

**WORTHINGTON CITY COUNCIL
REGULAR MEETING, SEPTEMBER 10, 2007**

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 Woll, Ron Wood, Mike Kuhle, Bob Petrich. Honorary Council Person: Dale Ryen.

City Staff present: Joseph Parker, City Administrator; Dave Von Holtum, City Attorney; Brian Kolander, Finance Director; Dwayne Haffield, Director of Engineering; Brad Chapulis, Director of Comm/Econ. Development; Chris Dybevic, Police Captain; David Hoffman, Worthington Police Detective; Jim Laffrenzen, Director of Public Works; Myra Onnen, Neighborhood Services Officer; Janice Oberloh, City Clerk.

Others present: Dan Bogie, Retired Police Officer; Darrell Stitt, KWOA; Ryan McGaughey, Daily Globe; Mike Johnson; Steve Robinson (7:07 p.m.).

HONORARY COUNCIL PERSON

Mayor Oberloh introduced Dale Ryen as the Honorary Council Person for the months of September, October, and November, 2007.

Mayor Oberloh requested that Item H.1. be moved to immediately after the public hearing.

RESOLUTION NO. 3293 ADOPTED DECLARING PUBLIC NUISANCE AT 10TH AVENUE GRAIN FACILITY AND ORDERING ABATEMENT THEREOF

Pursuant to notice, this was the time set for the public hearing to determine whether or not a public nuisance exists at the 10th Avenue Grain Facility, 706 Tenth Avenue.

The motion was made by Alderman Woll, seconded by Alderman Kuhle and unanimously carried to open the hearing.

Dave Von Holtum, City Attorney, presented the hearing and gave a brief history of ownership of the property, referring to a stub abstract showing title to the property was transferred from the Chicago and Pacific Corporation to the Consolidated Co-op in 1984, which merged with Prairieland Cooperative in 1998, which, in turn, became New Vision Co-op who retained the title to the property until July 10, 2007, when it was sold to Ruby Development W, LLC.

Mr. Von Holtum called on Myra Onnen, Neighborhood Services Officer for the City of Worthington, to testify. Ms. Onnen briefly reviewed the nature and scope of her duties as required by her position with the City, and noted that she had determined existence of a public nuisance at the property in question back in March of 2002. Messages had been sent to various City staff, and also to Frank McDowell, Manager of New Vision Co-op. Mr. McDowell's reaction was that he was not planning on doing anything with the property at that time, nor would he sign any letter of intent. Ms. Onnen then turned the matter over to the City Attorney's office.

Mr. Von Holtum then called on Detective David Hoffman of the Worthington City Police Department to testify. Detective Hoffman had been requested by the City to investigate the elevator property during the course of his duties, and stated he had noted the run down condition of the property including peeling and faded paint, exterior cracks, broken windows, missing tin, a lean-to in disrepair, pigeons roosting, discarded tires and rubbish, and a non-secure door. In response to a question from Mr. Von Holtum, Detective Hoffman stated he considered the elevator to be dangerous. He also noted there were no apparent signs the elevator was being used. Detective Hoffman stated the photos taken of the property did depict the poor condition of the facility.

Mr. Von Holtum turned his questioning to Brad Chapulis, Community/Economic Development Director, who noted he was responsible for enforcement of the City's zoning ordinances. Mr. Chapulis stated the zoning of the 10th Avenue Grain Facility was "B-3" - General Business. The elevator is considered legally non-conforming, but was grandfathered in when the zoning was established in 1969. Mr. Von Holtum asked if the "grandfathered-in" use changes, can the property revert to its previous use. Mr. Chapulis replied not after 12 consecutive months of non-use.

Mr. Von Holtum asked Dan Bogie, retired Worthington Police Officer, to testify. Mr. Bogie has examined the 10th Street Grain Facility more than once, with the most recent being earlier today, and noted he felt the elevator was a danger to children. Mr. Bogie noted that the photographs of the property he had reviewed at the City Clerk's office accurately and fairly depict the property as much as a photograph can.

