

Draft Council Minutes

City Adm. Bldg. Owatonna, Minnesota Tuesday, July 21, 2009 7:00 o'clock P.M.

City Council met in regular session in the Council Chambers with Council President Thompson presiding. Present were Council Members Falk, Abraham, Moen, Ellingson, Wittrock, Svenby, and Thompson. Also present were Mayor Kuntz, City Administrator Busse, City Attorney Walbran, City Engineer Johnson, Community Development Director Strand, Director of Parks and Recreation McKay, Storm Water Manager Durand, and Assistant City Clerk Hill.

Following the *Pledge of Allegiance* and welcome by Council President Thompson, **Council Member Svenby moved approval of the agenda for July 21, 2009. Council Member Ellingson seconded the motion. All seven (7) council members voting aye, the motion passed.**

During *Public Comment*, Council President Thompson invited the public to comment on items not on the agenda and explained that Council would listen but not discuss those items at this time. With nobody wishing to be heard, City Administrator Busse introduced the next item, the Rose Street Pathway proposal. She suggested that Council may want to refer this to the Planning Commission and the Park and Recreation Board to see where it might fit into their overall sidewalk and trail plan, and she requested Council keep in mind the significant LGA cuts in 2008 and 2009 and the possibility of an additional cut yet in 2009. Council President Thompson stated that Council would study this further at a study session where there would be more opportunity for comments and dialogue. **Julie Sturges, 2585 Mossy Creek Drive NE; Mike Oanes, 2591 Mossy Creek Drive NE; Richard Velasquez, 2595 Fox Hollow Lane; and Jennifer Otto, 2490 Fox Hollow Lane** presented their proposal for a bike pathway along Rose Street and a petition signed by 168 people. They proposed a two phase process, with phase one proposed pathway from Country View Avenue to Greenhaven Lane to be completed in 2010 at an estimated cost of \$25,000 and phase two proposed pathway from Greenhaven Lane to the existing sidewalk at Partridge Avenue to be completed in 2012 at an estimated cost of \$30,000. They also expressed safety concerns and communicated possible grant funding opportunities. City Administrator Busse explained that she would have the Planning Commission and the Park and Recreation Board discuss the proposal in August and plan for a City Council study session in September. Council Members Wittrock and Moen commended the group on their excellent presentation and thorough research; Council Members Moen and Thompson verbally recognized the clearly communicated need and safety issue by the presenters.

Next, Storm Water Manager Matt Durand presented a brief synopsis of 2008 Stormwater Pollution Prevention Plan (SWPPP) and public meeting scheduled for Tuesday, July 23, 2009, at 6:00 p.m. at the City Administration Building Council Chambers. He reported on 2008 implemented items, 2009 goals, and Low Impact Development. Topics he reported on included continued advertising mediums, implementation of erosion and sediment control deposits for new construction and homeowners, control standards for residential and commercial contractors, and municipal stormwater good housekeeping practices. He reported on goals for 2009, which included continued educational workshops, speaking engagements with realtors and contractors, raising awareness in the elementary schools in the fall, partnering with civic groups to stencil downtown catch basins with a message to discourage dumping, a Facebook page, and a stormwater steering committee with Steele County Soil and Water Conservation District, Cannon River Watershed Partnership, Steele County, and the Isaak Walton League. Durand also reported on the implemented projects funded by the Low Impact Development (LID) grant from the State of Minnesota, which included rain gardens, rain barrels, emergency overflow bioswales, and two porous pavement alleys located adjacent to the Owatonna

Public Library and between Pearl and Vine. Durand noted that the porous pavement alleys project will be a case study for the State, and the raw data collected over the next three years will be used for other cities in the metro and outstate Minnesota. Durand also encouraged citizens to call him with their questions at 774-7300. Council Member Falk asked whether the length of the grass on the banks at Buecksler Park had any bearing on stormwater management. Durand responded that the grass around the wet pond needed to be kept a little longer to protect the native plants, and the grass around the dry pond needed to be kept a little taller for shade to prevent burn out. He noted plans to reseed next year.

