

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 September 3, 2019. Mayor Dehen called the meeting to order at 7:00 p.m. asking that everyone join in the Pledge of Allegiance. The following were present for roll call: Council Members Norland, Oachs, Whitlock, Steiner, and Mayor Dehen, City Administrator Harrenstein, City Attorney Kennedy, Finance Director McCann, Community Development Director Fischer, Public Works Director Host and City Clerk Van Genderen.

Approval of Agenda

Council Member Steiner moved, seconded by Council Member Norland, to approve the agenda. Vote on the motion: Norland, Oachs, Whitlock, Steiner, and Dehen aye; no nays. Motion carried.

Approval of Council Meeting Minutes August 19, 2019

Council Member Norland moved, seconded by Council Member Steiner, to approve the minutes of the Council meeting of August 19, 2019. Vote on the motion: Norland, Oachs, Whitlock, Steiner, and Dehen aye; no nays. Motion carried.

Approval of Council Work Session Minutes August 26, 2019

Council Member Norland moved, seconded by Council Member Steiner, to approve the minutes of the Council Work Session meeting of August 26, 2019. Vote on the motion: Norland, Oachs, Steiner, and Dehen aye; Whitlock abstain. Motion carried.

Proclamation

Mayor Dehen read the following proclamation into the record:

Whereas: Direct support professionals are the primary providers of long-term support services for tens of thousands of individuals with disabilities in Minnesota; and

Whereas: Direct support professionals build close, respectful, and trusting relationships with individuals with disabilities and assist to meet their needs; and

Whereas: Direct support professionals provide essential support to individuals with disabilities, helping them stay connected to family, friends and the community, and helping them live their best lives; and

Whereas: Direct support professionals provide a broad range of individualized supports, including meal preparation, medication assistance, bathing, dressing, mobility, and other daily tasks; and

Whereas: An adequate workforce of high-quality direct support professionals is necessary to meet obligations for people with disabilities and minimize more costly care settings.

Now, therefore: be it resolved that to honor and support the important work of direct support professionals in our community, the week of September 9-15, 2019, will be proclaimed Direct Support Professionals Recognition Week in the cities of North Mankato and Mankato.

Consent Agenda

Council Member Norland moved, seconded by Council Member Steiner, to approve the Consent Agenda.

- A. Approved Large Group and Audio Permit for Jen Konicek and Patty Neubert Fundraiser on October 5, 2019, from 8:00 a.m. to 8:00 p.m. at Spring Lake Park Shelter #1.
- B. Approved Seasonal Extension of Patio for the North Mankato American Legion 256 Belgrade Avenue, North Mankato, MN 56003.
- C. Approved Audio Permit for the American Legion's 40th Anniversary at 256 Belgrade Avenue on September 14, 2019, from 11:00 a.m. until 6:00 p.m.
- D. Approved Parade Permit for Lasting Imprint's 5K Walk/Run "Our Community Has Heart" Event on September 28, 2019, from 6:00 a.m. to 1:30 p.m.
- E. Approved and Accept the Traffic and Safety Committee Recommendations on Judson Bottom Road.
- F. Accepted Property Owner Petition to Annex 3.58 Acres into the City of North Mankato and Set a Public Hearing for 7:00 p.m. on October 21, 2019.

Council Member Steiner requested clarification on Judson Bottom Road. Public Works Director Host reported the last of the large boulders will be removed, appropriate signage has been posted, and swing gates will be installed and City staff and engineers will continue to monitor the road and bluff during rain events and the freeze-thaw cycle. The road should be opened on Tuesday, September 4, 2019. Mayor Dehen requested the information provided by Attorney Kennedy concerning liability be included in the minutes. The letter was sent via email on August 8, 2019. Below is the letter submitted to the Council.

Questions that have arisen regarding the level of maintenance that must be maintained on Judson Bottom Road.

I am enclosing a copy of Minnesota Statute 160.095 Subd. 4. It states that a minimum maintenance road may be maintained at a level less than the minimum-maintenance standards required for state-aid highways, roads, and streets, but must be maintained at the level required to serve the occasional or intermittent traffic. Where a road has been designated by resolution as a minimum-maintenance road and signs have been posted under subdivision 2 (see above), the road authority with jurisdiction over the road, and its officers and employees, are exempt from liability for any tort claim for injury to person or property arising from travel on the minimum-maintenance road and related to its maintenance or condition.

I spoke briefly at the council meeting of August 5th regarding statutory discretionary immunity. State agencies and municipalities are immune from tort claims challenging a discretionary decision, act, or failure to act. Minnesota Statute 3.736,466.03, Subd. 6. In order to be entitled to immunity under this statutory provision, the governmental entity must demonstrate that the challenged act or omission arose out of a "planning-level" decision. *Zank v. Larson*, 552 N.W.2d 719 (Minn. 1996). Planning-level or policy-making decisions are those decisions that involve the balancing of public policy objectives, including social, economic, financial, and political factors.

Statutory discretionary immunity applies not only to those losses resulting from the decisions made by elected officials, but those of staff in certain circumstances. In those cases where the challenged conduct of staff amounts to nothing more than an attack on the policy itself: it is appropriate to bar

the claim under the doctrine of statutory discretionary immunity. *Watson v. Metropolitan Transit Comm.*, 533 N.W.2d 406, 413 (Minn. 1996); *Nusbaum*, 422 N.W.2d at 721-722; *Holmquist*, 425 N.W.2d at 232.

