

**WORTHINGTON CITY COUNCIL
REGULAR MEETING
OCTOBER 9, 2023**

The meeting was called to order at 5:30 p.m., in City Hall Council Chambers by Mayor Rick Von Holdt with the following Council Members present: Chad Cummings, Chris Kielblock, Alaina Kolpin, Amy Ernst, Larry Janssen.

Staff present: Steve Robinson, City Administrator; Hyunmyeong Goo, Assistant City Engineer; Steve Schnieder, City Engineer; Deb Olsen, Finance Director; Todd Wietzema, Public Works Director; Matt Selof, Community Development Director; Pat Shorter, Fire Chief; Mindy Eggers, City Clerk.

Others Present: Sam Martin, The Globe; Ryan McGaughey, Radio Works; Rebecca Kurtz, Ehlers, Inc.; Joel Jenkins, Lyle Voss, Jim Laffrenzen, Representative Marge Fogelman, Mike Vosburgh, Jim Henderson. Andy Johnson, Pat Janicek, Nancy Hoftsee, Ken Neiland, Marilyn Nielnad, Tom Nauman.

The Pledge of Allegiance was recited.

**HELD PUBLIC HEARING ON PROPOSED ASSESSMENTS AND ADOPTED
RESOLUTION NO.S 2023-10-41, 2023-10-42, 2023-10-43, 2023-10-44**

Pursuant to published notice, this was the time and date set for a public hearing on proposed assessments.

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

Hyunmyeong Goo, Assistant City Engineer presented information on the proposed assessments. He noted the proposed assessment rolls were included in the September 11, 2023 Engineering Memo.

The recommended terms for the proposed assessments are listed below.

2023 MISCELLANEOUS UNPAID CHARGES

- > Removal of Ice and Snow
- > Removal of Noxious Weed and Vegetation
- 5.5%1; 1 year

PAVING IMPROVEMENT NO. 119

- > 2022 BITUMINOUS PAVEMENT IMPROVEMENTS
- 5.5%2; 15 years

PAVING IMPROVEMENT NO. 116

> CHERRYWOOD LANE - the entire length
5.5%; 15 years

STORM SEWER IMPROVEMENT NO. 32
> CHERRYWOOD ADDITION
5.5%; 15 years

PAVING IMPROVEMENT NO. 118
> HOMEWOOD HILLS
5.5%; 15 years

¹Based on recommended policy for a minimum rate of 4% or current rate for improvement assessments, whichever is greater.

² Based on interest rate on PIR bonds.

Mayor Von Holdt asked if there was any testimony.

Joel Jenkins, said he is representing Haack Acres, LLC., he was under the impression that the assessments and interest had already been deferred back in August, 2020. Council Member Ernst said the principal is deferred but interest is accrued and paid. Council Member Cummings agreed that is past practice. Mr. Jenkins said he knew of two occasions that interest was also deferred. Staff will look back to see if that was the case.

Jim Laffrenzen said he was there on behalf of Randy and Terri Janssen. They would like to know when the ADA compliant sidewalk crossing would be put in. Staff stated that it's too late for this year but would be done in the spring of 2024.

Andy Johnson also addressed Council about Cherrywood Lane. He explained that he has a terrible time getting out of his driveway in the winter considering the design of the culdesac. He also said he sees no difference in the stormwater drainage but has been told it is designed the way it should be. Todd Wietzema stated that his department is looking into what can be done differently for the snow removal in that area to make it better.

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

A motion was made by Council Member Kielblock, seconded by Council Member Kolpin and unanimously carried to adopt the following Resolution:

RESOLUTION NO. 2023-10-41

A RESOLUTION ADOPTING THE SPECIAL ASSESSMENT FOR 2023 MISCELLANEOUS

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UNPAID CHARGES

(Refer to Resolution File for complete copy of Resolution)

A motion was made by Council Member Ernst, seconded by Council Member Cummings and unanimously carried to adopt the following Resolution:

RESOLUTION NO. 2023-10-42

A RESOLUTION ADOPTING THE SPECIAL ASSESSMENT FOR PAVING IMPROVEMENT
NO. 119

(Refer to Resolution File for complete copy of Resolution)

A motion was made by Council Member Kolpin, seconded by Council Member Kielblock and unanimously carried to adopt the following Resolution:

RESOLUTION NO. 2023-10-43

A RESOLUTION ADOPTING THE SPECIAL ASSESSMENT FOR PAVING IMPROVEMENT
NO. 116

(Refer to Resolution File for complete copy of Resolution)

A motion was made by Council Member Kolpin, seconded by Council Member Kielblock and unanimously carried to adopt the following Resolution:

RESOLUTION NO. 2023-10-44

A RESOLUTION ADOPTING THE SPECIAL ASSESSMENT FOR PAVING IMPROVEMENT
NO. 118

(Refer to Resolution File for complete copy of Resolution)

AGENDA APPROVED WITH ADDITIONS/CHANGES

A motion was made by Council Member Kielblock, seconded by Council Member Janssen and unanimously carried to approve the agenda as presented.

