

**City of Columbus**  
**Regular City Council Meeting**  
**April 23, 2014**

The April 23, 2014 meeting of the City of Columbus City Council was called to order at 7:02 p.m. by Mayor Dave Povolny at the City Hall. Present were Council Members Denny Peterson, Jeff Duraine, Bill Krebs & Jessie Messina. City Administrator Elizabeth Mursko; Attorney Bill Griffith, Jr., Engineer Larry Bohrer and Deputy City Clerk Emmy Robinson.

Absent: None.

Also in attendance were: Frank Wagamon, Pete Neihart, Rick Robinson, Steve Wagamon, Kris King, Paul Peskar, Ceil Neihart, Bob Vollhaber, Jody Krebs, Joan Schliesing, Doug Schliesing, Chad Maassen, Sheila Maassen, Carol Mike, Tom Mike, and Paul Ringell Forest Lake Times.

**A. CITY COUNCIL REGULAR MEETING**

1. Call To Order - Regular Meeting - 7:00 P.M.
2. Pledge of Allegiance

**B. CONSENT AGENDA**

3. Motion - Approval of the City Council Meeting Minutes on 04/09/14
4. Motion - Agenda Approval with Additions
5. Motion - Pay Bills as Posted
6. Motion - Publication Summary Ordinance 14-02 (Page 1)

**Motion by Krebs to approve the consent agenda including ADM 05000 Ordinance No. 14-02 Publication Summary for housekeeping amendments to Chapters 7A – Zoning Regulations and 7C – Wetlands Zoning Regulations. Second by Peterson. Motion Carried.**

**C. PRESENTATIONS**

**7. PLANNING COMMISSION REPORT**

Jesse Preiner presented for the Planning Commission tonight. A joint meeting was held with the Planning Commission and City Council, a discussion of the results of the Business Retention and Expansion Project was held. The City Administrator and Planner will create an action plan based on the discussion. The action plan with timelines will be discussed at the next Planning Commission meeting which will be another joint meeting with the City Council. It was noted that for future meetings the Planning Commission and City Council should bring the book created by Commissioner Krebs (blue book).

**Motion - Forest Lake Contracting (FLC) IUP Request (Pages 2-28) (PC14-101)**

Bob Vollhaber with FLC approached. A red line version of the Interim Use Permit (IUP) Resolution was included in the agenda additions. Mr. Vollhaber said after the last meeting FLC thought the conditions were too restrictive and they have further changes (6 changes) they would like to make.

**Condition #4 - Duration of the permit.**

Mr. Vollhaber said they are requesting 4 years.

Mayor Dave Povolny commented that there may be no hauling this year and the number of days will restrict hauling and the burden to society.

**Condition #8 – Restriction of hauling hours on school days.**

Mr. Vollhaber said FLC would like to see this deleted as they have addressed the safety concerns for the children and the pedestrians by voluntarily driving 20 mph on the gravel roads. Mayor Dave Povolny asked how many children ride the school buses. The Deputy Clerk called the bus garage and was told that 50 children are picked up on 5 buses on the proposed haul routes of Vassar Street, Tulane Street, 181<sup>st</sup> Avenue and Notre Dame. Council Member Duraine said the buses in early morning are high school students, he followed the buses at 9 am (which are the elementary school buses) and there were 4 stops on Tulane and Vassar Streets, 2 on each road and there were 3 more on 181<sup>st</sup>.

**Condition #8 (original IUP #9) The number of hauling days during the duration of the IUP.**

**and**

**New condition – How hauling days are counted (rain/snow days)**

Mr. Vollhaber said FLC came down to 190 days, the city proposed 150 at the last meeting, FLC is proposing 175 days with a further definition of what constitutes a hauling day. Mr. Vollhaber said the nature of the work is they get rained out often; the proposal is if FLC has less than half a day of hauling and shut down in the morning they would not count that as a day against the total number of hauling days.