Mr. Von Holtum reported that there had been notices sent and served, affidavits of service, and notices of violation, and that the following list of particulars prepared by Mr. Bogie after review of the property on May 1, 2007, had been attached to one of those notices of violation:

- The elevator is located between Lampert Lumber and Nobles County Co-op Oil Co. with a north-to-south orientation to the facility.
- On the street end of the northernmost silo there is an access ladder that is less than seven feet from the ground and could be accessed by young people.
- Walking on the west side of the building there are boarded up windows and the wood appears not to have been painted and is showing signs of rot.
- There is glass from windows on the ground that appears to have come from windows on the top of the elevator.
- The corrugated tin on the exterior of the elevator is coming loose in numerous spots. Some appear close to falling off the building.
- On the south end is a collapsing lean-to-roof. On the ground under that roof is trash. That trash consisted of an old tire, plastic pop bottles, broken window glass, and old shovel.
- On the wall under that roof is an exposed fuse box and a broken glass safety light cover.
- On the elevator drive door is a walk out door that appears to not be securely fastened.
- The east side of the elevator facing Lampert Lumber is a tin roof with one brace falling down and one brace leaning, causing the roof to lean dramatically, as if to be close to collapse.

- Broken window glass is scattered on the ground and it appears to have originated from the windows on the top portion of the elevator.
- On one silo there is a junction box that is uncovered and accessible.
- Wood that is visible because of missing tin appears to be rotting in the sill plate and around window frames.
- On each side of the cement silos numerous hairline cracks are visible on the surface.

On 5-9-07 I visited the elevator and found that after several days of windy weather, the walk out door on the south side had blown askew and was just hanging in the door way.

On 5-21-07 I visited the elevator again and saw that walk out door completely collapsed and the building believably open to anyone.

In addition to the above noted documents, Mr. Von Holtum requested the addition of a certificate indicating the organization of Ruby Development W, LLC. to the file, which file will be a part of the record of this hearing.

Mr. Von Holtum noted he had asked the City Clerk to review the file to determine whether New Vision had at any time objected to the determination of nuisance at the 10th Avenue Grain Facility. The Clerk responded that she found no indication of such a denial.

Mr. Von Holtum stated he felt the record was now complete and would turn it over to Council, adding that Council may want to discuss this, and could even adjourn the hearing in order to review the record and make the findings.

Mayor Oberloh opened the floor for testimony.

Stuart Carlton, Ruby Development W, LLC, stated he had not been privy to all the information that Council apparently had, but that he disagreed whole-heartedly that the elevator was a nuisance, adding that the grain elevator is, by its very nature, a building that's used for storage. There is still grain in the elevator, grain that is still viable and would grow. Therefore, Mr. Carlton maintained, the building is still being used for its intended purpose. The windows had been shot out, but they would be happy to fix what needed to be fixed. The ladder used for access to the silo had been shortened. Mr. Carlton requested that Council allow him to have access to the complete file for review to be able to work something out.

Mr. Von Holtum commented that utility records indicate there has been no electric usage by the facility since May of 2003. Mr. Carlton responded that there is no law saying you have to have electricity in a grain storage facility, and stated that he had repeatedly asked the City to negotiate and work with them to find a better and further user for the property, but he was continually ignored.

A hearing on this matter had been scheduled for May 28, 2002, but was canceled. Determination

of a nuisance was not made at that point, but is the direction the City was headed prior to the sale of the elevator property. The City also moved to prevent the property from going to tax forfeiture.

Mr. Von Holtum stated he has polled City staff on a weekly basis on whether there had been additional contact from Mr. Carlton and had received a continuous response of no. Alderman Woll asked Mr. Carlton if he viewed the elevator as a nuisance, to which he responded he did not. Mr. Carlton also stated that it felt as though everyone wants to play a charade here with a mock court, and if we wanted to go to court he would be happy to go to court, where he would at least have a chance to rebut the witnesses.

Mr. Von Holtum twice asked Mr. Carlton if he had received notice of this hearing. Mr. Carlton replied he did not. Mr. Von Holtum asked a third time if Mr. Carlton received notice of this hearing, to which he replied he did get a notice of the hearing. Mr. Von Holtum asked if Mr. Carlton had requested any of the material that might be presented. Mr. Carlton said he did not. Mayor Oberloh clarified to Mr. Carlton that this was a hearing and merely a part of the process the City goes through.

