

**WORTHINGTON CITY COUNCIL  
REGULAR MEETING, JULY 11, 2011**

The meeting was called to order at 7:00 p.m. in City Hall Council Chambers by Mayor Alan E. Oberloh with the following Aldermen present: Lyle Ten Haken, Mike Kuhle, Scott Nelson, Ron Wood, Mike Woll.

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

Others present: Jacob Forstein, Memorial Auditorium; Ken Moser; Melvin Janssen; Jay Jeppeseon, Jim Bunner, KWOA; Ana Anthony, Daily Globe;

**HONORARY COUNCIL MEMBER**

Alderman Ten Haken noted he will submit two names for Honorary Council Member.

**AGENDA APPROVED WITH CHANGES**

Craig Clark, City Administrator, noted a revised lease agreement between the City of Worthington and Smith Trucking was in front of Council for consideration to replace the lease in the agenda packet, plus a real estate tax agreement between the City of Worthington and Worthington Warehouse and Pallet, Inc.

The motion was made by Alderman Ten haken, seconded by Alderman Wood and unanimously carried to approve the agenda with the change/addition.

**CONSENT AGENDA APPROVED WITH CHANGES**

The motion was made by Alderman Woll, seconded by Alderman Wood and unanimously carried to approve the consent agenda as follows:

- City Council Minutes of Special Meeting/Workshop June 29, 2011 and Regular Meeting June 27, 2011
- Minutes of Boards and Commissions - Airport Advisory Board Minutes of June 23 and June 30, 2011; Memorial Auditorium Advisory Board Minutes of June 14, 2011; Worthington Housing and Redevelopment Authority Minutes of May 12, May 31 and June 9, 2011; Traffic and Safety Committee Minutes of May 25, 2011
- Change Order No. 5 to the Memorial Auditorium Project for an additional \$15,178
- Bills payable and totaling \$713,281.32 be ordered paid

**ORDINANCE NO. 1043 ADOPTED AMENDING TITLE XV OF THE CITY CODE OF WORTHINGTON, NOBLES COUNTY, MINNESOTA TO REZONE PROPERTY FROM "S" (NATURAL FEATURES) TO "R-4" (MEDIUM DENSITY RESIDENTIAL)**

Pursuant to published notice, this was the time and date set for the third reading of a proposed ordinance that would rezone 3.18 acres owned by the Worthington Country Club from "S" (Natural Features) to "R-4" (Medium Density Residential), and legally described as follows:

That part 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 Northwest corner of the East Half of the Northwest Quarter of said Section 22; thence on an assumed bearing of South 0 degrees 15 minutes 59 seconds East, along the west line of the East Half of the Northwest Quarter of said section, a distance of 994.63 feet to the intersection with a line 50.00 feet southeasterly of, as measured at right angles from, the existing centerline of County State Aid Highway No. 10; thence continuing South 0 degrees 15 minutes 59 seconds East, along the west line of said East Half of the Northwest Quarter, a distance of 409.17 feet; thence North 63 degrees 26 minutes 14 seconds West a distance of 19.00 feet to the point of beginning of the tract to be described; thence continuing North 63 degrees 26 minutes 14 seconds West a distance of 120.00 feet to the intersection with the easterly right of way line of County State Aid Highway No. 10, said intersection being 50.00 feet southeasterly of, as measured at right angles from, the existing centerline of said County State Aid Highway No. 10; thence northeasterly, along said easterly right of way line, along a non-tangential curve, concave to the northwest, having a radius of 1482.40 feet, a central angle of 25 degrees 17 minutes 08 seconds, the chord of said curve bears North 13 degrees 55 minutes 12 seconds East, a chord distance of 648.91 feet, an arc distance of 654.21 feet; thence North 0 degrees 15 minutes 59 seconds West, along said easterly right of way line, a distance of 472.38 feet; thence North 89 degrees 44 minutes 01 seconds East a distance of 120.00 feet; thence South 0 degrees 15 minutes 59 seconds East a distance of 473.96 feet; thence southwesterly, along a non-tangential curve, concave to the northwest, having a radius of 1602.40 feet, a central angle of 25 degrees 20 minutes 40 seconds, the chord of said curve bears South 13 degrees 53 minutes 26 seconds West, a chord distance of 703.05 feet, an arc distance of 708.81 feet to the point of beginning, containing 3.18 acres.

The Country Club is proposing to sell the property for development.