Council Member Duraine asked how this would be monitored. Mr. Vollhaber said they would report the haul days to the city. It was noted that there is a condition that requires reporting to the city. The City Administrator said one of the conditions requires FLC to notify the City Administrator three days prior to hauling (condition #5) in addition the City plans on maintaining an electronic calendar in-house, Public Works would verify the hauling dates and this will be the check against what FLC reports weekly.

Council Member Messina questioned why the city would not count a half day of hauling, just because of rain. Mayor Dave Povolny said that if hauling stopped before noon that should count as half a day of hauling.

**Condition #17 (original IUP #18) –Haul routes - two way vs. one way truck traffic.**

Mr. Vollhaber said at the last meeting which local streets would be one way truck traffic only was not in the motion. Mr. Vollhaber said FLC is requesting that 181<sup>st</sup> Avenue and Notre Dame Street be removed from the one way hauling requirement. That was not in the Memorandum of Understanding last year. Mr. Vollhaber said they would want to use the most direct route, and those roads (181<sup>st</sup> Avenue and Notre Dame Street) are blacktop and striped roads.

**Condition #19 (original IUP #20) The condition requires truck drivers adhere to a voluntary speed limit of 20 mph on all local streets.**

Mr. Vollhaber would like to change that from “all local streets” to define that as “Vassar, Tulane and 186<sup>th</sup>” - only the gravel roads.

Council Member Duraine questioned why 181<sup>st</sup> and Notre Dame should not be included, the houses are close to those roads also, these are not county roads and 50 mph seems dangerous, even though those roads are paved and he suggested 40 mph instead on these roads.

A map of the area was displayed at this time.

Mr. Vollhaber said he thought running at 20 mph on a paved street might present an annoyance to local traffic.

A map of the haul route was displayed at this time. The City Administrator reviewed the route. The residents on all the roads were sent notices regarding the IUP. (Vassar, Tulane, 181<sup>st</sup> and Notre Dame). The purpose of the one way traffic was to minimize traffic in any one neighborhood. If two way traffic is allowed, the residents on 181<sup>st</sup> Avenue would have twice the truck traffic. If hauling is at 20 trucks per hour that is 1 every 3 minutes for one way hauling, changing this would double the number of trucks. The intent was there wouldn't be two way traffic on any proposed haul road.

Mayor Dave Povolny asked Mr. Vollhaber why he would want to be allowed two way hauling on 181<sup>st</sup> and Notre Dame.

Mr. Vollhaber said the most direct route to the county road makes the most sense to get the trucks off the local streets. Mr. Vollhaber said that requiring one way traffic will add unnecessary travel distance for their trucks and impacting more people. Most of the truck traffic will be toward Forest Lake, probably south heading down Kettle River Blvd to the freeway (I35).

The Engineer added that there is a difference in the condition of 181<sup>st</sup> Avenue east or west. The segment going east toward Kettle River Blvd does go through a wetland area on both sides of the road, so there is more risk road damage from the loads. (The City Administrator pointed to the area on the map at this time.) It was noted that there is a culvert in that area.

Mr. Vollhaber agreed, and said that if they did see damage occurring they would change the route at that time. Mr. Vollhaber added that this condition is not a deal breaker but asked whether this is what the council really wants, one way would result in longer routes for the trucks.

It was noted that there is a bond requirement in the conditions. (Condition #28 (original condition #29))

### **Condition 37 (original condition #38) Indemnification**

Mr. Vollhaber said the revision is to clarify the "hold harmless" clause.

The Attorney said this type of clarification is not unusual and is typical in the development agreement. The development agreement would go back to FLC's legal counsel and their counsel would provide this type of comment as to when the indemnification kicks in.

Mayor Dave Povolny summarized by stating that the items under discussion are:

- The number of days
- The haul route
- The school time

### **Speed Limit**

Council Member Duraine said that if all (40 trucks) go out one way, the houses are close to the road. This is where recreational activities take place having the trucks going by is a hazard and the speed limit should be limited to 40 mph.

Mr. Vollhaber agreed that 40 mph would be ok for FLC for 181<sup>st</sup> and Notre Dame Streets.