Council President Thompson summarized the expenses for the period. **Council Member Wittrock moved approval of the bills presented for payment totaling \$593,197.79. Council Member Falk seconded the motion.** Council Member Falk asked for the total amount that the City had loaned to the Owatonna Aquatic Center Initiative. Director of Parks and Recreation McKay responded that the amount loaned was considerably less than the agreed upon maximum and that the majority of the construction bills have been paid. Council Member Falk commended the Owatonna Aquatic Center Initiative on a job well done with managing funds. **All seven (7) council members voting aye, the motion to accept bills passed.**

Council Member Ellingson moved approval of the following list of *consent agenda* items. Council Member Svenby seconded the motion. Council Member Abraham expressed concern about the large number of intersections in the proposed parade route and advised Council that he would be working with Hy-Vee, the police chief, and the sheriff for a safer route for the parade on September 19. **All seven (7) council members voting aye, the motion passed.**

- Minutes of City Council meeting held July 7, 2009.
- Form 9011 certification of change of officer for Applebee's Restaurants North, LLC dba Applebee's Neighborhood Grill & Bar on sale liquor license, effective August 31, 2009.
- Application for Exempt Permit from the National Multiple Sclerosis Society to conduct a raffle on September 19, 2009, at the Steele County Fair Grounds, 1535 South Cedar Avenue.
- Application for parade permit from Hy-Vee to hold parade on September 19, 2009 (with a rain date of September 26), beginning at 2:30 p.m. at Noble RV next to Cabela's.
- Application for Exempt Permit from Steele County Ducks Unlimited to conduct a raffle on October 1, 2009, at the Owatonna Eagles Club, 141 East Rose Street.
- Minutes and Reports:
 - ✓ Airport Commission Minutes of May 14, 2009.
 - ✓ Airport Commission Minutes of June 11, 2009.
 - ✓ Planning Commission Minutes of July 14, 2009.
 - ✓ Downtown Parking Committee Minutes of July 15, 2009.
 - ✓ Animal Control Month End Report for May 2009.
 - ✓ Animal Control Month End Report for June 2009.
- T-hangar renewal lease agreement with Scott Tangen.

- T-hangar renewal lease agreement with Jim VanReeth.
- Renewal lease agreement with Semcac Head Start Program for 2,327 square feet in Vevle Hall, 545 Dunnell Drive, through July 31, 2014.
- Quit Claim Deed to confine utility easement at 573 McIndoe Street.
- Request from Lakeside Foods for partial street closure of a portion of North Oak Avenue from North Street to two blocks south from approximately August 1 to October 1, 2009.

During *Licenses and Permits*, City Administrator Busse presented a vendor's license application from Jeanette Raichle to set up an Avon stand on the city sidewalk in front of the building at 117 Bridge Street on July 23, 2009, during Owatonna Crazy Days. She reported that the applicant met all requirements as outlined in Section 497 of the City's 1992 Ordinance Code and staff recommended approval. **Council Member Falk moved approval of the vendor's license; Council Member Moen seconded the motion. All seven (7) council members voting aye, the motion passed.**

During *Miscellaneous Actions*, **Council Member Abraham moved to change the date of the first City Council meeting in August to Monday, August 3, at 7:00 p.m. to allow Council to participate in Night to Unite on Tuesday, August 4, 2009. Council Member Moen seconded the motion. All seven (7) council members voting aye, the motion passed.**

Community Development Director Strand reported on a request for an easement/maintenance agreement for existing stormwater drainage facilities located on the Owatonna Business Partnership LLC (OBP) property. He explained that the stormwater facilities referenced in the easement were constructed many years ago apparently without identified easements or maintenance agreements. A formal easement specifying the City's maintenance responsibilities and protecting the facilities was created because of the development that has occurred over the years with subsequent increase in stormwater run-off and the possibility of new development in the vicinity of these stormwater facilities. Strand stated that this easement, which was drafted by OBP's attorney and reviewed and approved by the City Engineer and City Attorney, specifies in great detail the responsibilities of the City in maintaining the facilities and the limitations in the use of the easement. Strand noted that by accepting the easement, the City would be protecting the existing facilities but would now be responsible for their maintenance. **Council Member Falk moved approval of this stormwater drainage easement agreement; Council Member Abraham seconded the motion. All seven (7) council members voting aye, the motion passed.**