The motion was made by Alderman Wood, seconded by Alderman Kuhle and unanimously carried to give a third reading to, and subsequently adopt the following ordinance:

ORDINANCE NO. 1043

AN ORDINANCE TO AMEND TITLE XV OF THE CITY CODE OF WORTHINGTON, NOBLES COUNTY, MINNESOTA, TO REZONE PROPERTY FROM "S" (NATURAL FEATURES) TO "R-4"(MEDIUM DENSITY RESIDENTIAL)

(Refer to Ordinance File for complete copy of Ordinance)

**ORDINANCE NO. 1044 ADOPTED AMENDING TITLE XV OF THE CITY CODE OF WORTHINGTON, NOBLES COUNTY, MINNESOTA, SECTION 155.190 - INTERIM USE PERMIT**

Pursuant to published notice, this was the time and date set for the third reading of a proposed ordinance amending Title XV of the City Code of Worthington, Nobles County, Minnesota, Section

155.190 - Interim Use Permit. The text change amendment will clean up the language and allow the permit to be used as intended.

The motion was made by Alderman Woll, seconded by Alderman Kuhle and unanimously carried to give a third reading to, and subsequently adopt the following ordinance:

ORDINANCE NO. 1044

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

(Refer to Ordinance File for complete copy of Ordinance)

**TECHNICAL APPRENTICESHIP AT MEMORIAL AUDITORIUM APPROVED**

Jacob Forstein, Memorial Auditorium Technical Director, was requesting Council approval for an apprenticeship/intern position at the Auditorium for the remainder of 2011 to assist him with technical, shows, day to day theater operations, administrative aspects, and with web development. There is money available in the 2011 budget for this position, which calls for a \$100 weekly stipend. The position would need to be filled by a student, and would not be an employee of the City so no benefits would be required.

The motion was made by Alderman Wood, seconded by Alderman Woll and unanimously carried to approve the Technical Apprenticeship at the Memorial Auditorium.

**LEASE APPROVED FOR WORTHINGTON PALLET, INC. OF CITY PROPERTY**

Council considered a request from Worthington Pallet to extend their lease with the City for the west end of the property that was formally the Campbell Soup site. The revised lease agreement provides a monthly rent of \$1,650, payment of property taxes by the lessee, requires the lessee to insure the buildings, and holds the lessee responsible to make necessary maintenance repairs to the building. The lease also has a provision that would allow them to install an overhead door, which would become the property of the City following the two year term of the lease. Should the City terminate the lease prior to that two year period, we would be responsible for a pro-rated share of the \$20,000 improvement.

During review of the previous lease agreement, it was found that the City had failed to invoice Worthington Pallet for taxes incurred because the property was under a commercial lease agreement. Total tax payment by the City from the beginning of the lease in 2004 is \$22,288. It is the City Attorney's opinion that the failure by the City to bill the Lessee for the taxes does not bar the City from recovering those payments. In addition, it is the City Attorney's opinion that the City cannot

forgive or reduce all or a portion of the obligation owed by the Lessee to the City, as it would constitute a gift to the Lessee, and the City Council may not make grants or gifts to private parties except in certain situation. Worthington Pallet has agreed to the repayment of the past taxes over a two year period.

The motion was made by Alderman Wood, seconded by Alderman and unanimously carried to approve the revised lease agreement and the agreement for repayment of past taxes in the amount of \$22,288 over a two year period.

**REQUEST APPROVED FOR CLOSED MEETING FOR LABOR NEGOTIATIONS STRATEGY**

Pursuant to MS 13D.03, staff was requesting Council authorization for a closed meeting for labor negotiations strategy, and to set the time, date and location for the closed meeting.

The motion was made by Alderman Nelson, seconded by Alderman Ten Haken and unanimously carried to approve the request for a closed meeting for labor negotiations strategy, and to set the time date, and location for the closed meeting as 7:00 a.m. on Friday, July 22, 2011 in City Hall Council Chambers.

**EXECUTION OF CONTRACT FOR WORK STUDY AGREEMENT BETWEEN THE WORTHINGTON POLICE DEPARTMENT AND MINNESOTA WEST COMMUNITY AND TECHNICAL COLLEGE APPROVED**

Staff has been working the past year on a work study program with Minnesota West Community and Technical College on a work study program for an opportunity for two work study eligible MN West Law Enforcement students to work as Community Service Officers for the City during the course of their studies at MN West. The City would be responsible for 25% of their wages and the College would be responsible for the remaining 75%. They would be College employees and any insurance would be through the College.