### **School Bus times**

Mayor Dave Povolny was concerned about children waiting for buses. Council Member Messina expressed distress at having the truck traffic with children present.

Council Member Krebs said there are not that many kids in the summer time and these are professional drivers.

Council Member Duraine said what he saw was the children waiting for the elementary buses were supervised and were not wondering around, he didn't think the school time restriction was an issue, but was more concerned about the number of days.

Mayor Dave Povolny said he thought that if FLC stops hauling at noon it should be counted as ½ day. (per discussion earlier).

Mayor Dave Povolny asked what conditions apply to reporting.

### **Condition #13 (original #14) – Reporting requirements**

The Attorney noted that condition #41 (original condition #42) refers to the development agreement which will include the reporting and condition #13 (original condition # 14) requires weekly reporting. The City Administrator read both conditions at this time.

Mayor Dave Povolny asked if black dirt will be hauled into the property. Mr. Vollhaber confirmed there would be material hauled in for slope repair and would be included in the truck hauling days.

Council Member Duraine asked several questions about the monitoring well and reporting at this time.

Mr. Vollhaber confirmed that the monitoring well is for monitoring the water level. FLC monitors this, which is a requirement of the MN DNR dewatering permit. Mr. Vollhaber said they determine the monitoring, they are trying to establish normal water levels, they take water levels when the pumps are off, and once pumping starts they can see the water level in the monitoring well. No one else is monitoring this.

What is done if the water starts dropping?

Mr. Vollhaber said if needed, they can alter dewatering - where they pump to. Mr. Vollhaber said if it gets to the point where they might affect someone's well they will stop pumping.

How do you know if it affects someone's well?

Mr. Vollhaber said they can see what the water level is in the monitoring well. Last year it didn't change more than 2 feet. The shallowest well is a sand point which would be 15 or 20 feet deep.

How deep will FLC be digging?

Mr. Vollhaber said they are at 20 feet below the water table.

Mayor Dave Povolny asked if there is a condition that the city will come in and inspect the slopes or other activities.

The Attorney said as with any typical development agreement which creates the format for a performance agreement, the City has the right to enter onto property, the obligation belongs to the applicant to report, but the city has the right to enter the property and inspect.

Mayor Dave Povolny said previous to this slopes were not done right, land in the end plan was sold, he would like to see more proactive inspections done to monitor slopes, and the plan is proceeding as approved and the property is not being sold, etc.

Mr. Vollhaber agreed.

Mayor Dave Povolny added that the day restriction is most important, 175 days is still a lot. There will be no Saturdays, and FLC gains the start time of 7:00 am and ending time 5:30 pm.

Council Member Messina read condition #25 (original condition #26) "Final site restoration and wetland mitigation shall be completed within 12 months of final site extraction."

Council Member Messina asked if this means the permit is for 4 years and there would be an additional 12 months for the mitigation.

The Attorney's reply was:

No, this is a 4 year permit including any mitigation and FLC does not have another 12 months beyond that because the permit expires. The permit expires and covers the operations including any extraction and everything needs to be completed within the 4 year period.

Council Member Messina questioned whether extraction could occur on the final day of the 4<sup>th</sup> year of the IUP.

The Attorney re-iterated the permit which covers all operations on the site including any work on mitigation is a 4 year permit, all hauling, all mitigation, all operations, there is no right to do anything on that site after the permit expires.

Council Member Krebs asked whether the mitigation includes a year after to make sure all the plants are established.

Mr. Vollhaber wanted to clarify, he said the mitigation plan which was already approved by the city is a 5 year monitoring plan and covers the seeding that FLC plants. FLC will have to do additional weed removal, fertilizer, etc., whatever needs to be done to establish the grasses and plants in the ponds.

The Attorney said it was a 5 year plan approved about 18 months ago.

The City Administrator added that the monitoring plan is a separate plan which doesn't require heavy equipment work or digging. At that time when this is finished, FLC will have to put up \$5000 - \$8000 in escrow to make sure the monitoring plan is being adhered to. This requires inspection to make sure the correct plants are planted there.