Alderman Wood stated that the issue here is not whether the elevator is a conforming or nonconforming facility, but whether a nuisance exists there. Alderman Petrich stated it appears to him the building is not usable as the doors are out, the windows are out, and the chutes would disintegrate if you turned the power on, and he considers that a nuisance and a danger to kids. In response to a question from Alderman Ten Haken, Mr. Von Holtum responded that the appearance falls within the confines of the blight section in Chapter 92 of the City Ordinance. He also noted that the real estate without the building on it has got a fairly low value and with the building on it has probably got a minus value. Evidence of the value is the fact that the certificate of value filed on this matter at the time of the transfer of title from New Vision Co-op to Ruby Development W shows a minus fifty thousand dollars, and since the inception of certificates of value by the State of Minnesota, Mr. Von Holtum said he had never seen one with a minus figure on it. His interpretation is that someone was paid fifty thousand bucks to take the title.

Mr. Von Holtum said Council action would not prevent Ruby Development from moving ahead with some action or submission of plans.

The motion was made by Alderman Woll, seconded by Alderman Ten Haken and unanimously carried to close the hearing.

Mayor Oberloh asked about the two weeks response time in the proposed resolution. Mr. Von Holtum replied it was just a suggestion and can be whatever the Council wants it to be.

The motion was made by Alderman Woll, seconded by Alderman Petrich and unanimously carried to find a public nuisance and move forward with that action with the two month response time by adopting the following resolution:

RESOLUTION NO. 3293

RESOLUTION DECLARING PUBLIC NUISANCE AT 10TH AVENUE GRAIN FACILITY AND ORDERING ABATEMENT THEREOF

(Refer to Resolution File for Complete Copy of Resolution)

AGENDA APPROVED

The motion was made by Alderman Ten Haken, seconded by Alderman Woll and unanimously carried to approve the agenda with item H.1. moved forward in the agenda as requested by Mayor Oberloh.

CITY COUNCIL MINUTES APPROVED

The motion was made by Alderman Kuhle, seconded by Alderman Wood and unanimously carried to approve the Joint City Council/Water and Light Commission Minutes of August 27, 2007, the regular City Council Minutes of August 27, 2007, the City Council Minutes of the Budget Work Session of August 22, 2007, the City Council Minutes of the Budget Work Session of August 23, 2007, the City Council Minutes of the Budget Work Session August 28, 2007, the City Council Minutes of the Budget Work Session August 30, 2007, and the City Council Minutes of the Budget Work Session September 5, 2007.

MINUTES OF BOARDS AND COMMISSIONS

The motion was made by Alderman Ten Haken, seconded by Alderman Petrich and unanimously carried to accept for review the Water and Light Commission Minutes of September 4, 2007.

RESOLUTION ADOPTED AUTHORIZING EXECUTION OF AGREEMENT

Police Captain Chris Dybevick told Council that in July of 2007 the Worthington Police Department had applied for grants through the Minnesota Department of Public Safety Office of Justice Programs for funds to purchase in-car video cameras and automatic external defibrillators (AED's). The Department has received notice that they have been awarded \$15,000 for cameras and \$1,500 for an AED. A resolution is required to execute the agreements.

The motion was made by Alderman Wood, seconded by Alderman Woll and unanimously carried to adopt the following resolution authorizing Michael J. Cumiskey, Public Safety Director, to execute the agreements on behalf of the City of Worthington and administer the grant funds:

RESOLUTION AUTHORIZING EXECUTION OF AGREEMENT

BE IT RESOLVED that the City of Worthington Police Department enter into a cooperative agreement with the Office of Justice Programs in the Minnesota Department of Public Safety.

BE IT FURTHER RESOLVED that Michael J. Cumiskey, Public Safety Director, is hereby authorized to execute such agreements and amendments, as are necessary to implement the project on behalf of the City of Worthington Police Department.

Adopted by the City Council of the City of Worthington, Minnesota, this the 10th day of September, 2007.

MUNICIPAL OUTDOOR POOL PETITION PRESENTED

A delegation of concerned citizens was present at the meeting to present a petition to Council asking for continued support of the municipal outdoor pool. Lisa Waldner spoke for the group, noting that a rumor was circulating throughout Worthington that the outdoor pool would not be reopening next year. Council assured Ms. Waldner and the group that, barring any significant problems, plans were to operate the pool again in 2008. Alderman Ten Haken asked if there was an outdoor component to the proposed YMCA pool facility, would that be satisfactory to the group, adding that it is significant to offer a year-round facility in exchange for an outdoor 77-day facility, without having to be a "Y" member. Ms. Waldner said no one wants to be swimming inside in the middle of summer and that an outdoor component at the Y pool would be good. She thanked Council for their time.

