

**WORTHINGTON CITY COUNCIL  
REGULAR MEETING, NOVEMBER 14, 2016**

The meeting was called to order at 7:00 p.m. in City Hall Council Chambers by Mayor Mike Kuhle with the following Council Members present: Scott Nelson, Diane Graber, Larry Janssen, Mike Harmon, Rod Sankey. Honorary Council Member: Rhina Galvez.

Staff present: Steve Robinson, City Administrator; Dwayne Haffield, Director of Engineering; Brad Chapulis, Director of Community/Economic Development; Todd Wietzema, Public Works; Captain Kevin Flynn, Public Safety; Mindy Eggers, Assistant City Clerk.

Others present: Karl Evers-Hillstrom, Daily Globe: Justine Wettschreck, KWOA; Amy Ernst, Chad Cummings, Kevin Donovan, Brian Pelowski, Ken Moser, Judy Rieckhoff, Abraham Algadi, Julie Ver Steeg.

The Pledge of Allegiance was recited.

**HONORARY COUNCIL MEMBER**

Mayor Kuhle welcomed Rhina Galvez as the Honorary Council Member for the months of October, November, and December, 2016.

**PUBLIC HEARING AND RESOLUTION NO. 3703 ADOPTED - APPROVING TAX ABATEMENT FOR CERTAIN PROPERTY PURSUANT TO MINN. STAT. 469.1813**

Pursuant to published notice this was the time and date set for a public hearing for approval of a Nobles Home Initiative application submitted by South Lake Development, LLC.

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

Brad Chapulis, Director of Community/Economic Development, said the applicant is seeking the approval of tax abatement for the duplex it is proposing to construct on the 6.5 acres it owns directly southeast of the intersection of Knollwood Drive and 1<sup>st</sup> Avenue Southwest. This duplex is the first of 9 duplexes (18 townhomes ) the applicant will be constructing on the western 3.05 acres of the subject property. The current legal description of the subject property is:

That part of the Northeast Quarter of Section 34, Township 102 North, Range 40 West, lying Northwest of the right-of-way of the Chicago, St. Paul, Minneapolis and Omaha Railway Company, EXCEPT a tract beginning at the North Quarter Corner of said Section 34; thence Easterly along the North line of said Section 34, a distance of 115.00 feet; thence Southwesterly, a distance of 119.60 feet, more or less, to a point on the West line of the Northeast Quarter of said Section 34 distant 33.00 feet South of the North Quarter corner of said Section 34, a distance of 33.00 feet to the point of beginning.

ALSO EXCEPTING

That part of the Northwest Quarter of the Northeast Quarter of Section 34, Township 102 North, Range 40 West, Nobles County, Minnesota described as follows:

Commencing at the North Quarter corner of said Section 34; thence on an assumed bearing of North 85 degrees 31 minutes 44 seconds East, along the north line of said section, a distance of 231.00 feet to an iron monument, said iron monument being the point of beginning of the tract to be described; thence South 0 degrees 54 minutes 01 seconds East a distance of 212.00 feet to an iron monument; thence North 85 degrees 31 minutes 44 seconds East a distance of 132.00 feet to an iron monument; thence North 50 degrees 08 minutes 05 seconds East a distance of 74.45 feet to an iron monument; thence North 0 degrees 54 minutes 01 West a distance of 168.79 feet to an iron monument located on the north line of said section; thence South 85 degrees 31 minutes 44 seconds West, a distance of 190.00 feet to the point of beginning.

Mr. Chapulis said the application has been reviewed and staff concluded it meets all of the parameters of the NHI Guidelines, and were recommending approval of the application. He added that the public hearing was required by State Statute regarding tax abatement.

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

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

The motion was made by Council Member Nelson, seconded by Council Member Graber and unanimously carried to adopt the following resolution approving the Nobles Home Initiative application for tax abatement:

RESOLUTION NO. 3703

A RESOLUTION APPROVING TAX ABATEMENT FOR CERTAIN PROPERTY PURSUANT TO MINN. STAT. 469.1813

(Refer to Resolution File for Complete copy of Resolution)

**AGENDA CLOSED/APPROVED**

The motion was made by Council Member Sankey, seconded by Council Member Nelson and unanimously carried to close/approve the agenda as presented.