The Attorney clarified that the major operations whether for hauling, or re-establishing the site is required within the 4 year interim use permit. Monitoring is a separate plan and is governed by the mitigation plan already approved.

Mayor Dave Povolny summarized:

- 40 mph speed limit on the paved local roads. The Engineer suggested that Condition #19 (original condition #20) might read: “The Applicant shall impose on its truck drivers a voluntary speed limit of 20 mph on local gravel roads and 40 mph on local paved roads.
- Condition #8 (original condition #9) A hauling day will be assessed as a half day when inclement weather causes operations to cease at noon or will be measured in half day increments. It was noted that this condition would have to be worded so a half day is accrued whether hauling only occurs in the morning or afternoon due to inclement weather. It was clarified further that if hauling only occurs for a half day on a sunny day that would be counted as a full day (1). Mr. Vollhaber agreed that would be counted as a full day.

An audience member said there is a sign on Vassar Street near the entrance to the property stating 15 mph. There was clarification that this is a yellow advisory sign and as such is not enforceable. This sign is located at the end of Vassar Street closest to the entry to the east property.

Mr. Vollhaber said they would be fine with this reporting method for haul days (indicated above second bullet) and said they would not start hauling in the afternoon if there is rain in the morning.

At this time Council Member Messina questioned findings #25.

**Finding of Fact #25 - An 8-month operation for removing 68,000 cubic yards of material per year from the site on week days only would result in an average daily removal of approximately 425 cubic yards, which is an average of approximately 24 truckloads (48 truck trips) per day, based on an average 17.5 cubic yard load.**

The Attorney clarified that The Findings of Fact are a statement of what the use is and is what the applicant has applied for, the conditions of approval are binding and limiting on the applicant in terms of their operation. The focus is on the conditions, the findings of fact are statements of facts vs. a legal binding conditions which impose restrictions on their operation.

Findings of Facts #23 and #24 were questioned at this time.

**23. The Applicant has requested to remove a maximum of 340,000 cubic yards of material from the Property during a proposed 5-year permit term.**

**24. The average annual removal of material during the proposed 5-year life of the facility would be estimated at 68,000 cubic yards per year.**

The Attorney said these (Findings of Fact) are statements made on the record by the applicant about the size and nature of the operation and are the findings based upon what was testified to by the applicant and others during the hearings. This is an estimate, the Council, if it agrees to the changes tonight is approving a 4 year permit.

Council Member Messina said the reason for the questions was to confirm that FLC is agreeing to accomplish a quarter of the work that would have been done under the original CUP.

Mr. Vollhaber said if he can't get it done in 4 years or 175 days total hauling we're (FLC) is done.

The Attorney summarized the discussion at this time:

- Condition #4 – The term of the IUP would be 4 years instead of 3 years
- Delete condition #8 – restricting hauling to after 9 am on school days. The hours of operation would be 7 am to 5:30 pm as stated in condition #6
- New condition 8 (was condition 9) would read: “There shall be a maximum of ~~175~~ 170 days (agreed upon later in the discussion minutes) of hauling during the term of the IUP. A “hauling day” will be assessed as a half day when inclement weather (rain or snow) causes hauling to cease prior to noon on a day when hauling is initiated. (the Engineer and Attorney will work on the final language to clarify this condition.)
- #17 (was condition #18) Notre Dame and 181<sup>st</sup> Avenue will be deleted from the hauling pattern; therefore these roads could have two way traffic if it makes sense for the hauling of the material out of the city to minimize the disruption on other streets.
- #19 – (was condition 20) The applicant shall impose on its truck drivers a voluntary speed limit of 20 mph on all local streets that are unpaved and 40 mph on all paved local roads.
- #37 (was condition 38) has been changed to clarify the indemnification clause.

Development Agreement inclusions: (The Attorney said he wanted the applicant to hear this so they are not surprised).

- The development Agreement will include the right for onsite inspections on the property.
- The Development Agreement will be subject to the applicant and the owner relinquishing any rights of the CUP, since this is the whole premise of this IUP.

Mr. Vollhaber said FLC is in agreement with these.