ORDINANCE NO. 1005 ADOPTED AMENDING CHAPTER 92 OF THE CITY CODE

Pursuant to published notice this was the time set for the third reading of a proposed ordinance revising Chapter 92, Subchapter 92.05 Duties of City Officers, and Subchapter 92.06 Abatement. The Ordinance changes the enforcement procedures utilized by the Neighborhood Services Officer including the issuance of petty misdemeanor citations.

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

ORDINANCE NO. 1005

AN ORDINANCE AMENDING PORTIONS OF CHAPTER 92 OF THE CITY CODE

(Refer to Ordinance File for complete copy of Ordinance)

NOMINATING COMMITTEE RECOMMENDATIONS APPROVED

The motion was made by Alderman Petrich, seconded by Alderman Woll, and with Alderman Wood

abstaining from the vote, the motion was unanimously carried to approve the following Nominating Committee recommendations:

- Airport Advisory Board- Reappoint Rich Lowe for a three-year term to expire April 2010.
- Memorial Auditorium Adv. Brd.- Appoint Diane Graber for a three-year term to replace Peter Anderson, term to expire August 2010
- Planning Commission- Appoint Chad Nixon to fill the unexpired term of Mike Parks, term to expire April 2009

RESOLUTION ADOPTED APPROVING 2007 TAX LEVIES COLLECTIBLE IN 2008

The proposed City of Worthington levy is \$2,548,090. This amount breaks down into an operating levy of \$1,799,480 and Special Tax Levies of \$748,610. The proposed levy represents a 3.8% increase over the current year. The proposed levy can be reduced but not increased when the City certifies its final levy in December 2007.

The motion was made by Alderman Woll, seconded by Alderman Wood and unanimously carried to adopt the following resolution approving the 2007 tax levies at the not to exceed rates:

PROPOSED RESOLUTION APPROVING 2007 TAX LEVIES COLLECTIBLE IN 2008

Be it resolved, by the City Council of the City of Worthington, County of Nobles, State of Minnesota, that the following sums of money are to be levied for the current year, collectible in 2008 upon the taxable property in said City of Worthington, Minnesota for the following purposes:

LIMITED GENERAL PURPOSE TAX	2007/2008 LEVY	SPECIAL TAX LEVIES:	2007/2008 LEVY
General Fund	661,412	G.O. Debt Service Funds Including Improvement Bonds (MS 275.50 Subd. 5e and MS 429.091)	
Community Center Fund	17,900		
Recreation Fund	902,405	PIR Series 2002A \$920,000	65,100
		Public Facility Lease Rev 2004A	95,350
Improvement Construction Fund	113,179	PIR Series 2004A \$3,055,000	250,300
Airport	42,423	PIR Series 2007A \$4,370,000	<u>301,860</u>
Memorial Auditorium Fund	62,161		

TOTAL GENERAL	<u>1,799,480</u>	SUBTOTAL DEBT	712,610
		SERVICE FUNDS	
		Economic Development	
		Tax Abatement	36,000
		TOTAL SPECIAL	<u>748,610</u>
		TAX LEVIES	<u>748,610</u>
SPECIAL TAX LEVIES: (Other than Debt Service)			
Housing & Redevelopment Authority (MS 462.545 Subd. 6)	Separate Certified Levy	RECAP OF TAX LEVY TOTALS:	
		General Purpose Levy	1,799,480
		Special Tax Levies	748,610
		TOTAL NET LEVY	<u>2,548,090</u>

The City Clerk is hereby directed to transmit a certified copy of this resolution to the County Auditor of Nobles County, Minnesota.

RESOLUTION ADOPTED APPROVING THE HOUSING AND REDEVELOPMENT AUTHORITY PROPOSED 2007 TAX LEVIES COLLECTIBLE IN 2008

The Worthington Housing and Redevelopment Authority's proposed levy is \$62,721.89, which represents a 3.99% increase over the current year.