The motion was made by Alderman Wood, seconded by Alderman Woll and unanimously carried to approve and execute the Contract for Work Study Agreement between the Worthington Police Department and Minnesota West Community and Technical College.

**BIDS AUTHORIZED FOR APRON A RECONSTRUCTION PROJECT**

The 2011 Airport budget includes approximately \$560,000 for the reconstruction of the southerly portion of Apron A. Dwayne Haffield, Director of Engineering, reported that funding has been applied for, but is not guaranteed, and that bids must first be received to get funded. The project estimate submitted to the State for consideration in their Capital Improvement Program is \$534,343, but the project as listed in the State's CIP budget includes \$507,626 of Federal Aviation

Administration Airport Improvement Program funding. The City's budget includes use of \$27,962 in reserves designated for such projects. Staff was requesting authorization to advertise for bids to be received August 8, 2011 for consideration at Council meeting that evening.

The motion was made by Alderman Kuhle, seconded by Alderman Ten Haken and unanimously carried to authorize staff to advertise for bids to be received August 8, 2011 for consideration at the Council meeting that evening.

**CONTRACT AWARDED FOR SCHEDULES 1 AND 3 OF 2011 BITUMINOUS PAVEMENT OVERLAYS PROJECT**

Staff presented Council with an abstract of bids received July 11, 2011 for the 2011 Bituminous Pavement Overlays project. One bid was received as follows:

	<u>Engineer's Estimate</u>	<u>McLaughlin &amp; Schulz, Inc.</u>
Schedule 1 - Overlays	\$121,299.60	\$133,963.05
Schedule 2 - Ehlers Boat Ramp	\$31,321.90	\$43,016.35
Schedule 3 - Concrete Restoration	<u>\$55,302.05</u>	<u>\$65,548.85</u>
Total	\$207,923.55	\$242,528.25

Staff was recommending award of Schedule 1, but with the deletion of a small segment on Strait Avenue, and award of Schedule 3. Dwayne Haffield, Director of Engineering, said they were not recommending award of Schedule 2, Ehlers Boat Landing, as they wanted to look at that project further.

The motion was made by Alderman Woll, seconded by Alderman Wood and unanimously carried to award the contract for the 2011 Bituminous Pavement Overlays Project, Schedules 1 and 3 only, to McLaughlin & Schulz, Inc.

**SPECIAL USE PERMIT GRANTED - 212 WEST OKABENA STREET**

The owner of the property located at 212 West Okabena Street was seeking a special use permit to construct a 210 foot addition to the existing house. The subject property is located within the flood plain boundary, and therefore, is subject to the Flood Plain Management Ordinance, which allows construction of buildings within the flood plain subject to flood proofing by fill. Any alternative method of flood proofing must be approved by the City through the special use permit process. The applicant was seeking to flood proof by structurally designing the addition's foundation for hydrostatic equalization. The Planning Commission considered the request at their July 5, 2011 meeting and were unanimously recommending approval of the permit with the following conditions:

1. All mechanical/electrical equipment in the attached garage is located at or above

- 1576.7 feet .
2. The applicant properly utilizes a method as to minimize sediment runoff during construction.

The motion was made by Alderman Kuhle, seconded by Alderman Wood and unanimously carried to approve the Special Use Permit for 212 West Okabena Street

### **INTERIM USE PERMIT APPROVED - JEPPESEN GRAVEL**

Council considered a request from Jeppesen Gravel for an interim use permit for the property owned by Shine Brothers Corporation of Minnesota at 520 Highway 59/60. The permit would allow the applicant to temporarily establish an aggregate yard on the subject property for MnDOT's Highway 60 project. The subject property is legally described as follows:

Lots 21, 22, 23, 24 and that part of Lot 26, County Auditor's Plat of Buss Outlots, Worthington, described as follows:

That part of Government Lot 3, Section 26, Township 102, Range 40, Nobles County, Minnesota, described as follows:

Commencing at a point on the east line of Township Highway, 33 feet east and 740.54 feet north of the Southwest corner of said Government Lot 3, which is the point of beginning; thence east and parallel to the north line of said Government Lot 3, a distance of 316 feet 10 inches; thence north and parallel to the west line of said Government Lot 3, a distance of 200 feet; thence west and parallel to the north line of said Government Lot 3, a distance of 316 feet 10 inches to a point on the east line of Township Highway; thence south along the east line of Township Highway, a distance of 200 feet to the point of beginning, containing 1.4 acres more or less; all of the above being in County Auditor's Plat of Buss Outlots in the Northeast Quarter (NE1/4) of Section 26, Northwest Quarter (NW 1/4) of Section 25, Southwest Quarter (SW 1/4) of Section 24, Southeast Quarter (SE 1/4) of Section 23, all in Township 102, Range 40, Nobles County, Minnesota, more particularly described as follows: Nobles County Auditor's Lots A, J, and K of East Okabena Lake Bed and U.S. Government Lots 1, 2, 3, all in Township 102, Range 40, Nobles County, Minnesota.