The following are examples of decisions protected by statutory discretionary immunity: The placement of warning signs, barricades, and guardrails. *Steinke v. City of Andover*, 525 N.W.2d 173 (Minn. 1994).

In addition to the various types of immunity awarded to a City, there are limits on any claims that may be made against a City. The City of North Mankato is fully insured with the League of Minnesota Cities up to and including those limits. No-one can sue a governmental body for an amount in excess of those limits unless the limits have been waived by the City. Those limits have not been waived by the City of North Mankato.

In summary so long as any decision of the city council is a policy making decision where you weigh the public policies including economic, financial and political factors there would be immunity.

160.095 DESIGNATION OF MINIMUM-MAINTENANCE ROADS.

§ Subdivision 1. Resolution. A road authority, other than the commissioner, may by resolution designate a road under its jurisdiction as a minimum-maintenance road if it determines that the road or road segment is used only occasionally or intermittently for passenger and commercial travel. The resolution must identify the beginning and end points of the road being designated. After adopting the resolution, the road authority must post signs on the road to notify the motoring public that it is a minimum-maintenance road and that the public travels on the road at its own risk. A road authority must notify the road authorities of adjoining jurisdictions of designations under this section.

If an affected road or road segment runs along a county or town line, the designation applies only to that part of the road that is under the jurisdiction of the road authority adopting the resolution.

Subd. 2. Signs. Designation of a minimum-maintenance road is effective on the erection of the signs required under this section. The signs shall be posted at entry points to and at regular intervals along a minimum-maintenance road. Signs posted must conform to the commissioner's Manual on Uniform Traffic Control Devices. Properly posted signs are prima facie evidence that adequate notice of a minimum-maintenance road has been given to the motoring public.

Subd. 3. Limitations. A trunk highway may not be designated as a minimum-maintenance road. A road may not be designated a minimum-maintenance road if federal-state aid to Minnesota will be reduced as a result. A road authority may not acquire additional right-of-way or easement by eminent domain or otherwise without the consent of the landowner, for the purpose of constructing or designating a minimum-maintenance road, except where necessary for drainage or public safety.

Subd. 4. Liability. A minimum-maintenance road may be maintained at a level less than the minimum-maintenance standards required for state-aid highways, roads, and streets, but must be

maintained at the level required to serve the occasional or intermittent traffic. Where a road has been designated by resolution as a minimum-maintenance road and signs have been posted under subdivision 2, the road authority with jurisdiction over the road, and its officers and employees, are exempt from liability for any tort claim for injury to person or property arising from travel on the minimum-maintenance road and related to its maintenance or condition.

Nothing in this section shall exempt a road authority from its duty to maintain bridges under chapter 165 or other applicable law.

Attorney Kennedy cautioned residents to be diligent when traveling on the road.

Vote on the motion: Norland, Oachs, Whitlock, Steiner and Dehen aye; no nays. Motion carried.

Public Comments Concerning Business Items on the Agenda

None.

Business Items

Res. No. 67-19 Accepting Bid Project No. 19-04A The Landing Subdivision Trunk Sanitary Sewer.

City Engineer Sarff reported six bids were received and opened. The Engineer's Estimate for the project was \$249,600. The low bidder for the project is Hjerpe Contracting, Inc., from Hutchinson, Minnesota. The low bid is approximately 33% below the Engineer's Estimate and approximately 5.5% under the next lowest bid. It is recommended to award the bid. **Council Member Steiner moved, seconded by Council Member Norland to adopt Res. No. 67-19 Accepting Bid Project No. 19-04A The Landing Subdivision Trunk Sanitary Sewer. Vote on the motion: Norland, Oachs, Whitlock, Steiner, and Dehen aye; no nays. Motion carried.**

Open Forum

Barb Church, 102 Wheeler Avenue, requested clarification on the meaning of the new City logo.

Tom Hagen, 927 Lake Street, appeared before Council and spoke about civic engagement.

City Administrator and Staff Comments

City Administrator Harrenstein reported comments would be included in the minutes concerning the new logo. The new logo reflects a modern North Mankato, green for the trees and parks, and blue for water. The lines all merge together as an arrow that points to North Mankato growing together and moving forward as a community.

City Administrator Harrenstein invited everyone out to Beir on Belgrade on September 21, 2019, and Party on the Prairie at Benson Park on October 5, 2019.

Public Works Director Host reported the Benson Park Shelter is getting framed and plumbing completed. He reported that on Wednesday, September 18, 2019, MPCA would be out to conduct a smart salting class. The city was awarded a grant to pay for the training.

Finance Director McCann reported a budget would be provided to the Council.

Mayor and Council Comments

Council Member Oachs provided her view of the new logo. She stated if you point the leaf up, it is a tree growing up, and upper North is the area of growth. If you point the leaf down, you see the roots of the tree growing down, and lower North is the roots of the community.

Council Member Whitlock noted the pool was a hit.

Mayor Dehen thanked the staff for their work on the pool and indicated excitement about a full pool season in 2020.

At 7:21 p.m. on a motion by Council Member Norland, seconded by Council Member Steiner the Council Meeting was adjourned.

Mayor

City Clerk