The motion was made by Alderman Woll, seconded by Alderman Wood and unanimously carried to adopt the following resolution:

RESOLUTION APPROVING 2007 TAX LEVIES COLLECTIBLE IN 2008

BE IT RESOLVED, by the City Council of the City of Worthington and the Housing and Redevelopment Authority of the City of Worthington, County of Nobles, State of Minnesota, that the following sum of money be levied for the current year, collectible in 2008, upon the taxable property in said City of Worthington, Minnesota, for the following purposes:

SPECIAL TAX LEVY	CERTIFIED LEVY
	2007/2008
HOUSING AND REDEVELOPMENT AUTHORITY TAX LEVY Minnesota Statute 469.033, Subdivision 6)	
Special Tax for Operations	\$ 57,059.50

Informational Service and Relocation Assistance	5,662.39
TOTAL	<u>\$ 62,721.89</u>
NET CERTIFIED LEVY	\$62,721.89

The City Clerk is hereby directed to transmit a certified copy of this resolution to the County Auditor of Nobles County, Minnesota.

RESOLUTION NO. 3296 ADOPTED APPROVING THE PROPOSED 2008 FUND BUDGETS FOR THE CITY OF WORTHINGTON, MINNESOTA

The motion was made by Alderman Petrich, seconded by Alderman Ten Haken and unanimously carried to adopt the following resolution approving proposed spending levels within the property tax supported funds, Debt Service Funds, Data Processing, and Cable TV funds. The total budget can be lowered but may not be increased at final budget approval in December.

RESOLUTION NO. 3296

A RESOLUTION FOR THE APPROVAL OF THE PROPOSED 2008 FUND BUDGETS FOR THE CITY OF WORTHINGTON, MINNESOTA

(Refer to Resolution file for complete copy of Resolution)

BID ACCEPTED FOR PROPERTY LOCATED AT 121 OXFORD STREET

At its August 13, 2007 Regular Meeting, City Council authorized selling of a parcel of property owned by the City and located at 121 Oxford Street, known as the former Yourway Transportation building. The property was advertised with sealed bids to be received no later than 5:00 p.m on Friday, September 7, 2007. One bid was received for the property in the amount of \$86,300, which was the advertised minimum bid amount, and was from Don Larson, L & L Enterprises, Worthington, Minnesota.

The motion was made by Alderman Woll, seconded by Alderman Petrich and unanimously carried to accept the bid from L& L Enterprises in the amount of \$86,300.

APPROVAL DENIED FOR AMENDMENT TO WORTHINGTON PUBLIC UTILITIES WATER AND LIGHT COMMISSION BYLAWS

Worthington Public Utilities Water and Light Commission was requesting Council approval of an amendment to their Bylaws that would allow a Commission member to serve an additional term of three years, for a total of 12 years. Current Bylaws state a Commission member may only serve three

terms, or nine years. Alderman Petrich noted that it does take considerable time to get acclimated and up to speed on Utility terms and business. Alderman Woll noted that the same holds true for new members to the Hospital Board, so they go through an extensive orientation to accomplish that, and he suggested that perhaps the Water and Light Commission could do the same. Alderman Ten Haken noted that he was going to support the motion to deny, but that it was in no way due to the people that have served on the Commission as they have done their duty and done a fine job.

The motion was made by Alderman Woll, seconded by Alderman Kuhle, and with Alderman Petrich abstaining from the vote was unanimously carried to deny the request for approval of an amendment to the Water and Light Commission Bylaws.

RESOLUTION NUMBERING. 3297 - 3299 ADOPTED, CALLING FOR HEARINGS ON PROPOSED ASSESSMENTS

The motion was made by Alderman Ten Haken, seconded by Alderman Wood and unanimously carried to order preparation of assessment rolls and to call the final assessment hearing for 7:00 p.m., Monday, October 8, 2007, in the City Hall Council Chambers, and to adopt the resolutions on the following projects:

Paving Improvement No. 105

- James Boulevard — Within Shalom Estates;
- Lexington Avenue — from Sundown Drive to Thompson Avenue
- Moon Circle - the Entire Length;
- Southeast Neighborhood Streets
 - Spruce Avenue — from South Douglas Avenue to the State Drainage Ditch;
 - Cedar Avenue — from South Douglas Avenue to South Clifton Avenue;
 - South Clifton Avenue — from East Avenue to Spruce Avenue;
 - South Douglas Avenue — from East Avenue to South End;
- Tower Street — from Cynthia Avenue to 11th Avenue;
- Cecilee Street — from the East Line of Lot 1 to the West Line of Lot 5, All in Block 2, Northland Park Second Addition;
- Donavon Drive — from 176 feet North of Briarwood Drive to the North Line of Lot 8, Block 1, Homewood Hills Eleventh Addition Extended Easterly;
- Sterling Avenue — That Portion Abutting Lots 7 Through 10, Block 1; and Lots 6 Through 9, Block 2; All in Glenwood Heights First Addition;
- Sutherland Drive — That Portion Within the Plat of Glenwood Heights First Addition;

Paving Improvement No. 106

- Dayton Drive - Includes street extension, sanitary sewer extension, water main extension, and storm water improvements

2007 Miscellaneous Unpaid Charges

- Removal of Ice and Snow
- Removal of Solid Waste

RESOLUTION NO. 3297

DECLARING COST TO BE ASSESSED AND ORDERING PREPARATION OF PROPOSED ASSESSMENT

(Refer to Resolution file for complete copy of Resolution)

RESOLUTION NO. 3298

CALLING FOR HEARING ON PROPOSED ASSESSMENT

(Refer to Resolution file for complete copy of Resolution)

RESOLUTION NO. 3299

DECLARING COST TO BE ASSESSED AND ORDERING PREPARATION OF PROPOSED ASSESSMENT

(Refer to Resolution file for complete copy of Resolution)

RESOLUTION NO. 3300

CALLING FOR HEARING ON PROPOSED ASSESSMENT

(Refer to Resolution file for complete copy of Resolution)

RESOLUTION NO. 3301

DECLARING COST TO BE ASSESSED AND ORDERING PREPARATION OF PROPOSED ASSESSMENT

(Refer to Resolution file for complete copy of Resolution)

RESOLUTION NO. 3302

CALLING FOR HEARING ON PROPOSED ASSESSMENT

(Refer to Resolution file for complete copy of Resolution)

PROPOSAL APPROVED FOR PROFESSIONAL SERVICES FOR DEVELOPMENT OF MASTER PLAN FOR NORTH INDUSTRIAL/COMMERCIAL PARK

Dwayne Haffield, Director of Engineering, presented the case, noting that Council is looking at significant expansion of infrastructure in the new service district, including street system, storm water management, water distribution, and sanitary collection for the area west of Highway 59 and North of Interstate 90. The identification of infrastructure needs is the initial step required to ascertain development costs and develop a funding plan. Staff solicited a proposal from SEH for engineering and planning services to prepare a master plan and infrastructure cost estimate at a not to exceed fee of \$48,600 for 500 hours of various staff work. Mr. Haffield noted the fees may be a little startling but not when you look at the number of hours involved. He also noted that master plans can be scary in that we are going to limit what we can do, not every development can be accommodated once we determine how we're going to proceed. You can build in flexibility but you need to define the limits of that flexibility. Staff was recommending Council accept the proposal and authorize execution of the contract subject to the City Attorney and our insurance agent's review.

The motion was made by Alderman Woll and seconded by Alderman Ten Haken to go ahead with the recommended expenditure as presented. Alderman Wood questioned why such a large sum of money would be spent without multiple quotes. Mr. Haffield responded that the \$50,000 limit does apply to contracts but not for professional services. Part of the consideration was a local contact, but most of it had to do with availability of SEH personnel to work on the project right away. Alderman Wood said he was concerned about getting locked into looking at only viewpoint and not getting other people to come in, and feels that, as a Council, they need to start setting some standards and criteria. Mr. Haffield said they look at the project and the qualifications, and it was very important to be able to move quickly. Steve Robinson from SEH was present at the meeting and reviewed what they will be looking at doing, including working with MnDOT, a sanitary sewer master plan, tying the Bio-Science park to properties being purchased by the City, a storm water plan, and county ditch relocation. Alderman Wood stated his concern again of the process, that he's afraid that other firms would not be interested in working with us in the future thinking they would be a "one time Charley." Mr. Haffield replied that this isn't historically true and listed several other firms that have been used in past projects. He also noted that we could go with a request for proposal, but it takes more time. Mr. Robinson stated his firm does not go over the not to exceed amount unless the project scope changes, and historically, they've been under the not to exceed amount. Joe Parker, City Administrator, explained that fees for the proposal would come from the retired bond fund. Mr. Haffield added that it does not include any building. Alderman Ten Haken expressed his appreciation to Mr. Haffield for trying to keep the project moving quickly, and also noted his appreciation for the good working relationship with SEH where we are comfortable enough with them to do this. The motion was unanimously carried.

