

**WORTHINGTON CITY COUNCIL
REGULAR MEETING, AUGUST 14, 2017**

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: Larry Janssen, Alan Oberloh, Chad Cummings, Amy Ernst, Mike Harmon. Members absent: Honorary Council Member: Josh Langseth (excused).

Staff present: Steve Robinson, City Administrator; Troy Appel, Public Safety Director, Todd Wietzema, Public Works Director; Dwayne Haffield, Director of Engineering; Sgt. Brett Wiltrout, Public Safety Department; Tammy Makram, Manager - Memorial Auditorium; Janice Oberloh, City Clerk.

Others present: Mark Shepherd, City Attorney; Abraham Algadi; Chris Kielblock; Gail Holinka; Darlene Macklin; Kate and Mike Harlow; Kurt Haag.

The Pledge of Allegiance was recited.

AGENDA CLOSED / APPROVED WITH CHANGES

Staff requested the following changes to the agenda:

- Consent Agenda - Addition of Item E4.a.5 - *Application to Block Street - El Aposento Alto UPCI.*
- Worthington Housing and Redevelopment Authority Board Minutes of June 27, 2017 - which were listed on the agenda but not included in the packet.
- Move item G.1. *Lifesaving Award* to immediately following the consent agenda.

The motion was made by Council Member Oberloh, seconded by Council Member Cummings and unanimously carried to close / approve the agenda with the requested changes.

PUBLIC HEARING AND RESOLUTION NO. 2017-08-01 ADOPTED APPROVING TAX ABATEMENT FOR CERTAIN PROPERTY PURSUANT TO MINN. STATUTE 469.1813

Pursuant to published notice this was the time and date set for a public hearing regarding a Nobles Home Initiative application submitted by North Development Group, LLC, for Parcel No. 31-3845-000. The Group was seeking approval of tax abatement for the construction of a 72-unit apartment complex on 6.3 acres it is acquiring located directly east of the intersection of Darling Drive and Grand Avenue. The property is legally described as:

That part of the Northeast Quarter of the Southwest Quarter, Section 13, Township 102, Range 40, City of Worthington, Nobles County, Minnesota lying north of a westerly projection of the north line of Block 2, Northland Park Second Addition, City of Worthington, Nobles County, Minnesota EXCEPT 8.63 acres for Interstate 90 and EXCEPT 8.02 acre tract described in Document No. 212660 and EXCEPT that part of the Northeast Quarter of the Southwest Quarter of Section 13, Township 102 North, Range 40 West, City

of Worthington, Nobles County, Minnesota, described as follows:

Commencing at the southeast corner of Lot 3 of Auditor's Plat of the West Half of the Southwest Quarter of Section 13, Township 102, Range 40, City of Worthington, according to the recorded plat thereof; thence on an assumed bearing of South 89 degrees 04 minutes 09 seconds East, along the easterly extension of the south line of said Lot 3, a distance of 208.33 feet; thence North 0 degrees 01 minutes 52 seconds West, parallel with the east line of Lots 1, 2 and 3 of said Auditor's Plat, a distance of 437.57 feet to the southerly right-of-way line of Interstate Highway No. 90 as recorded in Document No. 189598; thence North 89 degrees 12 minutes 07 seconds West, along said southerly right-of-way line, a distance of 208.33 feet to the east line of Lot 1 of said Auditor's Plat; thence South 0 degrees 01 minutes 52 seconds East, along the east line of Lots 1, 2 and 3 of said Auditor's Plat, a distance of 437.09 feet to the point of beginning, containing 2.09 acres, subject to easements now of record in said county and state,

and EXCEPT that part of the Northeast Quarter of the Southwest Quarter of Section 13, Township 102 North, Range 40 West, City of Worthington, Nobles County, Minnesota, described as follows:

Commencing at the center of said Section 13; thence on an assumed bearing of South 0 degrees 00 minutes 00 seconds West, along the north-south quarter line of said Section, a distance of 282.95 feet to the southerly right-of-way line of Interstate Highway No. 90; thence North 89 degrees 11 minutes 29 seconds West, along said southerly right-of-way line, a distance of 445.00 feet to the intersection with the westerly line of the Worthington Christian School Tract as recorded in Document No. 212660, said intersection being the point of beginning of the tract to be described; thence North 89 degrees 12 minutes 06 seconds West, along said southerly right-of-way line, a distance of 330.00 feet; thence South 0 degrees 00 minutes 00 seconds West a distance of 438.36 feet; thence North 89 degrees 04 minutes 09 seconds West a distance of 135.00 feet; thence South 0 degrees 00 minutes 00 seconds West a distance of 70.01 feet; thence South 89 degrees 04 minutes 09 seconds East a distance of 135.00 feet; thence South 0 degrees 00 minutes 00 seconds West a distance of 172.64 feet; thence South 89 degrees 12 minutes 06 seconds East a distance of 330.00 feet to the westerly line of said Worthington Christian School Tract as recorded in Document No. 212660; thence North 0 degrees 00 minutes 00 seconds East, along said westerly line, a distance of 269.00 feet; thence North 89 degrees 12 minutes 06 seconds West, along said westerly line a distance of 125.00 feet; thence North 0 degrees 00 minutes 00 seconds East, along said westerly line, a distance of 88.00 feet; thence South 89 degrees 12 minutes 06 seconds East, along said westerly line, a distance of 125.00 feet; thence North 0 degrees 00 minutes 00 seconds East, along said westerly line, a distance of 324.00 feet to the point of beginning, containing 5.12 acres, subject to easements now of record in said county and state.

The application was originally approved by Council on October 27, 2016 meeting, and expired May 15, 2017

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

Mr. Robinson provided additional information, noting that staff had reviewed the application and concluded it meets all of the parameters of the NHI Guidelines, and staff was recommending approval of the application. The public hearing tonight was to comply with state statute regarding tax abatement.

Mayor Kuhle asked if there was anyone present who wished to provide testimony for or against the application.

None was received.

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

The motion was made by Council Member Oberloh, seconded by Council Member Janssen and unanimously carried to adopt the following resolution approving the tax abatement:

RESOLUTION NO. 2018-08-01

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

(Refer to Resolution File for complete copy of Resolution)

CONSENT AGENDA APPROVED

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

- City Council Minutes of Regular Meeting July 24, 2017
- Minutes of Boards and Commissions - Water and Light Commission Minutes of Regular Meeting August 7, 2017 and Regular Meeting July 24, 2017; Worthington Housing and Redevelopment Authority Board Minutes of June 27, 2017; YMCA Board Minutes of June 26, 2017; Public Arts Commission Minutes of June 20, 2017; Worthington Area Convention and Visitors Bureau Minutes of May 31, 2017
- Municipal Liquor Store Income Statement for the Period January 1, 2017 through July 31,

2017

- Application for Temporary On-Sale Liquor Licenses - King Turkey Day, Inc.
- Request for Parade Permit / to Block Streets - King Turkey Day, Inc.
- Amendment to Approved Application to Block Streets Cruisin' Downtown Worthington
- Application for Exemption from Lawful Gambling Permit - Tomorrow's Turkeys
- Application to Block Street - El Aposento Alto UPCI
- Execution of a Contract for Range Lease Agreement between City of Worthington and MN West Community and Technical College
- Supplemental Agreement No. 1 to McMillan Street and Ryan's Road Street Improvements Contract
- Bills payable and totaling \$1,770,190.29 be ordered paid

CIVILIAN LIFESAVING AWARD PRESENTATION - MIKE HARLOW

Troy Appel, Public Safety Director, presented a Civilian Lifesaving Award to Mike Harlow for his heroic actions in saving the life of a juvenile male who was struggling to stay afloat in Lake Okabena after being separated from his tube during high winds and rough water. Mr. Harlow heard the screams for help from the juvenile and paddled his kayak approximately 200 yards out to the youth to provide him with a life jacket and pull him back to shore.