Council Member Krebs and Mayor Dave Povolny both asked for confirmation that after this (IUP) is approved the CUP is done on both the west and east properties. There will be nothing done on the west side. Mayor Dave Povolny asked Mr. Vollhaber for input on the vision for the west property.

Mr. Vollhaber said all the stock piles are gone from that parcel, at this point Mr. Vollhaber said he thought Kathy (Mrs. Haluptzok) is just going to leave it to be developed as residential at some point.

The Attorney clarified that a residential application would not be governed by CUP or IUP, it would be a new application the city would consider.

Mayor Dave Povolny asked what the impact is to the residents when the west side gets cleaned up. Will the remaining haul out roads be removed, will there be black dirt brought back in?

There was a question regarding whether there actually are haul roads left on the west property.

Map D - Stormwater Management Plan



A map of the area was displayed at this time. It was noted that the northern end of the west property was sold (see property line above) to a private person, it was in the end plan of the original CUP.

Mayor Dave Povolny asked Mr. Vollhaber what the depths of the ponds are on the west side.

Mr. Vollhaber said the three ponds on the east side of that property (west property) are shallow (3 – 5 feet deep), the one on the far west has some deep areas up to 20 feet deep). Mr. Vollhaber confirmed that this depth indicates this was partially mined. Mr. Vollhaber confirmed that there is one haul road that remains, which would remain as is. There would be no more grading or excavating at this time.

The City Administrator stated that once the CUP was revoked a letter would be sent to Kathy Haluptzok regarding the classification and number of lots anticipated for the property.

Mayor Dave Povolny asked about the land owner of the northern piece of the west side – (who purchased part of the property that was included in the original CUP) do they have any rights with the CUP – when the land was sold would the CUP have flowed to this property?

The City Administrator said hauling activities have not occurred on that parcel for more than one year.

The Attorney will investigate and said this can be done at the time they work on the development agreement.

Mayor Dave Povolny asked Mr. Vollhaber to reduce the days to 170. Mr. Vollhaber said he will accept 170 days.

Council Member Duraine said he thought he had support for 1 year, then 100 days and 2 years now the last proposal was 3 years (city) and 190 days (FLC), Council Member Duraine doesn't agree with increasing the years and days.

Mayor Dave Povolny said both sides have negotiated, the city gained no hauling on Saturdays, FLC gained the time from 9 am to 7 am on school days with assurance that the drivers will be extra safe during that time (for school children waiting for the bus). Mayor Dave Povolny added that the impact comes in the number of days allowed for hauling not years.

Council Member Duraine asked Mr. Vollhaber if he purchased the property. Mr. Vollhaber said they have an option to purchase on both the east and west properties, Mr. Vollhaber said they intend on purchasing the east side, but with giving up the mining rights he has no interest in the west.

Council Member Duraine said he could go along with 150 days. There was debate at this time regarding the time period and how many days it would take to haul out the material and whether 100 days was realistic.

Mr. Vollhaber confirmed that if they hauled at 3500 cu yards for 100 days that would be all the material. Mr. Vollhaber said they would love to do this, but they are not going to max out every day and that is why they are asking for more years.

Mayor Dave Povolny added that the extra days lessens the burden on the total days.

Mayor Dave Povolny asked the Engineer if he agreed with the bond amounts. The Engineer said he was in agreement. Mayor Dave Povolny asked the Attorney if he had any further concerns.

The Attorney said he did not, the applicant needs to understand that the development agreement is something the council will also approve and that will take the form discussed earlier, there is some documentation to complete. Once the major conditions are approved then the development agreement is a way to put those conditions in enforceable form and of record on the property.

Mayor Dave Povolny said the last open item (Condition #17 – original condition #18) is the route and whether two way hauling would be allowed or not. Mayor Dave Povolny asked for input from the council at this time, as he thought it might be burdensome on the wetland area identified by the Engineer and the residents on the road(s) to allow two way traffic. The Engineer confirmed that the width of the road would accommodate two way traffic.

Mr. Vollhaber said there are fewer lots to the east on 181<sup>st</sup> then going south on Notre Dame.