FIRST READING OF PROPOSED ORDINANCE VACATING A PLATTED UTILITY EASEMENT IN LOT 1, BLOCK 1, HOMEWOOD HILLS ELEVENTH ADDITION

Staff presented a proposed ordinance that would allow the owners of Lots 1 and 2 Block 1 Homewood Hills Eleventh Addition to construct a home that will extend over the lot line between the two platted lots. The west 8 feet of Lot 1 is subject to a platted public utility easement and, therefore, the proposed home would extend through the easement. An electric line for a street light would also have to be relocated at the expense of the property owner or developer.

The motion was made by Alderman Woll and seconded by Alderman Kuhle to vacate the platted easement. Mr Haffield explained that the Water and Light Commission concurred with staff's recommendation to Council to adopt the proposed ordinance at their September 4, 2007 meeting, subject to the electric line being relocated at the expense of the owner/developer. Alderman Wood questioned if this now becomes one lot, and if not, does it become a nonconforming lot. Brad Chapulis, Director of Community/Economic Development, reported the City currently has received an application for a building permit for a single family dwelling that would cover both lots. Mike Johnson, of Johnson Builders and Realtors, noted that he was aware that adopting an ordinance required three readings, but in the essence of time they had applied for a building permit and would like to move forward not this week but the following, and asked if Staff or Council had any problem with them getting the permit and starting to dig prior to adoption of the ordinance. Brad Chapulis replied that Staff had no authority until action by Council is taken, but historically has allowed construction to commence at the risk of the developer. If the third reading doesn't occur, the developer would incur the costs to undo the improvements that had been done by that time. After the third reading the building permit would be released, but until that time it would be at their own risk. The motion was unanimously carried.

**SUPPLEMENTAL AGREEMENT NO. 1 TO THE BIO SCIENCE INDUSTRIAL PARK
SANITARY SEWER AND WATER MAIN IMPROVEMENTS PROJECT APPROVED**

The original plans called for the water main going under the large storm sewer outfall line without the use of bends. To do so would have meant the water main depth would have been increased for a significant distance each side of the crossing which also presents potential maintenance difficulties. Because the contract was set up for bidding by type and there was no unit price included for 12" 45 degree bends, a supplemental agreement is required. The proposed payment is \$1,480.00 or \$370 per bend.

The motion was made by Alderman Woll, seconded by Alderman Kuhle and unanimously carried to authorize the Mayor to execute the Proposed Supplemental Agreement No. 1.

PROPOSAL APPROVED FOR MASONRY REPAIRS AT MEMORIAL AUDITORIUM

Bricks in the upper portion of the entrance area at Memorial Auditorium are becoming damaged from moisture that is present within the wall at various locations. The City received a proposal from Heinemann Restoration, Inc. of Dell Rapids, South Dakota for the masonry repairs that are needed at this time in the amount of \$17,180, and which includes the replacement of 150 bricks. Each

additional brick over the 150 will cost \$6.00. The same work was done in 2002 and basically for the same reason. At that time the joints of the large cast stones on top were poorly maintained and, Mr. Haffield said, you could assume that the moisture in the wall was coming from those joints. The joints were sealed, and still look good now. Staff was also recommending services of a Mechanical Engineer to evaluate ventilation needs. Inspect was the firm that looked at this in 2002, and they would be available in September to look at it. Mayor Oberloh questioned why we would authorize the expense for brick replacement and then have someone come in and tell us what's wrong. Mr. Haffield replied that the brick could probably go another year before replacement but there are bricks that are popping and falling. There is a risk that ventilation would need to be installed in the newly replaced bricks, but there is also a risk that something else could happen if the bricks weren't repaired. The proposal from Heinemann included a sealant over the bricks and stone but we probably don't want to seal the moisture in. Alderman Ten Haken suggested that since Memorial Auditorium was in the throes of having an architect engineer- HVAC guy look at it for the addition of a front entrance, new bathrooms and an HVAC system, then why don't we use the free expertise from him for a request for a proposal on the moisture problem. Mr. Haffield responded that we may need a little more understanding of the dynamics of the wall than you would get with an ME. Mayor Oberloh said he still liked the idea of coordinating the two together if possible. Mr. Haffield said we could still look at that, all we were looking at now is the proposal from Heinemann and in gauging interest in obtaining a proposal from Inspect. Alderman Woll noted if it was his own house he would find out what the problem was before patching it.