During *Board and Commission Recommendations*, Community Development Director Strand presented Conditional Use Permit No. C-1309, a request by Christian Family Church to convert an existing building to a church, school, and day care center within a B-2 Community Business District at 2300 Heritage Place NW. Strand explained that the applicant is proposing to purchase the former Heritage Hall Museum property and convert the building into a church, school, and day care center. Currently, Christian Family Church is located on 12th Street NE and El Shaddai School and Day Care Center are located at the corner of North Cedar Avenue and 24th Street NE. He reported that there is a purchase agreement to sell the school/day care center building, and the church building is currently for

sale. Strand stated that access to the property is from a private street (Heritage Halls Place) owned by Three Corners LLC. The Planning Commission advised that the Church would need to ensure an access easement is provided over this private street because of the limited access allowed by Steele County onto West Frontage Road. Strand reported ample parking spaces available. Strand also reported on a development agreement with Kallco, LLC, current owner of this property, and Cabela's that is in effect through 2014, which provides for the capture of property taxes generated by the two properties to support the payment of bonds used to pay for utility and street improvements in the Three Corners area and that the agreement provides for city/county approval of any assignment of the agreement. Strand stated that the City and County are currently reviewing the steps necessary to insure that the obligations under the agreement are fulfilled, since the Church is exempt from payment of property taxes. Strand reported that after holding public hearing, the Planning Commission recommended City Council approval of this conditional use request. **Council Member Wittrock moved approval of Conditional Use Permit No. C-1309; Council Member Svenby seconded the motion.** Dr. Tim Peterson, pastor of Christian Family Church, and Bob Hanson, from Century 21 Vision Real Estate, were present to answer questions from Council Member Falk regarding property taxes on sold church property and the Heritage Halls property. Council Member Falk stated that the Heritage Halls property was intended for commercial real estate and anticipation for significant tax revenues being generated but expressed his support for the Church and their request. Pastor Peterson noted that with their goal to make available the hangar portion for conferences, he hoped to bring more people and revenue to Owatonna, and the Heritage Halls facility would work well for the church's growing congregation. Council President Thompson commented that the building has been sitting empty for a long time, and Christian Family Church occupying it would be a good asset to the community and provide long term benefits. **All seven (7) council members voting aye, Conditional Use Permit No. C-1309 was approved.**

At this point, **Cameron Burns, 818 North Oak Avenue**, approached Council to comment on the consent agenda request from Lakeside Foods for partial street closure of a portion of North Oak. He expressed safety concerns with trucks parking on the sidewalks in front of the residential properties with children present and requested future notification and "No Parking" signs be posted in English and Spanish. City Engineer Johnson stated he would look into it, and Council President Thompson advised Mr. Burns to let City Engineer Johnson know if he experienced any problems.

Community Development Director Strand introduced the next two items on the agenda by stating that BNB Development Group, LLC was proposing to make changes to an existing platted townhome development which would require approvals for a conditional use permit and a preliminary plat. Strand presented the first request from BNB Development Group, LLC to amend Conditional Use Permit No. C-1223 to change 14 twinhome units to single family units within a common interest community as part of an approved planned unit development in an R-3 Single and Two Family Residential district. The development would be located north of 28th Street NE, west of 3rd Avenue NE, and south of Hickory Lane NE. He explained that the applicant received approval to construct 36 townhome units (18 twinhomes) as a planned unit development. Sixteen of the units were planned on the west side of 3rd Avenue NE and 20 units were planned on the east side of 3rd Avenue NE. Strand added that many of the units have already been built including one twinhome on the west side of 3rd Avenue NE, and now the applicant would like to covert the remaining 14 twinhome lots to single family lots within the common interest community, which would remain part of the homeowners' association but would have separation between each unit. Strand further explained that all the utilities

and 24 foot wide private cul-de-sacs are in place, and no utilities would need to be changed. He stated that the proposed units would be set back at least 20 feet from property lines and the private street, and the proposed plat shows a setback between the units of 15 to 16 feet. Strand noted that at the public hearing, an existing townhome owner had concerns relative to the types of units and was assured that the detached units planned would be high end units and at the same or higher price point as existing units. The Planning Commission recommended City Council approval of the amendment to Conditional Use No. C-1223. **Council Member Abraham moved approval of this amendment to this conditional use; Council Member Falk seconded the approval.** Council Member Falk asked if the value of the existing townhome would be lowered by the detached units. Mark Brindmore, managing partner of BNB Development Group, LLC, stated that he did not think it would be a problem and cited as an example, a development in Rochester with a combination of townhomes and villas where the villas start out \$50,000 to \$75,000 higher than the townhomes. He thought it might improve the value of the existing townhome and would be a good use for some of the City's 300 platted townhome lots. **All seven (7) council members voting aye, the motion passed.**