**CONSENT AGENDA APPROVED**

The motion was made by Council Member Nelson, seconded by Council Member Sankey and

unanimously carried to approve the consent agenda as follows:

- Re-Approval of City Council Minutes of Regular Meeting, October 10, 2016
- City Council Minutes of Regular Meeting October 24, 2016
- City Council Minutes of Special Meeting November 1, 2016
- Minutes of Boards and Commissions - Planning Commission/Board of Appeals Minutes of November 1, 2016; Airport Advisory Board Minutes of November 3, 2016; Housing & Redevelopment Authority Board Minutes of September 27, 2016; Worthington Area Chamber of Commerce Convention & Visitors Bureau Minutes of September 28, 2016; Law Enforcement Center Joint Powers Committee Minutes of March 2, 2016; NEON Committee Minutes of October 13, 2016; Center for Active Living Committee Minutes of October 10, 2016
- Municipal Liquor Store Income Statement for the period January 1, 2016 through October 31, 2016
- Bills payable and totaling \$1,446,937.97 be ordered paid

**THIRD READING AND ORDINANCE NO. 1100 ADOPTED AMENDING TITLE XV OF THE CITY CODE OF THE CITY OF WORTHINGTON, NOBLES COUNTY, MINNESOTA - PUD#7 - PRAIRIE EXPO USE GROUP REGULATIONS/DEFINITIONS**

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 the City of Worthington, Nobles County, Minnesota - PUD#7 - Prairie Expo Use Group Regulations/Definitions. The amendment consists of the following:

Page 1

Added “Entertainment” as a permitted use in area “B” of the PUD #7 Schedule of Use Regulations.

Page 2

Added a definition of “Entertainment” to the PUD #7 Use Group Definitions as follows: “ Entertainment - Bars, taverns, cocktail lounges, nightclubs, theaters, billiard parlors, bowling alleys, massage parlors, and conference centers”.

The motion was made by Council Member Harmon, seconded by Council Member Nelson and unanimously carried to give a third reading to, and subsequently adopt the following amended ordinance:

ORDINANCE NO. 1100

AN ORDINANCE TO AMEND TITLE XV OF THE CITY CODE OF THE CITY OF WORTHINGTON, NOBLES COUNTY, MINNESOTA - PUD #7 - PRAIRIE EXPO USE GROUP REGULATIONS/DEFINITIONS

(Refer to Ordinance File for complete copy of Ordinance)

**APPROVED MEMORANDUM OF UNDERSTANDING WITH PBK INVESTMENTS, INC. FOR THE PURCHASE OF PARCEL NO. 31-3786-551**

Steve Robinson, City Administrator stated that Council approved a Memorandum of Understanding (MOU) with PBK Investments, Inc. At the August 22, 2016 meeting for the purchase of the above parcel. The MOU committed the City to sell the parcel to PBK for the sum of \$77,924.00 and would terminate on December 1, 2016 or upon execution of a Purchase Agreement, whichever occurred first. The MOU obligated PBK to conduct due diligence upon the property and:

1. Prepare and submit conceptual building plans with dimensions, number of theaters, seating capacity, and types of construction,
2. Prepare and submit a site plan with the location of the building, setbacks, entrance and exit access, and off-street parking. The plan must illustrate compliance with all applicable zoning regulations,
3. Prepare a concept storm water management plan demonstrating compliance with all applicable laws, codes, and ordinance requirements,
4. The above plans were to be prepared by Minnesota licensed architects and/or engineers,
5. Apply for a Planned Unit Development text amendment, and
6. Keep the City informed of its progress on a periodic basis.

Mr. Robinson explained that staff has reviewed the site plan submitted by PBK, and they have met the requirements of the MOU except for the off-street parking provision. Acceptance of the site plan submitted by PBK is not to be interpreted as approval of a building plan or a final detailed site plan.

