

Pursuant to due call and notice thereof, a regular meeting of the North Mankato City Council was held in the Municipal Building Council Chambers on July 19, 2010. Mayor Zellmer called the meeting to order at 7:00 p.m. asking that everyone join in the Pledge of Allegiance. The following were present for the meeting, Mayor Zellmer, Council Members DeWitte, Schindle, Steiner and Norland, Administrator Sande, City Clerk Gehrke, Finance Director Mork, Attorney Kennedy, Engineer Malm, and Planner Fischer.

Approval of Minutes

Council Member Steiner moved, seconded by Council Member DeWitte, to approve the minutes of the Council meeting of July 6, 2010 and the Special Council meeting of July 8, 2010. Vote on the motion for the July 6, 2010 Council meeting minutes: DeWitte, Schindle, Steiner, Norland and Zellmer, aye; no nays. Vote on the motion for the July 8, 2010 Special Council meeting minutes: Schindle, Steiner, Norland and Zellmer, aye; DeWitte abstained; no nays. Motion carried.

Correspondence

Invitation from VINE Faith in Action to Birthday Picnic at Wheeler Park

Mayor Zellmer read a letter from VINE Faith in Action inviting the Council Members and City Administrator to the celebration of their 15 years of service to the people of Blue Earth and Nicollet Counties. VINE is hosting a picnic on Thursday, August 19, 2010 from 5 p.m. to 8 p.m. at Shelter No. 1 in Wheeler Park. VINE also requested the City to waive the \$60 rental fee for the use of the park shelter. It was agreed to waive the park shelter fee for this event.

CenterPoint Energy Rate Change

Mayor Zellmer read a letter from CenterPoint Energy announcing their rate increase of the monthly basic charge for residential customers from \$6.50 to \$8.00 which will go into effect on July 1, 2010.

Immanuel St. Joseph Mayo Health System Invitation

Mayor Zellmer read an invitation from Immanuel St. Joseph's Mayo Health System to attend a groundbreaking ceremony for the new Emergency Department. The event will take place at 10 a.m. on Friday, July 23, 2010 on the east side of the current ambulance garage near the main Emergency Department entrance.

Thank-You from Wis-Pak

Mayor Zellmer read a thank-you from Wis-Pak expressing their appreciation to Duane Rader for his efforts keeping them informed and operational during the investigation of water flow on Commerce Drive last week. They also reported Duane Rader and Rich Peterson have kept personnel at Wis-Pak informed of City-related water usage and flows in the Wis-Pak area over the years and appreciate the partnership with the City of North Mankato. Administrator Sande reported an old farm tile was undermining the storm sewer in this area. City crews discovered the problem and the necessary repairs have been made.

Open the Meeting to the Public for the First Time

The Mayor opened the meeting to the public for the first time with no one appearing.

Nicollet County Board Actions

Mayor Zellmer reported at their North Mankato/Nicollet County Liaison Committee meeting of July 12, 2010, discussion was held about a second Sentence-to-Serve crew. Administrator Sande reported the City has used the services of the Sentence-to-Serve crew with good success.

The County Board awarded the contract for the Minnemishinona Falls Trail Project.

Staff Reports**City Planner****Minutes of July 8, 2010 Planning Commission Meeting**

The Council accepted the minutes of the July 8, 2010 Planning Commission meeting.

CU-2-10, Conditional Use Permit Request to Operate Recycling Transfer Station in an M-2, Heavy Industrial District

Planner Fischer presented a conditional use permit request from LJP Enterprises to operate a recycling transfer station in an M-2, Heavy Industrial district. The proposed site plan shows a 45,000 to 55,000 square foot building on Lot 3, Block 1, Northport No. 5 and includes the use of berms and trees on the north and east sides of the property as well as a potential future truck shop. Larry Biederman, representing LJP Enterprises, was in attendance and reported the proposed facility would allow the consolidation of three of their recycling related businesses into one North Mankato location. The Planning Commission reviewed the conditional use permit request and recommended approval subject to the following conditions:

1. The north and east sides of the property shall be screened using 6-foot high berms and evergreen trees.
2. All unpaved surfaces shall be dust-free using effective dust control measures.
3. Building exterior shall be of a masonry construction.
4. Any outdoor recycling drop-off areas shall be screened.

Council Member Steiner moved, seconded by Council Member Schindle, to approve CU-2-10, a conditional use permit to allow the operation of a recycling transfer station in an M-2, Heavy Industrial zoning district subject to the above listed conditions. Vote on the motion: DeWitte, Schindle, Steiner, Norland and Zellmer, aye; no nays. Motion carried.

