

**WORTHINGTON CITY COUNCIL
REGULAR MEETING, JUNE 23, 2014**

The meeting was called to order at 7:00 p.m. in City Hall Council Chambers by Mayor Alan E. Oberloh with the following Council Members present: Mike Kuhle, Diane Graber, Rod Sankey, Ron Wood, Scott Nelson. Honorary Council Member: Nicole Ektnitphong.

Staff present: Craig Clark, City Administrator; Dwayne Haffield, Director of Engineering; Myra Onnen, Community Services Officer; Janice Oberloh, City Clerk.

Others present: Erin Trester, Daily Globe; Darlene Macklin; Mark Shepherd, City Attorney.

The Pledge of Allegiance was recited.

HONORARY COUNCIL MEMBER

Mayor Oberloh introduced Nicole Ektnitphong as the Honorary Council Member for the months of June and July, 2014.

ADDITION OF PUBLIC HEARING TO AGENDA

Staff noted the addition of a public hearing and order to abate nuisance - 617 Omaha Avenue - to the agenda to be heard at this time, as set at the regular City Council meeting on June 9, 2014.

PUBLIC HEARING AND APPROVAL OF ORDER TO ABATE NUISANCE - 617 OMAHA AVENUE

Pursuant to Council action taken at their June 9, 2014 regular meeting, this was the time and date set for public hearing to determine public nuisance and order abatement of the nuisance - 617 Omaha Avenue.

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

Mark Shepherd, City Attorney, stated that MyRa Onnen, Community Services Officer, was here tonight and will be giving some short testimony concerning a nuisance property owned by a gentleman by the name of Israel Verastegui at 617 Omaha Avenue in Worthington. Mr. Shepherd said he knew this matter came before Council a couple of weeks ago when Council set this hearing date. Mr. Verastegui has had a backyard full of litter and junk and debris for some time and the Community Services Officer has been trying to get him to clean that up for a long period of time. On April 15th he sustained a fire at his house and a shed burned in the back, and much of the debris in his backyard actually burned or partially burned, which made it even worse. Based on that, Mr. Shepherd said he had prepared a Notice of Violation and sent it to him alleging violation of two particular sections of our City Code - Section 92.02 and 92.21B, both of which were included in the

addendum to the agenda tonight for Council's review. The Notice of Violation was served on him, and subsequent to that a Notice of Hearing was also served on him and also posted at his house by Acting Chief Kevin Flynn and MyRa Onnen.

At this point, Mr. Shepherd said he would like to call MyRa Onnen to give some testimony and background.

Following swearing in by the Clerk, the following testimony was provided:

Mr. Shepherd: "Please state your name."

Ms. Onnen - "MyRa Onnen."

Mr. Shepherd - "And are you employed by the City of Worthington?"

Ms. Onnen - "Yes, I am."

Mr. Shepherd - "And is your job title Community Services Officer?"

Ms. Onnen - "Yes."

Mr. Shepherd - "And as a part of your duties as an officer, are you responsible for at least the preliminary enforcement of various property and nuisance ordinances here in Worthington?"

Ms. Onnen - "Yes."

Mr. Shepherd - "In your capacity as the Community Services Officer did you have occasion to come into contact with a man named Israel Verastegui and the property which is located at 617 Omaha Avenue in the City of Worthington?"

Ms. Onnen - "Yes."

Mr. Shepherd - "And was your contact initiated by the complaint of a neighbor?"

Ms. Onnen - "Yes it was."

Mr. Shepherd - "And did the neighbor call about the accumulation of litter and junk and debris in his backyard?"

Ms. Onnen - "Yes."

Mr. Shepherd - "And did you, in fact, investigate that?"

Ms. Onnen - "Yes I did."

Mr. Shepherd - "And have you contacted Mr. Verastegui on a number of occasions over the years?"

Ms. Onnen - "Yes I have."

Mr. Shepherd - "And did he and his property experience a fire on or about April 15th of this year?"

Ms. Onnen - "Yes."

Mr. Shepherd - "And did a shed of his burn down? - or a garage?"

Ms. Onnen - "Yes, he had a couple of sheds back there that one started on fire due to a propane heater, and it kind of, just, did the whole back yard."

Mr. Shepherd - "And is it correct that some of his litter and debris back there burned or partially burned?"