Kevin Donovan stated that the theater will have 5 separate theaters and 4 of them will have 50 seats and 1 will have 99 seats for a total of 299 seats, this will require 75 off-street parking spaces. The site plan will give the theater 68 parking spaces and the Comfort Suites has agreed to let them use 4 parking stalls from their lot as they have 75 rooms and 85 parking stalls. Mr. Donovan noted that it would still leave them 3 parking stalls short and they are asking the City to agree to a collective parking agreement which would provide a provision for 3 parking stalls that would be included in the purchase agreement.

Mr. Donovan presented the site plan to Council pointing out that the driveway to the theater will be off of Bio Science Drive. Council Member Sankey asked if acquiring the additional 3 stalls from the Event Center would be beneficial considering the distance people would have to walk. Mr. Donovan replied that they don't think at any time there would be that many cars in the theater parking lot at one time so it shouldn't be a problem.

Mayor Kuhle stated that he had received some calls concerning the proposed location of the theater relating to safety of anyone that may walk or bike to the location. Mr. Donovan replied that Brian Pelowski and himself had looked at other properties before deciding on this location which was determined to be the best option. Mr. Kuhle stated that safety is a priority and speed limits should be looked at in that area.

Council Member Nelson said he thinks the location is great for exposure but asked the time line of the project and how soon it would be moving forward. Mr. Donovan explained that everything seems to be moving along as planned and they are working with Fullerton Building Systems on the construction of the building. The plan right now is movies will be able to be seen in the next year or sooner.

A video was shown from Fullerton Building Systems that showed the building process. Julie Ver Steeg, Fullerton Building Systems stated that they would be supplying the outer shell of the building but does not do the interior work. Ms. Ver Steeg extended an invitation to Council to let her know if they would like to tour the plant. Mayor Kuhle thanked Ms. Ver Steeg for attending.

Brian Pelowski, PBK Investments said that he would like to thank staff in giving good advice and Council for helping move the process along and also appreciates Kevin Donovan pushing him along to get something going in Worthington because the City needs a movie theater.

Council Member Sankey asked if they follow the statistics on movie theaters and the number of people that attend these days. Mr. Pelowski stated that the trend is moving towards having fewer seats that are not as close together and have the availability to recline for comfort along with the new high definition digital quality that is available.

Council Member Graber stated that she admired Mr. Pelowski's persistence in moving forward with the process as Worthington cannot afford to lose another amenity.

A motion was made by Council Member Nelson, seconded by Council Member Graber to direct city staff to negotiate a purchase agreement with PBK Investments with all conditions being met and the city receive construction documents and participate in a fully executed parking agreement before closing can occur. Council Member Nelson amended his motion to add that the information needs to be provided on or before June 1, 2017. Council Member Graber seconded the amendment to the

motion and the motion passed unanimously.

**NOMINATING COMMITTEE RECOMMENDATIONS**

The Nominating Committee met on Wednesday, November 2, 2016 and are making the following recommendations regarding for committee assignments:

Airport Advisory Board	Reappoint Chad Jaycox for a full first term- term to expire September 30, 2021
Housing & Redevelopment Authority	Reappoint Lori Bristow for a first full term - term to expire December 31, 2021
Public Arts Commission	Kathy Craun’s term expires November 30 and she has declined to serve another term. Appoint Antonio Madrigal for a three year term, term to expire November 30, 3019. Antonio Madrigal was the student representative to the Board but is now eligible to become a full board member  Appoint Than Than Kyaw as the new student Representative to the Board to replace Antonio Madrigal for a ne-year term, term to expire November 30, 2017

The motion was made by Council Member Janssen, seconded by Council Member Graber and unanimously carried to approve the Committee appointments as recommended by the Nominating Committee.

**PROPOSED LEASE AGREEMENT BETWEEN CITY OF WORTHINGTON AND TRI-STATE TRUCK WASH FOR USE OF CITY-OWNED PROPERTY APPROVED**

Steve Robinson, City Administrator explained that the management at Tri State Truck Wash has been in periodic contact with WPU staff in the past regarding potentially utilizing some of the unoccupied space on the city-owned parcel that is the site of the 300,000 gallon water tower (“Swift tower”) located on Joosten Road. After a number of iterations on what uses would be acceptable, staff presented the proposed lease agreement for consideration by Tri-State. The lease was modeled after an existing lease agreement with another local business that is occupying space on City-owned property at the water tower site. Mr. Robinson noted at their regular meeting held on November 7, 2016 the Water & Light Commission approved the lease agreement with Tri State Truck Wash, Inc.