Mayor Dave Povolny said he would prefer the truck traffic not always go east on 181<sup>st</sup> and asked for comments from the Council at this time:

Council Member Peterson – No comment.

Council Member Krebs – He thinks this has been worked on a long time and there is an end in sight and that is what the council wants to see happen.

Council Member Messina – He feels that the only reason this council is considering this is because of the threat of being sued and the city wants some mitigation.

Mayor Dave Povolny interjected that the concern is losing a lawsuit where it would totally impact the residents forever. Council Member Messina continued and stated he would like to see mitigation done throughout the IUP term not just at the end.

Mayor Dave Povolny asked Mr. Vollhaber to address this question.

Mr. Vollhaber explained that the mitigation approved is phased, as they mine from east to west they (FLC) will be doing mitigation. Excavation of an area needs to be complete before it is restored.

The Engineer added that part of the mitigation is removing the haul road (dikes) between the cells, the mitigation must be done and then they remove the haul road/dike between each of the cells before moving west, otherwise there would not be an opportunity to do the mitigation.

Mr. Vollhaber explained that the furthest haul road would be removed first between basins 5 and 6, once that is mined then they begin mitigating that area, then the excavation will be moved into basins 2, 3 and 4, so while FLC is excavating basins 2, 3, and 4 the mitigation will be happening in basins 5 and 6.

Council Member Messina asked about pumping water from one area to another do they dig that dry area, then fill that back up and begin digging in the other area?

Mr. Vollhaber said since they are establishing wetland plants, they can't be dewatering after they plant the wetland plants because that would kill the plants, so they have to be done working in an area before they seed it. That's why the wetland mitigation is phased following completion of excavation in a certain basin.

Council Member Messina asked if hypothetically a big contract came in and FLC could haul 100 days this year, they could finish up the contract.

Mr. Vollhaber agreed and said it's a remote possibility but it's a possibility, then the mitigation would start right after the grading is done.

Ceil Neihart (audience member) asked if the IUP couldn't be three years, it's a lot of time (4 years).

Mayor Dave Povolny explained that FLC has to bid work, and they haven't bid a lot for this year because they didn't know what they could haul.

Mr. Vollhaber agreed and said there are no jobs coming from this property so far this year. The possibility of hauling 100 days this year is getting very remote for this year. There may be a chance of getting a job this year however.

Council Member Duraine said if FLC is kept to 150 days that would be 75% of maximum capacity. Council Member Duraine re-iterated that he would like to stay with 150 days.

Mayor Dave Povolny confirmed that the four years starts when this (IUP) is approved, the Interim Use Permit will end during road restrictions the year the IUP expires so this will reduce the hauling time.

**Motion PLZ 01200 ADM 05000 by Duraine to approve the IUP Resolution 14-06 at 150 days. Second by Messina. Votes as follows: Peterson - nay; Messina - aye; Duraine - aye; Krebs - nay; Povolny - nay. Motion Fails.**

**Motion by Peterson for Res 14-06 with changes as indicated by the Attorney outlined including the 2 way traffic on the two roads. (No second was made, the motion was withdrawn - below)**

The Attorney was clarifying Council Member Peterson's motion, when Mayor Dave Povolny stated he wanted to discuss this further before the motion was finished. The Attorney advised the motion should be withdrawn.

Council Member Peterson withdrew his motion at this time.

Mayor Dave Povolny asked Mr. Vollhaber if this mattered to him (two way hauling), Mr. Vollhaber said he did care but wanted to make sure the council thought it through, but they (FLC) could live with one way hauling also. Council Member Peterson said he thought it would be best to spread out the traffic on the blacktop roads allowing two way traffic. No other preferences were stated by the other council members.