TOGETHER WITH

That part of Lot 26 of County Auditor's Plat of Buss Outlots of Government Lot 3 in Section 26, Township 102 North, Range 40 West in Nobles County, in the City of Worthington, Minnesota, described as follows:

Commencing at an existing iron stake on the east line of Township Highway, 33 feet east and 740.54 feet north of the Southwest corner of said Government Lot 3, this being the point of beginning; thence North 89 degrees 26 minutes 38 seconds east, parallel with the north line of said Government Lot 3, a distance of 316.65 feet, (deed, east 316 feet 10 inches), to an existing iron stake; thence North 00 degrees 27 minutes 22 seconds west, parallel with the west line of said Government Lot 3, a distance of 196.25 feet, to an iron stake placed with survey cap 23008 at the southwest corner of lot 25, County Auditor's Plat of Buss Outlots; thence North 88 degrees 41 minutes 55 seconds east, along the south line of said lot 25, a distance of 12.87 feet to an iron stake with survey cap 23008; thence South 00 degrees 46 minutes 52 seconds east, a distance of 925.80 feet to an iron stake placed with

survey cap 23008; thence North 87 degrees 05 minutes 56 seconds west, parallel with the south line of said Government Lot 3, a distance of 334.90 feet, to an iron stake placed with survey cap 23008; thence North 00 degrees 29 minutes 33 seconds west, parallel with the west line of said Government Lot 3, a distance of 709.18 feet, to the point of beginning. The tract contains 5.55 acres and is subject to the following easements recorded as document numbers 269036, 195403 and 159766.

The Planning Commission held a public hearing and discussion on the request at their July 5, 2011 meeting, and were unanimously recommending approval of the permit with the following conditions:

1. Permitted hours of operations are Monday - Friday 7 a.m. - 7 p.m.
2. The applicant maintains a dust free operation.
3. The permit expires upon the completion of MnDOT project S.P. 5305-66.
4. The applicant satisfies the City's Storm Water Ordinance requirements.

The Planning Commission was originally recommending that, should Council warranted it, the applicant should submit a financial surety in an amount determined by Council for removal of the interim use should the applicant fail to do so. However, Brad Chapulis, Director of Community/Economic Development, noted that Shine Brothers does have some long term intentions for the property and the gravel base the applicant will be putting down will be the first step in that project. Based on that information, the Planning Commission withdrew that condition.

Following discussion, the motion was made by Alderman Nelson, seconded by Alderman Ten Haken and unanimously carried to approve the interim use permit for Jeppesen Gravel as suggested, conditions 1- 4, except that hours of operation would also allow operation until 2 p.m. on Saturdays.

### **INTERIM USE PERMIT APPROVED - SHAFER CONTRACTING**

Schafer Contracting, Inc. was requesting an interim use permit for property owned by I-90 Truck Wash, Inc., located at the southwest corner of the intersection of Kragness Avenue and Okabena Street, which would allow them to temporarily establish a concrete batch plant for MnDOT's Hwy 60 project. The legal description of the subject property is:

Lots 1 through 11, Block 1, Boote's Addition, City of Worthington, Nobles County, Minnesota

AND

The vacated alley between Lots 1 through 7 and Lots 8, 10, and 11, Block 1, Boote's Addition, City of Worthington, Nobles County, Minnesota

AND

The northerly ½ of the vacated alley between Block 3 and Lot 11, Block 1, Boote's Addition, City of Worthington, Nobles County, Minnesota

The Planning Commission considered the application at its July 5, 2011 meeting, and after holding a public hearing and following discussion on concerns, were unanimously recommending approval of the interim use permit with the following conditions:

1. Permitted hours of operations are Monday - Friday 7 am to 7 pm.
2. The applicant maintains a dust free operation.
3. The applicant shall be required to provide the City a minimum of 72 hours notification of its intent to conduct business on Saturdays.
4. The permit expires upon the completion of MnDOT project S.P. 5305-58.
5. The applicant satisfies the City's storm water ordinance requirements.
6. If the Council believes it is warranted, the applicant submits a financial surety in an amount the Council deems appropriate for the removal of the interim use should the applicant fail to do so.