The motion was made by Council Member Harmon, seconded by Council Member Nelson and unanimously carried to approve the Lease Agreement between the City of Worthington and Tri-State Truck Wash.

#### **APPLICATION FOR BURNING PERMIT APPROVED**

Steve Robinson, City Administrator explained the City's Community Services Officer has been working with Wayne Scholtes to have him remove a pile of tree branches that have accumulated on his property located north of South Lake Street and identified as Parcel #31-0981-000. Mr. Scholtes has submitted an application for a Burning Permit to allow him to burn the branches instead of removing them. The application has already been submitted and approved by Fire Chief Rick Von Holdt. A copy of Section 91.01 of the Worthington City Code that regulates burning within the city is included in the packet.

Mayor Kuhle asked if anyone in town can apply for a burning permit and Council Member Graber raised concern that similar sites would also apply for a permit. Mr. Robinson stated that anyone can apply but the Council would have to approve and use discretion on each request. Mayor Kuhle stated that he is concerned that there are no parameters in the ordinance and would like staff to review.

Council Member Janssen asked if weather would be taken into consideration before the burn. Mr. Robinson noted that this property is in a rural area within the city limits south of Shine Brothers and the fire department would be aware of when the burning takes place.

A motion was made by Council Member Harmon, seconded by Council Member Nelson to approve the Burning Permit for Mr. Scholtes. Council Members voting in favor of the motion were: Harmon, Nelson, Janssen, and Sankey. Voting against the same motion was Council Member Graber.

#### **RESOLUTION NO. 3697 ADOPTED RE-AUTHORIZING AGREEMENT FOR CHILD SEXUAL PREDATOR PROGRAM**

Captain Kevin Flynn explained that the Worthington Police Department has been a member of the Minnesota Internet Crimes Against Children (ICAC) Task Force since December 2008. The Task Force operates under a Joint Powers Agreement (JPA) administered by the Minnesota Bureau of Criminal Apprehension. The Task Force partnership provided expertise and assistance and has been instrumental in local convictions for crimes related to the possession of child pornography. WPD assigns a Detective as a representative to the Task Force for local cases.

Captain Flynn noted the current agreement has expired and the renewal will be effective through May 31, 2019 if approved.

The motion was made by Council Member Sankey, seconded by Council Member Janssen and unanimously carried to adopt the proposed resolution authorizing the ICAC agreement with the State of Minnesota.

RESOLUTION NO. 3697

RESOLUTION APPROVING STATE OF MINNESOTA JOINT POWERS AGREEMENTS WITH THE CITY OF WORTHINGTON ON BEHALF OF ITS POLICE DEPARTMENT REGARDING THE MINNESOTA INTERNET CRIMES AGAINST CHILDREN TASK FORCE (ICAC)

(Refer to Resolution File for complete copy of Resolution)

**RESOLUTIONS 3698 THROUGH 3701 ADOPTED ACCEPTING DONATION OF PERSONAL PROPERTY - PARK BENCHES**

The City received the following requests for acceptance of donations of four park benches in City parks and along the bike trail:

Winter Family to place a bench in Sunset Park in memory of Charles “Chuck” Winters.

Mike Patrick Memorial Fund to place a bench in Centennial Park, west of the basketball courts, in memory of Mike Patrick.

Wayne Klumper to place a bench in Olson Park, along the trail near the disc golf course, in memory of his parents John and Myrt Klumper.

Dorothea Klumper to place a bench in Olson Park, along the trail near the disc golf course, in memory of her parents Ken and Ruth Hein.

Per policy, the acceptance must be by resolution.