**Motion ADM 05000 PLZ 01200 by Peterson to approve Resolution 14-06 Approving an Application for an Interim Use Permit for Mineral Extraction in the City of Columbus, Minnesota as summarized earlier in minutes with the following changes discussed by council tonight:**

- **Condition #4 – The term of the IUP would be 4 years instead of 3 years.**
- **Delete condition #8 – restricting hauling to after 9 am on school days. The hours of operation will be 7 am to 5:30 pm as stated in condition #6**
- **New condition 8 (was condition 9) would read: “There shall be a maximum of 170 days of hauling during the term of the IUP. A “hauling day” will be assessed as a half day when inclement weather (rain or snow) causes hauling to cease prior to noon on a day when hauling is initiated. (the Engineer and Attorney will work on the final language to clarify this condition.)**
- **Condition #17 (was condition #18) Notre Dame and 181<sup>st</sup> Avenue will be deleted from the hauling pattern; therefore these roads could have two way traffic if it makes sense for the hauling of the material out of the city to minimize the disruption on other streets. It was preferred by the council that two way traffic is distributed between both roads. (181<sup>st</sup> Ave & Notre Dame Street)**
- **Condition #19 – (was condition 20) The applicant shall impose on its truck drivers a voluntary speed limit of 20 mph on all local streets that are unpaved and 40 mph on all paved local roads.**
- **#37 (was condition 38) has been changed to clarify the indemnification clause.**

**Development Agreement inclusions:**

- **The development Agreement will include the right for onsite inspections on the property.**

- **The Development Agreement will be subject to the applicant and the owner relinquishing any rights of the CUP, since this is the whole premise of this IUP.**
- **The Attorney will write a provision to cover the road restriction issue with the City of Wyoming in the development agreement which creates a good faith effort each and every season of the permit to approach the City of Wyoming about hauling on 189<sup>th</sup>.**

**and all other conditions 1 through 41 (original condition #42) of the Resolution on pages A1 through A8 of the agenda additions. Second by Krebs. Votes as follows: Peterson - aye; Messina - nay; Duraine - nay; Krebs - aye; Povolny - aye. Motion Carries.**

**Findings of Fact for the Interim Use Permit for Forest Lake Contracting, Inc. on property described as part of the SW ¼ of the NW ¼ of Section 36, Township 33, Range 22 (approximately 36 acres) owned by Kathryn Haluptzok. (PC14-101)**

1. The Applicant's application was found to be complete.
2. The 60-day review period will end on March 1, 2014. The 120-day review period, if required, will end on April 30, 2014.
3. The Property is zoned RR Rural Residential.
4. City maps do not identify the Property as being located within a Shoreland Area or Floodplain area. Any Floodplain determination for the site would not result in an impact to the Floodplain, as the flood storage area would be increased rather than decreased from excavations on the Property.
5. City records indicate the Property has been mined since at least 1973.
6. The former Columbus Town Board issued annual special use/excavation permits to John Haluptzok, then Leroy Haluptzok, dba John's Black Dirt between 1973 and 1981.
7. The annual excavation permit was converted to a Conditional Use Permit (CUP) in 1982.
8. In 1993, the CUP was amended for Derek Haluptzok, dba John's Black Dirt, and included 10 conditions.
9. Chapter 9 of the City Code currently allows excavation and extraction in all zoning districts by IUP.
10. The Applicant began excavating and extracting sand from the Property in 2010.
11. Wetland delineations were performed on the Property in 2010.
12. The Applicant proposes to continue mining the Property as authorized in an IUP.
13. The proposed end use of the Property will be residential.
14. The proposed IUP will be considered for the Property in exchange for revocation of the CUP on all contiguous properties owned by Kathryn Haluptzok.
15. A wetland mitigation plan for the Property was approved on November 14, 2012.
16. An appropriations permit for continued dewatering during extraction by the Applicant was issued by the Minnesota Department of Natural Resources on February 14, 2013.
17. A monitoring well, required in the appropriations permit, has been installed.
18. The Applicant applied for an IUP on April 18, 2013 to replace the CUP issued to John's Black Dirt, but later withdrew the application.
19. Access to the Property had customarily been from the north on 189<sup>th</sup> Avenue.
20. In 2013, the City of Wyoming posted its portion of 189<sup>th</sup> Avenue as a 5-ton road, precluding the practical use of 189<sup>th</sup> Avenue as a local haul route.
21. On September 24, 2013, the City Council entered into a Memorandum of Understanding (hereafter "MOU") with the Applicant to allow for temporary mining on the Property and temporary hauling on Vassar Street, Tulane Street, Notre Dame Street, 181<sup>st</sup> Avenue, 186<sup>th</sup> Avenue, and County roads.