CONSENT AGENDA

A motion was made by Council Member Kielblock, seconded by Council Member Kolpin and unanimously carried to approve the consent agenda as presented.

- Regular City Council Meeting Minutes of September 25, 2023
- Planning Commission Meeting Minutes of October 3, 2023
- Water & Light Commission Meeting Minutes of October 2, 2023
- Planning Commission Meeting Minutes of September 5, 2023
- LEC Joint Powers Meeting Minutes of September 16, 2023
- Housing & Redevelopment Authority Board Meeting Minutes of September 11, 2023
- Housing & Redevelopment Authority Board Meeting Minutes of August 30, 2023
- Application to Conduct Off-Site Gambling - Currie Town & Country Boosters, Inc. for January 8, 2023; January 15, 2024, January 22, 2024, January 29, 2024, February 5, 2024, February 12, 2024, February 26, 2024, March 3, 2024
- Bills Payable Totaling \$3,234,873.65

RESOLUTION NO. 2023-10-45 CALLING FOR PUBLIC HEARING AND PROVIDING FOR THE SALE OF GENERAL OBLIGATION SALES TAX REVENUE BONDS, SERIES 2023A; AND PROVIDING FOR THE SALE OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2023B

Steve Robinson, City Administrator, stated the City of Worthington will be issuing two General Obligation Bonds to reimburse the City for certain expenditures from the proceeds of the bonds. He explained the Sales Tax Bonds are for financing various sales tax projects in the estimated amount of \$5,140,000, and the Improvement Bonds are for financing street improvements in the estimated amount of \$4,090,000.

Rebecca Kurtz, Ehlers and Associates, was in attendance and explained the proposed bonds are being issued for a term of 11 years. Principal on the bonds will be due on February 1 in the years 2025 through 2035. Interest is payable every six months beginning August 1, 2024. The bonds will be subject to prepayment at the discretion of the City on February 1, 2033 or any date after. The City's most recent bond issues were rated by Standard & Poor's and are currently rated at AA-. Because the City is expecting to issue no more than \$10,000,000 in tax exempt debt during the calendar year, the City will be able to designate the Bonds as "bank qualified" obligations. Bank qualified status broadens the market for the Bonds, which can result in lower interest rates. Results will be considered at the November 13th Council meeting.

The motion was made by Council Member Cummings, seconded by Council Member Ernst and unanimously carried to adopt the following resolution:

RESOLUTION NO. 2023-10-45

RESOLUTION CALLING A PUBLIC HEARING AND PROVIDING FOR THE SALE OF GENERAL OBLIGATION SALES TAX REVENUE BONDS, SERIES 2023A; AND PROVIDING

(Refer to Resolution File for complete copy of Resolution)

APPOINTMENT OF WORTHINGTON FIRE DEPARTMENT FIRE CHIEF

Mr. Robinson said the City's Personnel Policy for Firefighters and Standard Operating Guidelines for the Worthington Fire Department note that City Council shall appoint a person fully qualified to serve as the Fire Chief, taking into account the recommendation of the Fire Department personnel.

Members of the fire department met on September 26, 2023 and have forwarded the recommendation to appoint Pat Shorter as the Fire Chief. Mr. Shorter has served on the department for more than 20 years.

The Chief will have general supervision of the department at all times and have control over all apparatus, equipment and supplies and command over all persons who are employees of the department. The Chief reports to the City Administrator.

Pat Shorter thanked Council. He said that Jeff Flynn is helping in updating the Personnel Policy for the Fire Department.

A motion was made by Council Member Kielblock, seconded by Council Member Janssen and unanimously carried to appoint Pat Shorter to serve as the Fire Chief.