Ms. Onnen - "Yes."

Mr. Shepherd - "Okay -and subsequent to that fire, have you specifically had occasion to contact him on April 16th, May 15th, May 20th and June 11th of this year?"

Ms. Onnen - "Yes."

Mr. Shepherd - "And on each of those occasions did he either tell you that he would clean up the yard or tell you to get off his property - one or the other?"

Ms. Onnen - "Yes - both."

Mr. Shepherd - "Okay, and has he in fact cleaned up his yard after the fire?"

Ms. Onnen - "He has cleaned up some but there is still quite a bit of debris still back there."

Mr. Shepherd - "Alright - and when did you most recently check his property?"

Ms. Onnen - "This morning."

Mr. Shepherd - "Okay - and did you take some photographs of that property?"

Ms. Onnen - "Yes, I did."

Mr. Shepherd - "And prior to the hearing you gave me several copies of photographs, and are these the pictures you took today?" (Held up photos.)

Ms. Onnen - "Yes, those are today."

Mr. Shepherd - "And they are dated and time-stamped June 23rd sometime afternoon today were they?"

Ms. Onnen - "They were this morning."

Mr. Shepherd - "Okay - I'm going to pass these around for the Council to take a look at." (Distributed photos.)

Mr. Shepherd - "Um, Ms. Onnen, in your opinion, does the condition of Mr. Verastegui's backyard constitute a public health nuisance and violation of City Codes sections 92.02 and 92.21B?"

Ms. Onnen - "Yes it is."

Mr. Shepherd - "In your opinion, would 30 days be a sufficient period of time for which he could abate this nuisance?"

Ms. Onnen - "Yes."

Mr. Shepherd - "Thank you, I don't have any other questions."

Mr. Shepherd asked the Mayor if he or any of Council had any questions - there were none.

Mayor Oberloh asked if anyone else in attendance wished to offer testimony - there was none.

Council Member Nelson asked to have verification of if the debris was in his yard to start with - it didn't come from the fire or was there some of each - Mr. Shepherd said by looking at the pictures it was obvious it had been there for quite some time.

Mayor Oberloh questioned a statement in the Order of Abatement that stated: *The condition of the real estate located at 617 Omaha Avenue, Worthington, Minnesota constitutes a Nuisance due to the failure to fully screen material so as to not be visible from adjoining or adjacent land in violation of City Code Section 92.21 (B).* Does that mean that a person would be able to continue to generate debris within their property as long as the neighbor couldn't see it?

Mr. Shepherd responded there are two separate ordinances - we're alleging two separate violations,

the first is that he has litter - period. A second violation would be that it is not fully screened and so is visible to the neighbor. They could have come with just section 92.02 but they added this one also because it is based on the neighbor. If we weren't going ahead with 92.02 and it was only 92.21, if it was not visible from the street or to a neighbor then nobody would know about it would be the theory there. Mayor Oberloh said his concern was that someone would be allowed to take the cheaper option of screening the debris from visibility. Mr. Shepherd responded that there would still be a violation.

Mr. Shepherd reviewed the Findings and Order for Abatement that he had prepared for tonight if Council believes that indeed Mr. Verastegui's property really does constitute the nuisance as alleged. In the order he proposed a 30 day period of time for him to abate that nuisance, and if he fails to do so then we would seek relief in district court, which would order him to clean it up, and if not, then to have the City do it and bill him for it.

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

The motion was made by Council Member Kuhle, seconded by Council Member Graber and unanimously carried to approve the order for abatement of the health and safety nuisance at 617 Omaha Avenue, Worthington, MN.

AGENDA APPROVED/CLOSED WITH ADDITIONS

In addition to the inclusion of the public hearing, staff was requesting the following additions to the agenda:

- (Consent Agenda) - On-Sale Wine License Renewal Application - Hy-Vee Market Place
- (Consent Agenda) - Application to Block Streets - International Festival
- Designation of Official City Representative to Crailsheim, Germany in July and Authorization for Reimbursement of Expenses
- Designation of Official City Representatives to Cuero, Texas in October for their 2014 Turkeyfest and Authorization for Reimbursement of Expenses

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

CONSENT AGENDA APPROVED

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

- City Council Minutes of Regular Meeting June 9, 2014 and Special Meeting of June 12, 2014
- Minutes of Boards and Commissions - Heron Lake Watershed District Minutes of Regular Meeting April 22, 2014
- Approved a Storm Water Utility Credit for the bus storage facility at 620 Stower Drive - Parcel #31-0648-100 - for 5.4 acres
- Bills payable and totaling \$722,953.96 be ordered paid

SECOND READING PROPOSED ORDINANCE - TEXT AMENDMENT - FARMERS MARKETS

Pursuant to published notice, this was the time and date set for the second reading of a proposed ordinance that amends Chapter 113 of the Worthington City Code to include handmade, home-crafted products in the definition of farmers market.