Standard for Variances

Attorney Kennedy summarized standard for variances as decided by the Minnesota Supreme Court on June 24, 2010 in the case of Beat L. Krummenacher vs. City of Minnetonka. The Court concluded that the “undue hardship” standard in Minn. Stat. 462.537, subd. 6 is more demanding than the “practical difficulties” standard and that Minnesota municipalities have been granting variances under the “reasonable manner” standard for many years. The Court reported they recognize their decision will result in a restriction on a municipality’s authority to grant a variance as compared with the “reasonable manner” standard but they are unable to interpret the statutory language to mean anything other than what that text clearly says—that to obtain a municipal variance, an applicant must establish that “the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls.” Therefore, unless and until the Legislature takes action to provide a more flexible variance standard for municipalities, the Court is constrained by the language of the statute to hold that a municipality does not have the authority to grant a variance unless the applicant

can show that the property cannot be put to a reasonable use without the variance. The Council requested staff review the League of Minnesota Cities position on this matter and report back at a future Council meeting.

V-3-10, Variance Request to Reduce a Side Yard Setback from 10 feet to 5.2 feet for a Garage Addition

Planner Fischer presented a variance request from Tom Doerr to reduce the side yard setback from 10 feet to 5.2 feet for a garage addition at 12 Juneau Court. The applicant would use residential style windows on the garage addition rather than a traditional garage door and the proposed garage addition would not have direct access from the street. Mr. Doerr was in attendance at the meeting to answer any questions. The Planning Commission reviewed V-3-10 and recommended denial of the variance due to the lack of hardship and that there are reasonable alternatives to incorporate additional storage space which meet setback regulations. **Council Member Schindle moved, seconded by Council Member DeWitte, to deny V-3-10 as recommended by the Planning Commission. Vote on the motion: DeWitte, Schindle, Steiner, Norland and Zellmer, aye; no nays. Motion carried.**

City Administrator

Levee Certification Application

Emergency Management Director Marion Haayer presented the Levee Certification application for the City of North Mankato levee reporting this is part of a large levee system that protects North Mankato and surrounding communities. The City of North Mankato, in partnership with the City of Mankato and South Bend Township, selected Howard R. Green Company to complete the necessary steps to have the levee recertified, which is a FEMA requirement in order for residents to obtain flood insurance. As part of the Levee Certification application, the City of North Mankato outlined provisions for manual backups and the responsible parties for specific operations during a flood event and initiating the alert system and flood preparation.

Res. No. 50-10 Requesting Advancement of Municipal State Aid Funds for Project No. 10-01 ABCDEF, CSAH 41/Carlson Drive/Howard Drive Improvements

Administrator Sande reported Project No. 10-01ABCDEF, CSAH 41/Carlson Drive/Howard Drive Improvements will require State Aid funds in excess of those available in the City's State Aid Construction Account. He reported Federal, County and MSA funds will be used for this project along with assessment to abutting properties. Advancement of funds for this project is based on the estimated expenditures of \$761,751.37 minus the City's MSA account balance as of July 1, 2010 of \$145,133.43 for a total advance request of \$616,617.94. Repayment of MSA advance funds will be made from subsequent accruals to the North Mankato MSA Construction Account. **Council Member Schindle moved, seconded by Council Member Norland, to adopt Resolution No. 50-10 Requesting Advancement of Municipal State Aid Funds for Project No. 10-01ABCDEF, CSAH 41/Carlson Drive/Howard Drive Improvements. Vote on the Resolution: DeWitte, Schindle, Steiner, Norland and Zellmer, aye; no nays. Motion carried.**

School and Conference

Council Member Steiner moved, seconded by Council Member Norland, to approve actual and necessary expenses for the following school and conference:

1. FBI Criminal Background Check Training, Mankato, August 17 for Police Chief.

Vote on the motion: DeWitte, Schindle, Steiner, Norland and Zellmer, aye; no nays. Motion carried.

City Clerk

Res. No. 51-10 Appointing Election Judges

Clerk Gehrke presented Resolution No. 51-10 Appointing Election Judges for the Primary Election to be held on Tuesday, August 10, 2010. **Council Member DeWitte moved, seconded by Council Member Norland, to adopt Resolution No. 51-10 Appointing Election Judges for the Primary Election on August 10, 2010. Vote on the Resolution: DeWitte, Schindle, Steiner, Norland and Zellmer, aye; no nays. Motion carried.**

Audio and Large Group Permit for American Heart Association Walk, Spring Lake Park, from 8 a.m. to 12 noon on Saturday, August 28, 2010

Clerk Gehrke presented an audio and large group permit for the American Heart Association Walk in Spring Lake Park from 8 a.m. to 12 noon on Saturday, August 28, 2010. **Council Member Norland moved, seconded by Council Member Schindle, to approve the audio and large group permit for the American Heart Association Walk, Spring Lake Park on Saturday, August 28, 2010. Vote on the motion: DeWitte, Schindle, Steiner, Norland and Zellmer, aye; no nays. Motion carried.**

Parade Permit for American Heart Association Heart Walk, 8:30 a.m. to 12:30 p.m. on Saturday, August 28, 2010

Clerk Gehrke presented an application for a parade permit for the American Heart Association Heart Walk to be held from 8:30 a.m. to 12:30 p.m. on Saturday, August 28, 2010. The walk will begin and end at Wheeler Park. The North Mankato Police Chief has approved this application. **Council Member Norland moved, seconded by Council Member DeWitte, to approve the parade permit for the American Heart Association Heart Walk to be held from 8:30 a.m. to 12:30 p.m. on Saturday, August 28, 2010. Vote on the motion: DeWitte, Schindle, Steiner, Norland and Zellmer, aye; no nays. Motion carried.**