Following discussion, the motion was made by Alderman Wood, seconded by Alderman Nelson and unanimously carried to approve the interim use permit for Shafer Contracting, Inc. with conditions 2, 4, 5, and 6 as stated (with the bond amount for #6 set at \$10,000) and #1 to include Saturday hours from 7 a.m. to 2 p.m., and, item #3 will be stricken.

#### **INTERIM USE PERMIT APPROVED - R & G CONSTRUCTION**

R & G Construction Co., was seeking the issuance of an interim use permit for property owned by Chad Jaycox at 215 Kragness Avenue that would allow them to temporarily establish an aggregate yard, including crushing, on the subject property for Minnesota Department of Transportation project S.P. 5305-58 (a.k.a. Hwy 60 project). The legal description of the subject property under consideration is as follows:

Block 3, Boote's Addition, City of Worthington, Nobles County, Minnesota

TOGETHER WITH

The southerly 1/2 of the vacated alley between Block 3 and Lot 11, Block 1, Boote's Addition, City of Worthington, Nobles County, Minnesota.

The Planning Commission considered the interim use permit application at its July 5, 2011, meeting. After holding a public hearing and discussing the proposed yard, the Commission unanimously recommended approval of the interim use permit with the following conditions:

1. Permitted hours of operations are Monday - Friday 7am - 7pm.
2. The applicant maintains a dust free operation.
3. The permit expires upon the completion of MnDOT project S.P. 5305-58.
4. The applicant satisfies the City's Storm Water Ordinance requirements.
5. If the Commission believes it is warranted, the applicant submits a financial surety in an

amount the Commission deems appropriate for the removal of the interim use should the applicant fail to do so.

Following discussion, the motion was made by Alderman Kuhle, seconded by Alderman Nelson and unanimously carried to approve the interim use permit for R & G Construction with conditions as stated, and the surety amount in #5 set at \$10,000.

### **COUNCIL COMMITTEE REPORTS**

Mayor Oberloh - was unable to attend the International Festival as he was invited, with several Mayors from throughout southern Minnesota, to attend a steak dinner with our troops at Fort McCoy, Wisconsin. The event was sponsored by a group out of the Cities area called Serving Our Troops, started by a St. Paul Council member in 2004, who have served over 55,000 steaks to troops since then. An additional 6,500 steaks were served at this event, 2,900 of them to soldiers, and the rest to family and friends. The organization has many sponsors, including the Vikings and the Twins. There were 15 Mayors, six Congresspersons and the Governor in attendance.

Alderman Ten Haken - the Joint Powers Law Enforcement Committee met, they received an update on some of the projects that were there. Due to some very active grant writing opportunities by the Chief and the Sheriff, the City's investment in the ARMER System has been substantially reduced to \$100,000 to \$150,000, from over \$600,000. For two years the equipment purchase was tax exempt, but now cities have to pay sales tax on it.

Alderman Kuhle - nothing to report.

Alderman Nelson - On June 29<sup>th</sup> attended a ED Ad Hoc Committee meeting - Brad will be writing up the recommendations that will be coming from the group to Council. Also attended a Worthington Rediscovered meeting with Alderman Kuhle.

Alderman Wood - At meetings with Alderman Ten Haken - nothing else to report.

Alderman Woll - Worthington Rediscovered - looking to expand the roll of that organization, funding and going from one or two projects a year to increasing that number - will be meeting again in a week or so. Thanked both Mike Cumiskey and Craig Clark for their leadership rolls in the International Festival.

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

Craig Clark, City Administrator, reminded Council of the Special Meeting scheduled for Wednesday, the 13<sup>th</sup> for the Joint Retention Pond project, and for July 20<sup>th</sup> and 22<sup>nd</sup> for the Liquor Store Feasibility Study and the Labor Negotiations.

### **ADJOURNMENT**

The motion was made by Alderman Wood and seconded by Alderman Woll to adjourn the meeting at 8:10 a.m, with the following voting in favor of the motion: Kuhle, Nelson, Wood, Woll; and the following voting against the same: Ten Haken. Motion carried.

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Janice Oberloh, MCMC  
City Clerk