APPROVED WASTEWATER TREATMENT AGREEMENTS WITH TRU SHINE TRUCK WASH AND D & H TRANSPORTATION SERVICES

Mr. Robinson said the proposed new wastewater treatment agreements will replace the agreements that have been in place since April 2012 for Tru Shine Truck Wash and D & H Transportation Services clarify cost responsibilities for sampling and metering equipment and also clarifies the City's right to recover any fines or penalties that the City might incur due to any illicit discharges attributable to noncompliance with the terms of the agreements and address agreement renewal conditions going forward. Based on historic performance, the Tru Shine agreement contains an increase in their CBOD5 30-day average and maximum daily limits and the D&H agreement contains a decrease in their CBOD5 30-day average limit. Tru Shine and D&H have agreed to the terms of the proposed new agreements.

Mr. Robinson noted Worthington Public Utilities staff worked with Bolton & Menk to structure the new agreements.

A motion was made by Council Member Cummings, seconded by Council Member Ernst and unanimously carried to approve the agreements with Tru Shine and D&H as presented.

APPROVED STREET CLOSURE FOR HALLOWEEN

year term, term to expire March 31, 2027

Re-appoint Jay Vargas to a second four year term, term to expire March 31, 2027

Re-appoint Lon Lien to a second four year term, term to expire March 31, 2027

Water & Light Commission

Appoint Mike Fury to replace Randy Thompson, who resigned, term to expire March 31, 2026

Housing & Redevelopment Authority

Appoint Salvador Adame to fill the unexpired term of Marty Rickers, who passed away, term to expire October 31, 2023

A motion was made by Council Member Ernst, seconded by Council Member Cummings and unanimously carried to approve the Nominating Committee Appointments/Reappointments as presented.

BUDGET AMENDMENT - DISPATCH POSITION APPROVED

Mr. Robinson said the Police Department has budgeted for a sixth dispatcher for 2024. There have been five dispatch hiring processes in the past year and twice there was not a qualified candidate that could pass the background check. Recently, a qualified candidate has reached out to us and is available to participate in a hiring process to potentially fill the position before the end of 2023. Because of recent dispatch staff shortages, funding is available to cover the added expense of the position for the remainder of 2023. Considering the recent hiring difficulties, staff recommends moving forward with a hiring process as soon as possible to avoid missing out on hiring a qualified candidate.

A motion was made by Council Member Ernst, seconded by Council Member Kolpin and unanimously carried to approve the budget amendment.

CENTER FOR ACTIVE LIVING BID RECOMMENDATION REJECTED

Todd Wietzema, Public Works Director, said bids for the CAL improvement project were opened on September 7, 2023. There was only one bid submitted, from Tri-State General Contracting, in the amount of \$376,923.00 for the base bid and an additional \$65,233.00 for meeting room additions. Short Elliot Hendrickson, Inc., the architects on the project, estimated the probable base bid to be at \$258,850.00. The one bid received was approximately 40% over our estimated cost.

Since its an insurance claim, staff, along with adjusters from the League of Minnesota Cities, reviewed the bids and feel that the best course of action is to reject the bid from Tri-State and move

forward with rebidding the project. Staff is hopeful that making some changes in the bid process will help attract additional bidders and produce better results. A recommendation from the architect and bid tabulation were included.

The motion was made by Council Member Ernst, seconded by Council Member Kolpin and approved to reject the bid and move forward with rebidding the project. Those voting in favor of the motion were: Kolpin, Cummings, Ernst and Kielblock. Those voting against the same motion: Jansen.

VARIANCE APPEAL - 1260 27th STREET DENIED

Matt Selof, Community Development Director, said on October 3, 2023, the Planning Commission, serving as the Board of Zoning Appeals, considered a variance application submitted by JB Brooke Properties for property located at 1260 27th Street. The applicant sought approval of a variance to allow for a staircase & landing to extend 3 feet 8 inches into the required 10-foot side setback. After a public hearing and discussion, the Board of Zoning Appeals unanimously denied the request. The denial was based primarily on their belief that the property was not unique based on the State's three-factor test for practical difficulties. The Board determined that the request was a result of the applicant's preferences and there is no practical difficulty in complying with the side setback requirement.

Their decision was based on the following considerations:

1. The subject property is currently zoned 'B-3' General Business District. As such, it subject to a 10-foot side setback as specified by City Code Chapter 155 Appendix A, Table 1.

This required setback applies any structure located with the 'B-3' General Business District. A structure is defined in Section 155.010 as "Any building; or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground."

