma for their commercial development project located at 1426 Oxford Street - Palma Customs & Auto Sales. Due to uncertainty of demolition costs, the applicant presented a best guess estimate for the eligible expenditures for assistance of \$8,700. Council authorized up to \$10,440 for the project - the estimated amount plus a 20% contingency. Juan and Angela Palma have completed all of the obligations necessary for disbursement of the Site Preparation funds, and Staff was recommending Council authorize payment in the amount of \$8,700, which is the amount that has since been invoiced for the work.

The motion was made by Council Member Janssen, seconded by Council Member Harmon and unanimously carried to approve the request for the Site Preparation Assistance to Juan and Angela Palma.

PUBLIC HEARING SCHEDULED FOR AUTHORIZATION OF ISSUANCE OF SENIOR HOUSING REVENUE NOTE IN AN AMOUNT NOT TO EXCEED \$6,200,000 - MEADOWS OF WORTHINGTON (ECUMEN)

Jason Brisson, Director of Community Development, Planning, Zoning and Building Services, said the Meadows of Worthington, LLC, a limited liability company operating under the corporate umbrella of Ecumen, was requesting that the City of Worthington issue a tax-exempt Revenue Refunding Note not to exceed \$6,200,000. It is anticipated that \$5,555,000 of that will be used to refinance the revenue bonds issued in 2014 to refinance bonds originally issued in 2009, and approximately \$445,000 will be used to make physical improvements to the north building of the campus.

The City is authorized to issue the note under State Statute Chapter 462C related to multi-family housing. Under the Act, the City may issue its bonds and lend the proceeds to Meadows of Worthington, LLC. Principal and interest on the note would be payable from and secured by a pledge of payments to be received by the City pursuant to a loan agreement between the parties. The City would have no general or moral obligations, and in return for use of the City's bonding authority, Ecumen will be responsible to pay the City a fee of 1/8 of 1% of the principal amount of the note and all legal expenses it has incurred with the project. Legal Counsel at Briggs and Morgan have advised that only \$445,000 of the \$6.2 million will count towards the City's bond amount for 2019. If the City bonds for more than \$10 million in one year the bond rates become less favorable for the City. Steve Robinson, City Administrator, added that the City will be bonding for \$8 million, so if Ecumen's amount was more it could impact the City. Mr. Robinson said Staff would check again to be certain that the \$445,00 would be the only impact to the City's bonding ability to not exceed that \$10 million number. Staff will check with Dorsey, the City's bond counsel, to verify that the \$445,000 would be the only impact to the City's total bond amount for 2019.

Staff was requesting that Council set a time and date for a public hearing on the request as 7:00 p.m. on Monday, June 24, 2019 at the regular City Council meeting.

The motion was made by Council Member Cummings, seconded by Council Member Janssen and unanimously carried to schedule a public hearing at 7:00 p.m. on Monday, June 24, 2019 at the regular City Council meeting regarding issuance of the bonds.

COUNCIL COMMITTEE REPORTS

Mayor Kuhle - no report.

Council Member Janssen - no report.

Council Member Oberloh - no report.

Council Member Cummings - the YMCA Board met - it's time for the sand filter clean out so the City will be seeing a bill come forward for that.

Council Member Ernst - no report.

Council Member Harmon - no report.

CITY ADMINISTRATOR'S REPORT

Steve Robinson, City Administrator, provided an update to Council regarding the Thompson Hotel. One of the parties interested in purchasing the facility had submitted a purchase agreement but it was rejected. The applicant then resubmitted, but now may walk away due to the demands being placed on the buyer. The other party that had expressed interest in the hotel was contingent on a substantial financial contribution from the City but they can't get clear title to the facility so their lender won't do it. Council Member Oberloh said with the recent rains the facility is in terrible shape - we either need to do something or let it go. He requested that Council authorize Jason Brisson, Director of Community Development, Planning, Zoning and Building Services, to contact Lighthouse within the next two weeks to see what their intentions are. Mr. Robinson said we are either going to have put a roof on it as was our intention or walk away completely. Mr. Brisson said that Council has given a fair amount of time without proceeding with anything to allow the interested parties to get something put together. Mr. Robinson said we are looking at a June 10th deadline for Council to decide what they are going to do. Council Member Janssen reminded Council that they don't own the building.

Mr. Robinson also noted that the City's local option sales tax was approved by the legislature, now staff needs to work on the resolution that is required and on the financing of the projects. He will be in St. Paul on Friday and has a meeting set up regarding the Field House.

Mr. Brisson reminded Council of the Land Use Training session on Wednesday.

CLOSED SESSION UNDER MINN STAT § 13D.05, SUBD. 3 (A) PERFORMANCE EVALUATION - CITY ADMINISTRATOR

Mayor Kuhle announced that Council would be going into closed session under Minn. Stat. § 13D.05, Subd. 3 (a) - Performance Evaluation - City Administration.

The motion was made by Council Member Janssen, seconded by Council Member Cummings and unanimously carried to close the meeting at 8:27 p.m.

The motion was made by Council Member Cummings, seconded by Council Member Harmon and unanimously carried to re-open the meeting at 8:50 p.m.

ADJOURNMENT

The motion was made by Council Member Cummings, seconded by Council Member Ernst and unanimously carried to adjourn the meeting at 8:51 p.m.