Council thanked Mr. Harlow for his heroic actions - Mr. Harlow responded that he didn't do anything different than he hoped someone would do for him if he needed help.

PRESENTATION - WORTHINGTON PUBLIC ARTS COMMISSION

Gail Holinka, representing the Worthington Public Arts Commission, provided information to Council regarding the Commission and its benefits to the community, mission statement, objectives, idea development, successes, art inventory, public art map, problem statement proposed projects and on-going projects and key performance measures. Current projects include the Event Center Globe, Harmony Park, and an Amelia Earhart statue. Ms. Holinka said the Commission was requesting that the City pass a resolution authorizing funding for them. Council Member Ernst, who serves on the Commission, said they were looking for a year-to-year budget from the City.

PRESENTATION - MEMORIAL AUDITORIUM PERFORMING ARTS CENTER

Tammy Makram, Manager of Memorial Auditorium Performing Arts Center, presented information to Council regarding the upcoming season. Information included a brief movie schedule, a calendar of events, and a review of the 2017-2018 show events from the Friends of the Auditorium group. She hears raves consistently about the upgraded equipment installed for movies and the auditorium about the facility itself and the lighting technical assistance we offer, however, there is still some equipment that we don't have and need to lease on a regular basis. Ms. Makram said her biggest

challenge is getting people in the seats, and upgrading the equipment.

NEW ON-SALE WINE LICENSE AND NEW ON-SALE BEER LICENSE APPROVED - FRIENDS OF THE AUDITORIUM

Alcohol service at Memorial Auditorium for certain events was most recently being provided by contract with Hy-Vee, Inc. However, the Auditorium Manager, Tammy Makram, was notified by Hy-Vee that they would no longer be providing the service due to staffing issues, which was also the reason for the prior contract with Hickory Lodge to be cancelled. As an alternative to contracting for the service, State Statute allows for a municipality to issue an on-sale liquor, on-sale wine, or an on-sale beer license to a live performance theater within the city. The license could be issued to the city, or to a managing group. The Friends of the Auditorium voted to hold the license themselves, which also requires them to provide the insurance coverage, and which re require to name the City of Worthington as additional insured.

The motion was made by Council Member Janssen, seconded by Council Member Ernst and unanimously carried to approve the applications for the new on-sale wine license and the new on-sale beer license for the Friends of the Auditorium for alcohol service at the auditorium.

CITY ADMINISTRATOR CONFLICT OF INTEREST

City Attorney Mark Shepherd was present at the meeting to present available options to Council in dealing with a conflict of interest issue regarding City Administrator Steve Robinson and his financial interests in SEH, Inc., who's services are frequently engaged by the City of Worthington for projects. Mr. Shepherd had contacted the Attorney General's office regarding the situation, and based on their response, offered the following options regarding the conflict.:

1. Robinson divests himself of his financial interests in SEH, Inc.,
2. Robinson resigns as the City Administrator,
3. City Council determines that SEH, Inc. is disqualified from doing work for the City of Worthington, or
4. City Council issues a directive or resolution similar to: "City Administrator Steve Robinson is not authorized to participate in any manner, including discussions and/or recommendations concerning any contract which involves or may involve SEH, Inc."

Mayor Kuhle stated he believes we are just being pro-active and this keeps us safe with any future contracts with engineering firms and potential conflict issues, and is not the result of any issue that has come up - to him the logical choice was option 4, is it just a directive or do we need to pass a resolution, is it one and the same. Mr. Shepherd responded it is one and the same and it would be good to have it in a resolution so it is clear that is the directive.

Council Member Cummings asked if Council had to pass a resolution with specifics or if it could be a city-wide resolution covering anyone in an authoritative state that may have shares in a hired business - whether it be Council or staff. Mr. Shepherd's recommendation was to do this on a case-by-case basis - he's been the City Attorney for 37 years and this is the first time it has come up, plus you need to know if the situation exists with any employees before you decide if or how to resolve it.