The motion was made by Council Member Nelson, seconded by Council Member Janssen and unanimously carried to adopt the following resolutions accepting the donation of personal property:

RESOLUTION NO. 3698

A RESOLUTION ACCEPTING DONATION OF PERSONAL PROPERTY (In memory of Charles “Chuck” Winter)



(Refer to Resolution File for complete copy of Resolution)

RESOLUTION NO. 3699

A RESOLUTION ACCEPTING DONATION OF PERSONAL PROPERTY (In memory of Mike Patrick)

(Refer to Resolution File for complete copy of Resolution)

RESOLUTION NO. 3700

A RESOLUTION ACCEPTING DONATION OF PERSONAL PROPERTY (In memory of John and Myrt Klumper)

(Refer to Resolution File for complete copy of Resolution)

RESOLUTION NO. 3701

A RESOLUTION ACCEPTING DONATION OF PERSONAL PROPERTY (In memory of Ken and Ruth Hein)

**RESOLUTION NO. 3702 ADOPTED APPROVING 2017 SEWER SERVICE CHARGES**

Dwayne Haffield, Director of Engineering, presented the proposed 2017 Sewer Service Charges for Council consideration and stated that the Water & Light Commission also considered these charges at its November 7, 2016 meeting. Mr. Haffield noted the monthly sewer charge is comprised of two components - a usage charge and a connection charge. The usage charge is billed to non-industrial customers based on water consumption and assumed pollution levels. Mr. Haffield said we are looking at a 2.6% increase in the usage charge for non-industrial users, and a \$.73 increase in the connection charge.

The motion was made by Council Member Harmon, seconded by Council Member Graber and unanimously carried to adopt the following resolution approving the proposed 2017 Sewer Service Charges:

RESOLUTION NO. 3702

APPROVING CHANGES IN THE SEWER RATE SCHEDULE

(Refer to Resolution File for complete copy of Resolution)

**APPROVED STORM WATER UTILITY FUND BUDGET AND FIRST READING OF PROPOSED ORDINANCE TO AMEND STORM SEWER UTILITY RATES**

Dwayne Haffield, Director of Engineering explained the 2017 storm sewer fund budget completed as directed by Council at its November 1, 2016 meeting. The budget requires \$593,752 in utility operating revenue, or \$15,647 more than the 2016 budget. The increase in the required operating revenue is attributable to providing for a \$72,828 increase in reserves designated for future capital improvements. The warrant for including an increase in reserves designated for future capital improvements is the identification of a number of storm sewer reconstruction projects unable to be scheduled at this time due to current revenue levels and the commitment to the County Ditch 12 flood mitigation improvements. Mr. Haffield stated that if Council approves the proposed 2017 storm sewer fund budget a rate increase will need to be initiated. The rate increase required to generate the revenue is 2.5%. City Council adopted an ordinance establishing the City's storm water system as a utility in December of 2003. The ordinance set the annual storm water fee or rate for residential use. The annual rate is adjusted by a multiplier based on land use, multiplied by the property area, and billed in 12 monthly payments. An ordinance is required to amend the storm water utility rate.

A motion was made by Council Member Janssen, seconded by Council Member Sankey and unanimously carried to approve the 2017 Storm Sewer Fund Budget and give first reading to the Ordinance Establishing the Annual Residential Fee Per Acre at \$249.00.

**APPROVED FIRST READING PROPOSED ORDINANCE - TEXT AMENDMENT (CONDITIONAL USE)**

Brad Chapulis, Director of Community/Economic Development explained that the Planning Commission and City staff are requesting City Council consider a text amendment to Title XV, Chapter 155 of the City Code (A.K.A. - Zoning Ordinance) that would replace the term "special use" with the term "conditional use" in every section, subsection, table, and appendix where such term is found. The terms are used interchangeably throughout the Ordinance though both have the same purpose/intent, which is to allow consideration of land uses that would not be generally appropriate within a zoning district but might be permissible if certain conditions determined necessary to protect the spirit and intent of the Ordinance.

Mr. Chapulis noted the purpose of the amendment is to eliminate confusion caused by the use of both terms in the Ordinance. With the definition of "conditional use" already defined in the Ordinance and that the use of the same term more accurately depicts the intent of Zoning Ordinance, the Planning Commission and City staff are recommending the text amendment.