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

SECOND READING PROPOSED ORDINANCE CHANGE OF ZONE - WEST 140 FEET OF LOT 12, BLOCK 14, MOULTON'S RESURVEY AND SUBDIVISION OF CLARY'S ADDITION

Pursuant to published notice, this was the time and place set for the second reading of a proposed ordinance amending Title XV of the Worthington City Code to rezone property from "R-3" (Low Density Preservation Residential) to "B-3" (General Business). The property is legally described as:

The west 140 feet of Lot 12, Block 14, Moulton's Re-survey and Subdivision of Clary's Addition, City of Worthington, Nobles County, Minnesota

Adoption of the ordinance will allow the applicant to expand his business onto the subject property.

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

SECOND READING PROPOSED ORDINANCE - TEXT AMENDMENT (SIGN ORDINANCE - PAINTED WALL SIGNS)

Pursuant to published notice this is the time and date set for the second reading of a proposed ordinance that would amend Section 153.04, Title XV of the City Code, which includes the prohibiting of painted wall signs. If adopted, the ordinance would eliminate any debate on the purpose or intent of the sign ordinance by revising the definition of a sign to clearly indicate that

public art as outlined in Chapter 110 of the Worthington City Code is not defined as a sign.

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

PUBLIC MEETING/ REVIEW OF STORM WATER POLLUTION PREVENTION PLAN

Dwayne Haffield, Director of Engineering, noted that Council reviews the City's Storm Water Pollution Prevention Plan each year at a public meeting, which satisfies the statewide NPDES permit requirement for public involvement. The permit requires implementation of a Storm Water Pollution Prevention Plan which is to include the following:

- Public Education and Outreach
- Public Involvement and Participation
- Illicit Discharge Detection and Elimination
- Construction Site Storm Water Runoff Control
- Post-Construction Storm Water Management
- Pollution Prevention / Good Housekeeping for Municipal Operations

Mr. Haffield provided a review of 2013, noting we have changed the SWPP this year due to the permitting. The requirement for the program came from the Clean Water Act 42 years ago. We don't have an individual permit but are covered under a statewide permit. Mr. Haffield related how the City's SWPP met the permitting requirements. The City does have an ordinance in place that prohibits illicit dumping. We are also required to have our system mapped and must maintain that mapping. Under the most recent permit we were required to add flow information. Mr. Haffield said we need to make sure those Best Management Practices (BMP's) are there and that we need to maintain them. Based on changes to the requirements, we will need to have some ordinance revisions by March 15th of next year. Staff said they have not seen a lot of illicit dumping.

BIDS FOR OKABENA STREET WATER MAIN EXTENSION PROJECT REJECTED

Dwayne Haffield, Director of Engineering, told Council bids were received at 2:00 p.m. on June 23, 2014 for the Okabena Street Water Main Extension project. Three bids were received, however, staff was requesting that Council reject all bids and authorize advertisement for bids to be received in a month. Mr. Haffield said the reason for their request was they were looking for petro fund reimbursement on this project, as well as a project addressed by the Water and Light Commission earlier today. The petro fund bid form was used as an attachment in the bid, and that dollar amount carried forward into the regular bid form, which caused real difficulties. The unit price of the lowest bidder was such that it could cost us \$400,000. Mr. Haffield said they would have instructions on how to handle this item, which was cubic yards per mile.

The motion was made by Council Member Wood, seconded by Council Member Nelson and unanimously carried to reject all bids received July 23, 2014 for the Okabena Street Water Main Extension project and to re-authorize staff to advertise for bids.