Council Member Oberloh it was unfortunate we didn't know this at the time of hiring, and he was reluctant to support option 4 as he felt it would take away some of the job that he does as an employee of the City of Worthington if he could not participate.

Council Member Ernst said she doesn't have a problem with it. Council Member Cummings said he finds this a little ridiculous he doesn't think he's using it to benefit himself - we're very privileged to have him with the experience he has. If you look across the state SEH is used widely, as are other firms - this feels a little aimed.

Mayor Kuhle said he thought the directive takes care of the issue - Council Member Cummings agreed, citing that other cities have staff or Council Members who work for other firms. Mr. Shepherd responded to Council Member Cummings saying that it is a legitimate issue - you mentioned that you thought it was aimed at somebody - I think it's a serious issue - conflicts of interest. It carries criminal possibilities so I think your job as a Council Member is you need to figure out a way both to protect your City Administrator from potential problems. The conflict exists because he has the opportunity to participate in the making of a contract with SEH, he's authorized by the nature of the job and as a public official to be engaged with those contracts. Option 4 would be designed to be part of his employment contract - a directive to him as an employee of the City that he is not to do so. Then, if he violates that and does it then it's a conflict, if he doesn't then it should protect both the City and Mr. Robinson. Council Member Oberloh's concern on whether it impedes his ability to function fully as a City Administrator is something to be debated amongst yourselves and Mr. Robinson and other staff members.

Following discussion regarding the level to which Mr. Robinson should abstain from involvement, Council Member Harmon asked if the language in option 4 was strong enough. Mr. Shepherd said if there was a consensus among the Council to go with option 4 he would go back and draft a resolution in its proper format for you to discuss, and if Council likes it they can adopt it, if there are any changes they can adopt it at a different meeting.

The motion was made by Council Member Harmon and seconded by Council Member Ernst to go with option #4 and direct City Attorney Mark Shepherd to prepare a resolution per option 4 excluding Mr. Robinson from any participation in any manner, including discussions and/or recommendations concerning any contract which involves or may involve SEH, Inc., with the following Council Members voting in favor of the motion: Cummings, Ernst, Harmon; and the

following Council Members voting against the motion; Janssen, Oberloh. Motion carried.

NOMINATING COMMITTEE RECOMMENDATIONS FOR COMMITTEE APPOINTMENTS/REAPPOINTMENTS APPROVED

The Nominating Committee met on August 8, 2017 and were making the following recommendations for committee appointments / re-appointments:

Memorial Aud. Advisory Board

Re-appoint Karen Fury for a first full three-year term - term to expire 07/31/2020

Appoint Betty McAllister to fill the unexpired term of Julie Nystrom, term to expire 07/31/2018

Public Arts Commission

Appoint Jayme Wiertzema to fill the unexpired term of Pam Lowry, term to expire 11/30/2018

The motion was made by Council Member Oberloh, seconded by Council Member Janssen and unanimously carried to approve the Nominating Committee's recommendations as presented.

CITY PLANNER INTERN GUIDELINES APPROVED

In an effort to provide assistance the interim Planning and Zoning Official Administrator, Steve Robinson, City Administrator, said staff had prepared position guidelines for a City Planner Intern position. The position would be responsible for assisting in the daily activities of the City's planning and zoning core functions. Mr. Robinson said there has been a lack of qualified applications in response to the posting for the Director of Community Development, Planning, Zoning and Building Services. This person would assist our contract planning and zoning official. Mr. Robinson said the pay will be somewhere between \$18 and \$22 per hour.

The motion was made by Council Member Oberloh, seconded by Council Member Harmon and unanimously carried to approve the position guidelines for the City Planner Intern position.

LIQUOR STORE PLANS APPROVED WITH AUTHORIZATION TO RE-ADVERTISE FOR BIDS

Steve Robinson, City Administrator, said that TSP has completed revisions to the construction documents for the liquor store relocation project, which includes architectural and engineering plans, specifications, bid documents and contracts. The new time line for the project would be:

- August 16, 2017 - Advertisement for Bids

- September 7, 2017 - Bid Opening
- September 11, 2017 - Council consideration of awarding contract

Mr. Robinson said changes were made to the shipping/receiving area that should result in significant cost savings. Other changes include lowering a wall, changes to lighting and electricity, and changes to the site plan. It is hopeful that the changes will save \$100,000 to \$150,000.