Next, Community Development Director Strand presented the preliminary plat of North Bluff Estates No. 2, a 3.77 acre tract of land owned by BNB Development Group, LLC and located north of 28th Street NE, west of 3rd Avenue NE and south of Hickory Lane NE. He noted that the existing duplex was not included in the replat adding that 14 single family detached townhome lots and one commonly owned lot would be created. He stated that the outstanding total assessments of \$22,851.92 would need to be reapportioned to each of the new lots created in the proposed plat, and he encouraged a recording prior to October 1st in order to get the necessary changes incorporated into the tax rolls. Mr. Brindmore assured Council that he would like to get it recorded as soon as possible. Strand reported that at the public hearing, the Planning Commission recommended approval of this preliminary plat provided a drainage plan is submitted to and approved by the City, outstanding assessments are reapportioned to the newly created lots, and easements are placed as required by OPU and City Engineering. **Council Member Moen moved approval of this preliminary plat of North Bluff Estates No. 2 with conditions as recommended by the Planning Commission. Council Member Svenby seconded the motion. All seven (7) council members voting aye, the motion passed.**

During *Ordinances*, Community Development Director Strand presented the second reading of Proposed Ordinance No. 9/09, which will become Ordinance No. 1445, "An Ordinance Pursuant to Section 6.2 of the Home Rule Charter of the City of Owatonna, and Section 675 of the 1992 Ordinance Code of the City of Owatonna, Vacating a Street, Alley, or Public Right-of-way, or Any Part Thereof, Herein Described, and Providing for Its Recording." He reminded Council that this was the remaining portion of the old frontage road at 1524 and 1534 South Cedar Avenue in front of Hallmark and Tonna Auto Sales, which would be turned back over to the property owners. He noted that the 10 foot easement had been amended to 25 feet to be consistent with the easement in front of Hy-Vee. **Council Member Falk moved adoption of Ordinance No. 1445 in its final consideration, and Council Member Abraham seconded the motion. On roll call all seven (7) council members voting aye, the motion passed.**

During *Resolutions*, Community Development Director Strand presented Resolution No. 42-09, "Approving 2009 Minnesota Laws, Chapter 88, Article 4, Section 20 Relating to Use of Revenues from Sales and Use Taxes in the City of Owatonna." Strand reminded Council that special legislation submitted by the City, authorizing that \$1.5 million of sales and use tax proceeds originally intended

for the construction of Alexander Street be used instead for the reconstruction of 18th Street SW, was approved by the Legislature and signed into law earlier this year. Strand noted that the last step in this process would be the adoption of this resolution and filing it with the Secretary of State. **Council Member Abraham moved adoption of Resolution No. 42-09; Council Member Ellingson seconded the motion. All seven (7) council members voting aye, the motion passed.**

City Administrator Busse presented Resolution No. 43-09, "A Resolution to Change the Polling Place Location for the First Ward – First Precinct of the City of Owatonna." She explained that due to the closing of Pillsbury College, it became necessary to find another polling place, and Trinity Lutheran Church offered the use of their Narthex as a polling place for the November 3 City/School General Election. Busse also stated that Minn. Stat. §204B.16 requires designation of a different polling place not less than 90 days prior to an election. **Council Member Svenby moved adoption of Resolution No. 43-09; Council Member Falk seconded the motion. All seven (7) council members voting aye, the motion passed.**

Next, City Administrator Busse presented Resolution No. 44-09, "A Resolution Amending Budget for Fiscal Year January 1, 2009." Busse reported that early in 2009, the Governor's budget proposal had reductions in LGA, due to less than anticipated state revenue collections, cutting the City of Owatonna's LGA by \$708,835. Since the Legislature was not able to adopt a balanced state budget, the Governor unallotted portions of state aids leaving Owatonna with an unallotment total of \$453,956. She explained that the amended budget reduction reflects cuts to personnel, supplies, other services and charges, wage freezes, health insurance caps, removal of two percent wage increase for nonunion employees, and the elimination of many seasonal and part-time employees. Busse stated that the proposed amended budget reduces expenditures by an amount to accommodate the unexpected 2008 LGA unallotment, which reduced the City's General Fund Balance, and also the possibility for additional reductions in LGA in 2009. **Council Member Moen moved adoption of Resolution No. 44-09; Council Member Ellingson seconded the motion. All seven (7) council members voting aye, the motion passed.**