Mr. Chapulis stated the Planning Commission did hold a public hearing on the proposed text amendment at its November 1<sup>st</sup> meeting. After closing the hearing, the Commission unanimously voted to recommend adoption of the proposed ordinance as presented. Should Council concur with the Commission's recommendation, it may approve the first reading of the proposed amendment.

A motion was made by Council Member Graber, seconded by Council Member Harmon and unanimously approved to give a First Reading to the proposed Ordinance - Text Amendment (Conditional Use).

### **COUNCIL COMMITTEE REPORTS**

Mayor Kuhle - Attended the Joint City/County/College/School meeting; attended the CGM Policy Position/Economic Development Meeting the #1 goal for the year is workforce housing and the #2 goal is broadband, local option sales tax was also discussed.

Council Member Nelson - Attended the PJC Joint Operations meeting; items discussed were roof/window replacement and the garage project, the City's share of the lease agreement is 12.89%, other items discussed were a potential road coming from the west to the south side of the building and a potential pollinator project that would have the Pheasants Forever do a controlled burn on the property and potentially add a beehive project; will be attending the CGMC Conference on November 17<sup>th</sup> and 18<sup>th</sup>.

Council Member Graber - Attended the Board of Canvass meeting this evening and the Chamber Mixer at the Memorial Auditorium which had great attendance; attended the special budget meeting and the Planning Commission meetings on November 1<sup>st</sup>; attended a Memorial Auditorium Advisory Board meeting on November 4<sup>th</sup>, a work study student has been hired, Rich Lapis and Rich Besel have built custom storage racks for the Auditorium, the Worthington Symphony- Brule Concert will air on PBS after Thanksgiving.

Honorary Council Member Galvez - None

Council Member Janssen - Attended a NEON Committee meeting that discussed the Legislative issues and the committee has them narrowed down to three; will be attending a Nobles County Joint Transit Board meeting at SMOC tomorrow morning.

Council Member Harmon - Attended a City/County/College/School meeting on October 31<sup>st</sup>; attended the Special Council Budget meeting on November 1<sup>st</sup>; attended the PJC Joint Operations Committee meeting on November 2<sup>nd</sup>; attended the Water & Light Commission meeting on November 7<sup>th</sup> and approved the proposed sewer budget, the wells seem to be maintaining the water level at 8 feet above; attended the CAL Meeting this morning, the Senior Dining Lease will expire on November 18<sup>th</sup> and is up for renewal. The Center for Active Living currently has 174 members, 6 people have not renewed their membership.

Council Member Sankey - Attended an open house at JBS, would encourage members to take advantage of a tour of their facilities as it's very impressive; attended the Highway 59/Oxford Street Open House that was looking for public input on the proposed project; attended the Special Council

Budget meeting on November 1<sup>st</sup>; attended the Airport Advisory Board meeting, Jim Laffrenzen will serve as the new Chairman, voted to keep the hangar rentals the same price as last year, Arnt Aerial Spraying will continue next year as the son will be getting his commercial license and taking over the business; CIP updates, the airport has 5% funds available for repairs and maintenance for the safety of doors on the hangars for the years, 2017, 2018, and 2019, the City of Duluth has turned down some funding and Worthington has the opportunity to use it for airport projects, 5% would be paid by the City, 90% by federal and 5% by the state and would be available next spring; attended a NEON Committee meeting, Diane Anderson with the SW Initiative reported on a new project called “Grow your Own Program”, which is a program to help people get out of poverty.

### **CITY ADMINISTRATOR’S REPORT**

Steve Robinson, City Administrator, stated that he met with Kathy Craun, member of the Public Arts Commission and completed the final grant report on the Crailsheim Sculpture project, the City received 80% of the grant and will be requesting the final 20%. The Joint Transit Authority will be meeting to review the taxi service proposals. The construction is done on the soccer fields and staff will wrapping up the watering this week.

### **ADJOURNMENT**

The motion was made by Council Member Sankey, seconded by Council Member Graber and unanimously carried to adjourn the meeting at 8:20 p.m.

Mindy Eggers, MCMC  
Assistant City Clerk