The motion was made by Council Member Janssen, seconded by Council Member Ernst and unanimously carried to approve the revised plans for the Liquor Store project and authorize staff to advertise for bids for the project.

PROFESSIONAL SERVICES CONTRACT APPROVED FOR COMMUNITY GROWTH PROJECTS

Todd Wietzema, Public Works Director, said the Community Growth subcommittee met for the second time and discussed a number of possible projects. The subcommittee decided that additional information should be attained for two of the projects - the "Farmers Market Parking Lot" and the bathroom at the "Beach Nook" in Centennial Park. Following a meeting with City representatives, Stockwell Engineering submitted a proposal for developing a master plan, concept drawings, and a preliminary budget for the "Farmers Market Parking Lot" and the "Beach Nook Bathroom" projects for Council consideration. The proposed fees were \$7,000 for the Farmers Market lot and \$6,000 for the Beach Nook restroom.

The motion was made by Council Member Oberloh, seconded by Council Member Cummings and unanimously carried to approve the professional services agreement for the community growth projects at a total cost of \$13,000.

FEDERAL AVIATION ADMINISTRATION GRANT AGREEMENT APPROVED

At their June 26, 2017 meeting, Council awarded a contract to Fahrner Asphalt Sealing for the Runways 11/29 and 18/36 Rehabilitation Project at the Municipal Airport. The award was subject to receipt of a Federal Aviation Administration grant.

Dwayne Haffield, Director of Engineering, said the grant offer has now been received, and includes assurances that the City is agreeing to by accepting the grant. Mr. Haffield said the costs based on the grant agreement are basically the same as those presented to Council at the June 26th meeting.

The motion was made by Council Member Ernst, seconded by Council Member Janssen and unanimously carried to authorize the Mayor and Clerk to execute the agreement and related certifications.

GRANT EASEMENT FOR LEWIS AND CLARK WATER PROJECT APPROVED

At their December 12, 2016 meeting, Council authorized granting a pipeline easement to Lewis and Clark Rural Water System, Inc. Staff noted at the time that an additional easement would be needed by Lewis and Clark for construction of a meter building. Staff now presented the plans for the proposed meter building and the access easement, noting that the Water and Light Commission took action at its August 7, 2017 meeting to recommend that City Council authorize execution of the easement as presented.

The motion was made by Council Member Cummings, seconded by Council Member Harmon and unanimously carried to authorize the Mayor and Clerk to execute the easement agreement.

**RESOLUTION NO. 2017-08-02 AND RESOLUTION NO. 2017-08-03 ADOPTED
DECLARING ADEQUACY OF PETITION AND ORDERING PREPARATION OF
FEASIBILITY REPORT ON PROPOSED IMPROVEMENTS**

Dwayne Haffield, Director of Engineering, said the City had received a petition for extension of sanitary sewer along West Gateway Drive south of Flower Lane and a petition for extension of water main from South Lake Street to West Gateway Drive and along West Gateway Drive, however neither petition as executed to date may be declared as adequate because the property owner represented on the petition does not own over 35% of the property abutting on either of the proposed improvements. Because the City has frontage on each improvement necessary to increase the property represented on the petition to over 35%, and considering that the City intends to have the southerly portion of the dredge site property developed, Mr. Haffield said the Council could consider joining the petition - bringing it to adequate petition. The other option would be for Council to order the project ahead as City initiated. Based on past discussion with Council it was also proposed that the consulting firm used by the developer be designated as the engineer for the proposed sewer and water extension project. Also submitted for Council consideration was a proposal from design Tree Engineering for those services at a not to exceed amount of \$42,000. Mr. Haffield said he was requesting two separate actions from Council.