City Administrator Busse presented Resolution No. 45-09, "A Resolution to Provide for Early Retirement Packages to be Offered to Eligible City Employees." Busse explained that with the loss of approximately \$1.5 million in LGA from 2008 to 2010, the City must focus on personnel costs because salary and benefits account for 75 percent of the total expenditures in the General Fund. She stated that another program that would help the City reduce personnel costs is an Early Retirement Incentive Plan (ERIP), which would allow those employees who are eligible to retire under PERA's rule of 90 a severance payment of 1.5 weeks of pay for every four years of service to the City of Owatonna. She stated that they would also receive 75 percent of their unused sick leave as of their resignation and retirement date. If approved by Council, Busse added that eligible employees would have until September 8, 2009, to apply for the program and would need to agree to resign and retire on or before October 10, 2009, and execute a release of claims agreement. **Council Member Wittrock moved adoption of Resolution No. 45-09, and Council Member Moen seconded the motion. Council Member Abraham verified with Busse that only one of those eligible positions would have to be replaced should that employee retire. All seven (7) council members voting aye, the motion passed.**

City Engineer Johnson presented Resolution No. 46-09, "A Resolution Accepting Bid and Awarding Contract." Johnson reported that bids were received on July 14 for the 2009 southeast field pond and

storm sewer improvements from 15 companies. The lowest responsible bidder was BCM Construction, Inc. of Faribault, Minnesota, with a bid amount of \$1,361,399.65, which was \$573,518.85 or 29.64 percent under the Engineer's Estimate. Johnson also noted that the funding for this project would be from the bonding package previously approved by City Council and recommended approval. **After Council discussion, Council Member Ellingson moved adoption of Resolution No. 46-09; Council Member Falk seconded the motion. All seven (7) council members present voting aye, the motion passed.**

City Administrator Busse presented Resolution No. 47-09, "Resolution Authorizing the City of Owatonna to Submit a Phosphorus Reduction Grant Application to the Minnesota Public Facilities Authority (PFA) and to Authorize City Officials to Execute a Grant Agreement on Behalf of the City of Owatonna for the City of Owatonna's Wastewater Treatment Facility Expansion and Upgrade." Busse reported that this is a new state (PFA) grant program that is funded through the newly approved sales tax monies set aside for preserving and protecting the State's wildlife habitat, lakes and rivers, parks, cultural heritage, and the arts. The program offers funding for 75 percent of costs for phosphorus removal up to a maximum of \$500,000. Busse explained that the City would have to certify that it is following certain state laws, rules, and regulations, but since the City is also applying for another PFA loan for the project, it already is following those required state regulations. Busse noted that if the City would be successful in obtaining this grant, there would be a fee of one half of one percent of the grant amount. **Council Member Abraham moved adoption of Resolution No. 47-09; Council Member Svenby seconded the motion. All seven (7) council members voting aye, the motion passed.**

During *Contracts*, City Engineer Johnson presented for approval Supplemental Agreement No. 1 with Mathiowetz Construction Company for the 2009 24th Avenue NW and 26th Street NW bituminous paving project. He explained that during the excavation and grading operations on 26th Street NW, the condition of the subbase was found to be poor and needed to be improved by the installation of subbase drainage to assure a stable base for the roadway. Johnson further explained that the Steele County Engineer determined that a drain tile should be installed in the center of the roadway to accomplish this correction, and the entire cost of the additional work would be State Aid eligible and paid for by Steele County. **Council Member Moen moved approval of this supplemental agreement; Council Member Abraham seconded the motion. All seven (7) council members voting aye, the motion passed.**

During *Reports*, City Engineer Johnson provided an update on the flood and stormwater projects. He reported Buecksler Park and Walnut Avenue flood mitigation projects completed, functional, and finalized in August and the southeast field pond construction to begin in August and substantially completed fall 2009. He also noted that almost all of the easement permits for the southeast have been obtained.

During *Council Comments*, Council President Thompson reminded everybody that Tuesday evening, August 4 is Night to Unite.

There being no further business to come before the Council, Council Member Wittrock moved to adjourn. Council Member Falk seconded the motion. All seven (7) council members voting aye, the meeting adjourned at 8:13 p.m.

Draft Council Minutes cont'd.-
Tuesday, July 21, 2009; 7:00 o'clock P.M.
Page 8 of 8

Dated July 21, 2009

Respectfully submitted,

/s/ Deborah J. Hill, Assistant City Clerk