2. The applicant is seeking a variance which would allow for a set of stairs and landing to encroach 3 feet, 8 inches into the 10-foot setback. These stairs serve as an emergency exit from the building.

Worthington's City Code does not allow for any variable setbacks in any commercial or industrial zoning districts. In residential districts certain features (including stairs and landing) may project into the required side yard setback from an interior lot line "a distance not to exceed one-fifth (1/5) of the required least width of such yard, but not exceeding three feet in any case..."

3. Pursuant to Minnesota Statute § 462.357 subd. 6, the applicant must satisfy the

three-factor test for practical difficulties and the requested variance must be in harmony with the general purposes and intent of the Ordinance. The terms of the variance must also be consistent with the Comprehensive Plan. The three-factor test is as follows:

1. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.

The applicant initially installed the stairs on the east side of the building at the request of a safety inspector for the building's tenant. With the upcoming expansion of the building, the applicant is seeking to retain an emergency exit door on the east side and with the height of the interior area, there must be exterior stairs to safely get out. Staff finds this to be a reasonable use of the property.

2. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

This factor, generally referred to as the 'uniqueness' factor focuses on whether the request for a variance stems from conditions specific to the property or whether the request stems from the applicant's own preference or desires.

The property in question is regularly shaped and does not contain any wetlands or other similar natural features that require protection. The applicant does have the option to move the emergency door to the south side of the building as well (though is concerned about interfering with truck movements).

Staff finds that the plight of the landowner is not due to circumstances unique to the property.

3. The variance, if granted, will not alter the essential character of the locality.

The stairs/landing the applicant is seeking to have on the east side of the building will not alter the character of the area. The stairs are relatively small and will not have the same effect as they would if the building were allowed to encroach into the setback.

4. The requested variance must also be in harmony with the general purpose and intent of the ordinance and be consistent with the Comprehensive Plan.

The intent of the ordinance is to provide space between structures for a variety of reasons including aesthetics and fire safety. Staff believes the requested variance would be in harmony with the general purpose and intent if it were limited to only structures such as stairs, landings etc. (no buildings). The City's 2004 Comprehensive Plan does not speak specifically to setbacks and identifies the subject property as future highway commercial.

Mr. Selof said staff recommends the Board deny the request based on the second factor of the Statutory three-factor test for practical difficulties.

Mr. Selof said Council action is requested on the appeal and noted note that Title XV, Section

155.219 Paragraph (B)(5) of the City Code requires a four-fifths (4/5) vote to alter or rescind the Board of Zoning Appeals decision. State Statute requires that a reason or reasons be given for granting the variance.

Pat Janicek addressed Council concerning the request. He explained the staircase is for emergency use only. The variance would not effect the neighboring properties line of sight and does not interfere with the building fire code requirements or drainage issues. He said placing the stairs on the side of the building with the docks would interfere with snow removal and truck access to the docks. He said he also met with the neighboring business and they have no concerns over or regarding the placement of the steps.

Council held discussion and felt that there were other applicable options for the emergency exit and did not feel based on the second factor of the Statutory three-factor test for practical difficulties there was basis to approve the request.

A motion was made by Council Member Kielblock, seconded by Council Member Cummings and unanimously carried to deny the variance appeal request for 1260 27th Street.

COUNCIL COMMITTEE REPORTS

Mayor Von Holdt - Attended a Mayor's meeting in Marshall and also attended the Oromo Community celebration.

Council Member Janssen - No report.

Council Member Ernst - Attended a Compensation Committee meeting and looked over new Health Insurance options for the City.

Council Member Kielblock - Attended the Compensation Committee meeting and also the Planning Commission meeting.

Council Member Kolpin - Reminded Council of the Nobles County Childcare Town Hall meeting on Wednesday evening.

Council Member Cummings - Attended a Senate Housing and Homeless Prevention meeting.

CITY ADMINISTRATOR REPORT

Mr. Robinson said Scott McMann with the Housing & Homeless Prevention Committee called him today. He was very complimentary of the event and they are working to address the prevailing wage issue in our area. He will be attending a LMC meeting in Windom on Tuesday afternoon. Reminded Council of the Special City Council meeting on Wednesday. Will take part in the Housing &

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Redevelopment Authority Director Interviews on Thursday.

ADJOURNMENT

The motion was made by Council Member Kielblock, seconded by Council Member Cummings and unanimously carried to adjourn the meeting at 7:02 p.m.

Mindy L. Eggers, MCMC
City Clerk