The motion was made by Council Member Oberloh, seconded by Council Member Harmon and unanimously carried to authorize execution of the petition.

The motion was made by Council Member Oberloh, seconded by Council Member Cummings and unanimously carried to adopt the following resolutions declaring adequacy and ordering preparation of report, and to authorize execution of the contract with Design Tree Engineering:

RESOLUTION NO. 2017-08-02

DECLARING ADEQUACY OF PETITION AND ORDERING PREPARATION OF FEASIBILITY

REPORT ON PROPOSED IMPROVEMENT

(Refer to Resolution File for complete copy of Resolution)

RESOLUTION NO. 2017-08-03

DECLARING ADEQUACY OF PETITION AND ORDERING PREPARATION OF FEASIBILITY
REPORT ON PROPOSED IMPROVEMENT

(Refer to Resolution File for complete copy of Resolution)

**FIRST READING PROPOSED ORDINANCE TO VACATE PORTION OF AN ALLEY IN
THE CITY OF WORTHINGTON**

Dwayne Haffield, Director of Engineering, said that a cooperative construction agreement for this alley had come before Council at a prior time, and staff noted at the time that an alley vacation for re-alignment of the alley would be coming to Council later. The City received a petition from over 50% of the people abutting the alley and 50% of the people within 300 feet of the alley to be partially vacated. The petition was brought before the Planning Commission, as is practice, at their August 1, 2017 meeting. The Commission voted to recommend that City Council give a first reading to a proposed ordinance vacating a portion of the alley as follows:

That part of Alley Lot A, Block 2, Auditor's Plat of Chermak's Sub-Division, City of Worthington, Nobles County, Minnesota described as follows is hereby vacated:

Commencing at the southeast corner of Lot 9 in said Block 2; thence west along the north line of said Alley Lot A a distance of 148.9 feet to the point of beginning; thence continuing west along the north line of said Alley Lot A to the southwest corner of Lot 1 in said Block 2; thence south along a projection of the east line of Oslo Street to a point on a line that is 7.5 feet south of said southwest corner, as measured perpendicular the north line of said Alley Lot A, and is parallel to the north line of said Alley Lot A; thence east on said parallel line to a point which is 7.5 feet south of the point of beginning as measured perpendicular to the north line of said Alley Lot A; thence north to the point of beginning.

Staff was also recommending that Council give a first reading to the proposed ordinance vacating the northerly 7 feet of the alley, subject to the City obtaining replacement of 7.5 feet from the School District on the south side. Mr. Haffield said subsequent to that Council will be asked to sell at no cost/convey the piece that has been vacated to the abutting owners, however, we will retain an easement over that property as that is where the utilities are located.

The motion was made by Council Member Cummings, seconded by Council Member Ernst and unanimously carried to give a first reading to the proposed ordinance vacating a portion of the alley.

COUNCIL COMMITTEE REPORTS

Mayor Kuhle - Attended the CGMC Summer Conference, included good discussions on labor negotiations and budgets in general, and issues that cities are facing.

Council Member Janssen - Nothing to report.

Council Member Oberloh - Attended the CGMC Summer Conference-a medial panel addressed the inequity between greater Minnesota cities and the metro area and their lobby groups. Also heard presentations on selling your community, and the importance of being fully counted in the upcoming census.

Council Member Cummings - Nothing to report.

Council Member Ernst - Reported on a Joint Transportation meeting - the bus was supposed to be ready to go out for the fair.

Council Member Harmon - Nothing to report.

CITY ADMINISTRATOR'S REPORT

Steve Robinson, City Administrator, provided an update on the budget process - staff wanted to gauge Council's interest in having one 3 to 4 hours session for budget discussions instead of several morning sessions with department heads as in the past. Following a brief discussion, it was determined that staff will set something up for the last week of the month.

ADJOURNMENT

The motion was made by Council Member Janssen, seconded by Council Member Ernst and unanimously carried to adjourn the meeting at 8:45 p.m.

Janice Oberloh, MCMC
City Clerk