The motion was made by Alderman Petrich and seconded by Alderman Wood to fix what we can now with the proposal from Heinemann Restoration, Inc. in the amount of \$17,180, and then step in with the finer proposal to really fix the problem. The following Aldermen voted in favor of the motion: Petrich, Wood, Woll; with the following Aldermen voting against the same: Ten Haken, Kuhle. Motion carried.

REQUEST FOR SITE PREPARATION ASSISTANCE APPROVED

Johnson Builders and Realtors (JBR) submitted a request for site preparation assistance for their proposed project at 1595 McMillan Street. The company proposes to construct a 2,552 square foot addition to their existing strip mall located directly north of the subject property, and is requesting assistance with costs affiliated with the asbestos removal, demolition of the existing non-conforming structure, and sealing an existing well. The property is legally described as follows:

The North 59 feet of the South 179 feet of Lot 11, Auditor's Outlots 1 to 12, Section 14, Township 102, Range 40, City of Worthington, Nobles County, Minnesota.

Eligibility for assistance was determined by staff using the following requirements:

1. The subject property must be located within the Redevelopment Project Area of TIF District District No. 7.

2. The subject property must be zoned for commercial development.
3. The subject property has conditions that prohibit development or redevelopment without assistance, (i.e., soil conditions, existing hazardous structures and land/structures prohibiting a more productive use of the property).
4. The subject property must have a redevelopment plan ready to proceed.
5. The subject property has a detailed budget identified for the redevelopment (including associated private financing) illustrating that without assistance the project would not be economically feasible.

Brad Chapulis, Director of Comm/Economic Development, explained what the rate of return on the project would be without the assistance and what it would be with the assistance. The return is based on full occupancy but full occupancy is not anticipated right away. Until that second occupancy occurs the rate of return is zero.

The guidelines limit the amount of assistance the City may consider at the present value of 10 years of property taxes at a market rate of return (3% discount rate). Using this method, the maximum participation that may be considered is \$67,970, which is more than the \$10,080 of eligible expenses. Staff was recommending assistance be limited to the costs affiliated with the eligible improvements (asbestos removal and structure demolition) at an amount not to exceed \$10,080.

The motion was made by Alderman Ten Haken and seconded by Alderman Petrich to approve site preparation assistance for Johnson Builders in the amount not to exceed \$10,080. Discussion followed regarding use of Tax Increment Financing funds or Worthington Rediscovered Funds for the project. The motion was unanimously carried.

COUNCIL COMMITTEE REPORTS

Mayor Oberloh - no report.

Alderman Ten Haken - no report.

Alderman Woll - no report.

Alderman Wood - no report - requested that Joe Parker and Dwayne Haffield do some research on a letter Council received.

Alderman Kuhle - Wanted to thank Jim Laffrenzen for all his hard work for the great air show at the airport. Council agreed.

Alderman Petrich - WAPA billings had been less than expected due to metering problem but that amount has now been paid up.

CITY ADMINISTRATOR'S REPORT

League of Minnesota Cities had emailed and requested letters be written to our legislators as they were going into special session tomorrow at 5:00 to try to get the Governor to give relief to flooded areas, and the League would like to get him to consider LGA funds also. Mr. Parker did email.

BILLS PAYABLE

The motion was made by Alderman Woll, seconded by Alderman Kuhle and unanimously carried that bills payable and totaling \$661,630.41 be ordered paid.

ADJOURNMENT

The motion was made by Alderman Petrich, seconded by Alderman Ten Haken and unanimously carried to adjourn the meeting at 9:15 p.m.

Janice Oberloh
City Clerk