Audio and Large Group Permit for ASA Girls National Tournament Picnic/Social, Spring Lake Park, from 3 p.m. to 10 p.m. on Friday, August 6, 2010

Clerk Gehrke presented an audio and large group permit for the ASA Girls National Tournament to hold a picnic/social event in Spring Lake Park from 3 p.m. to 10 p.m. on Friday, August 6, 2010. **Council Member Steiner moved, seconded by Council Member Norland, to approve the audio and large group permit for the ASA Girls National Tournament Picnic/Social to be held at Spring Lake Park from 3 p.m. to 10 p.m. on Friday, August 6, 2010. Vote on the motion: DeWitte, Schindle, Steiner, Norland and Zellmer, aye; no nays. Motion carried.**

Audio and Large Group Permit for St. Paul's Lutheran Church Benefit Concert, Wheeler Park, from 3 p.m. to 10 p.m. on Friday, August 13, 2010

Clerk Gehrke presented an audio and large group permit for St. Paul's Lutheran Church to hold a benefit concert in Wheeler Park from 3 p.m. to 10 p.m. on Friday, August 13, 2010. **Council Member DeWitte moved, seconded by Council Member Norland, to approve the audio and large group permit for St Paul's Lutheran Church to hold a benefit concert in Wheeler Park from 3 p.m. to 10 p.m. on Friday, August 13, 2010. Vote on the motion: DeWitte, Schindle, Steiner, Norland and Zellmer, aye; no nays. Motion carried.**

Audio Permit for Life Family Church Family Picnic, Camelot Park, from 4 p.m. to 8 p.m. on Saturday, July 24, 2010

Clerk Gehrke presented a request for an audio permit for the Life Family Church family picnic at Camelot Park from 4 p.m. to 8 p.m. on Saturday, July 24, 2010. **Council Member Schindle moved, seconded by Council Member DeWitte, to approve an audio permit for Life Family Church family picnic at Camelot Park from 4 p.m. to 8 p.m. on Saturday, July 24, 2010. Vote on the motion: DeWitte, Schindle, Steiner, Norland and Zellmer, aye; no nays. Motion carried.**

Reports from Council Members

Council Member DeWitte

Council Member DeWitte announced he will be seeking re-election to his Council seat in November.

Council Member Schindle

Traffic & Safety Committee Recommendation from July 14, 2010 Special Meeting

Council Member Schindle reported a Special meeting of the Traffic & Safety Committee was held on July 14, 2010 to hear input from area residents regarding the request for a STOP sign at the intersection of North Ridge Drive and Quail Roost Drive. Five residents were in attendance at the meeting and several letters were received from area residents. The majority of residents responding indicated they were not in favor of a STOP sign at this intersection. The Traffic & Safety Committee recommended no changes be made at this intersection and to continue to monitor conditions. Some concerns were raised about on-street parking on one side of Quail Roost Drive to Dream Drive.

Report from Mayor

The Mayor reported the dedication ceremony for the Thompson Pier was well attended. SSG Thompson's military unit sent a framed miniature battalion flag and guidon flag which was on display at the Council meeting and will be delivered to the Thompson Family.

Mayor Zellmer reported the Highway 14 Partnership met last week and he reported the T.H. 14 EIS will be grandfathered in to the new regulations and the Waseca to Owatonna improvements are scheduled to be completed in the fall of 2012.

Mayor Zellmer reported that North Mankato won the horseshoe tournament which was held on July 9, 2010 as part of the Fun Days activities.

The Mayor stated he will be taking part in the MRCI Grand Prix event to be held on Saturday, July 24, 2010.

Mayor Zellmer reported the Belgrade Blues & Jazz Festival will be held in the 200 Block of Belgrade Avenue from 12 noon to 9 p.m. on Saturday, July 24, 2010. The contractor at the Marigold site has moved equipment and leveled an area for parking. Parking will also be allowed on the south side of Nicollet Avenue and no parking signs will be placed on the north side of the 200 Block of Nicollet Avenue.

The Mayor received a complaint from Mrs. Ovald Smith about the lack of maintenance on Judson Bottom Road. She particularly was concerned about the weeds and the trees that were not trimmed. Administrator Sande reported this is a minimum maintenance road and since no one lives in the North Mankato area, the City does only minimum maintenance.

Open the Meeting to the Public for the Second Time

The Mayor opened the meeting to the public for the second time with no one appearing.

Bills and Appropriations

Council Member Norland moved, seconded by Council Member Schindle, to approve all bills and appropriations in the amount of \$663,661.98. Vote on the motion: DeWitte, Schindle, Steiner, Norland and Zellmer, aye; no nays. Motion carried.

There being no further business, the meeting was adjourned at 8:14 p.m. on a motion by Council Member Steiner, seconded by Council Member DeWitte. Vote on the motion: DeWitte, Schindle, Steiner, Norland and Zellmer, aye; no nays. Motion carried.

Mayor

City Clerk