CONTRACT AWARDED FOR TAXIWAY B JOINT AND CRACK REPAIRS

Bids were received June 20, 2014 for the Taxiway B Joint and Crack Repairs project, which includes replacing the bituminous pavement to a depth of 2", 9" each side of existing transverse joints and resealing longitudinal joints and sealing any random cracks throughout the length of Taxiway B east of Runway 18/35. Only one bid was received, which was from Fahrner Asphalt Sealers, LLC in the amount of \$114,993.55. The bid was over the Engineer's estimate of \$111,727.67, however, Dwayne Haffield, Director of Engineering said it should not be prohibitive but that approval should be subject to receipt of a federal grant. The bid was reviewed by Bolton & Menk, Inc., who is our contracted airport project consultant.

The motion was made by Council Member Wood, seconded by Council Member Graber and unanimously carried to award the bid for the Taxiway B Joint and Crack Repair project to Fahrner Asphalt Sealers, LLC as the low qualified bid in the amount of \$114,993.55

COUNCIL COMMITTEE REPORTS

Mayor Oberloh - attended the LMC Conference - three of the seminars were very interesting - Boomer Generation Housing, they talked about co-op housing - where the tenant pays 40% of the price then makes payments. Second was on personal coping skills during high stress times - was very good. Third was Safety in City Hall - Being Ready for an Active Shooter. Tracy Worsley was the presenter, who indicated he would come on site for a walk through of our City Hall, then advise and give a seminar.

Council Member Kuhle - The SRDC Annual Meeting is scheduled July 16 in Luverne - Troy Larson and Red Arndt will be speaking - it would be good to have good representation from Worthington. Attended a NEON meeting, Senator Weber was there - they talked about the Lewis and Clark funding issue. They also talked about Broadband - they have a committee of three for the county - there is training coming in July and August on applying for 50% matching funding from the \$20 million fund set up by the state this year. Their next meeting is July 10th at the BAC.

Council Member Graber - Attended a Heron Lake Water Shed meeting - it was their quarterly meeting with the County Commissioners - they're still having performance review issues. One of the people who was awarded a grant for a shoreline project violated the provisions so the grant was taken back. They also talked about loans for septic systems.

Council Member Sankey - Nothing to report.

Council Member Wood - It was interesting that it was the flooding issue that stopped the Lewis and Clark meeting with the Governor. The good news is the wells have recovered considerably - but his opinion is we still need to be careful. We are purchasing over 800,000 gallons a day from Lincoln

Pipestone - the drought may be over but not the water problem.
Council Member Nelson - Nothing to report.

CITY ADMINISTRATOR'S REPORT

Craig Clark, City Administrator, said he wanted to thank the community for responding and getting their storm damaged branches out to the curb for pickup by the City. There will be an additional Blandin Leadership session in Worthington - the deadline to apply is August 25th. They met with the State regarding the details of the CAL grant - will hope to have it for Council approval at the next meeting. He's been contacted by both the League and the Coalition of Greater Minnesota Cities on trying to move forward workforce housing initiatives, and trying to set up some meetings. Regarding the cannon in Chautauqua Park, the group has redirected their efforts to the cannon in Pioneer Village as it was French built and many thought it would be more appropriate than the Japanese cannon. The iPads should be ready for members so they can stop in to City Hall and see Jennifer. The CGMC Summer Conference will be held August 20th and 21st in Rochester - members who are interested in attending should let staff know. Met with the state on the \$45 million they approved for Lewis and Clark via conference call - it was very productive. They are working on an interface issue with receipt and payback of the funds from the feds. The LMC Conference was very productive. Among issues discussed were nuisances and hazardous buildings, and the biggest take-away on that is that we are not the only ones dealing with them. Also sat in on a couple of sessions on "Generation Y" and the challenges with retirements and interfacing with the new generation. Also sat in on a session regarding Tax Increment Financing and how that would relate to our projects.

Council Member Wood noted that he would be gone for the first meeting in August.

Council Member Kuhle asked if he could quickly report on an additional meeting for Freedom Veterans Park - they will be installing new poles, concrete, etc, with funds coming from their organization and not the tax payers. To date they've sold 1,335 pavers.

ADJOURNMENT

The motion was made by Council Member Wood, seconded by Council Member Graber and unanimously carried to adjourn the meeting at 8:24 p.m.

Janice Oberloh, MCMC
City Clerk