22. The MOU was effective until December 31, 2013, to allow the Applicant time to reapply for an IUP.
23. The Applicant has requested to remove a maximum of 340,000 cubic yards of material from the Property during a proposed 5-year permit term.
24. The average annual removal of material during the proposed 5-year life of the facility would be estimated at 68,000 cubic yards per year.
25. An 8-month operation for removing 68,000 cubic yards of material per year from the site on week days only would result in an average daily removal of approximately 425 cubic yards, which is an average of approximately 24 truckloads (48 truck trips) per day, based on an average 17.5 cubic yard load.
26. If approved, the Applicant has indicated that materials for site reclamation may be backhauled to the Property; a minimum of four (4) inches of topsoil will be placed on upland areas for final restoration.
27. The Applicant has requested that the maximum amount of material to be removed on any day would be 3500 cubic yards. This would be equal to 200 truckloads (400 truck trips) per day and an average of 20 truckloads per hour during a 10-hour day.
28. The Applicant has requested a maximum peak hour truck traffic that would not exceed 20 truckloads or 40 truck trips per hour.
29. Equipment used and routinely stored on the Property includes hydraulic excavators, dozers, front end loaders, motor graders, sweepers, dewatering pumps, and a water truck. Dump trucks are not stored on the Property.
30. Maximum material stockpile heights are proposed to be 15 feet. An estimated maximum of 20,000 cubic yards of material will be stockpiled at any given time on the Property.
31. The Applicant has proposed to conduct mining on the Property from 7:00 am to 6:00 pm Monday through Friday and from 8:00 am to 5:00 pm on Saturdays.
32. The Applicant has proposed hauling of materials on the Property from 7:00 am to 5:30 pm Monday through Friday and from 8:00 am to 4:30 pm on Saturdays.
33. The Applicant has proposed Saturday hauling to be limited to 10 days per year.
34. The Applicant has proposed that no mining or hauling would be allowed on Sundays or holidays.
35. The current CUP issued for John's Black Dirt allows excavation and hauling between the hours of 8:00 am to 5:30 pm Monday through Friday and hauling only from 8:00 am to 3:00 pm on Saturdays. The current CUP also allows electric (well) pumps to operate anytime, if they cannot be heard beyond the Property.
36. Section 9-105 of the City Code limits the hours of operation for "trucks, vehicles, machinery, heavy equipment, pumps, engines, and other noise generating devices or machines" from 7:00 am to 5:30 pm Monday through Friday.
37. Fugitive dust from active mine areas, from material stockpiles, and from haul routes will be controlled by watering.
38. Noise from the operation of the facility will be required to meet noise standards established by the Minnesota Pollution Control Agency.
39. The Applicant has requested a 5-year IUP to allow the removal of the remaining estimated volume of material on the site.
40. Section 7A-734 of the City Code identifies the term of an IUP in the Rural Residential District to be valid up to five years.
41. Section 7A-530 of the City Code allows for the renewal of an IUP; however, there are no vested rights in the issuance of an IUP that require a renewal by the City.
42. The Planning Commission toured the Property on June 5, 2013.

43. The City Planner submitted a memo on the proposed IUP with draft Findings and Conditions, dated February 12, 2014.
44. The Planning Commission held a public hearing on February 19, 2014 to consider the proposed IUP.
45. The Planning Commission also held a public hearing on February 19, 2014 to consider the revocation of the mineral extraction CUP issued to John's Black Dirt in 1982 and amended in 1993.
46. On February 19, 2014, the Planning Commission recommended approval of the Applicant's proposed IUP, subject to Conditions, and also recommended that the City begin proceedings to revoke the CUP issued to John's Black Dirt, if the IUP was not approved.
47. On March 26, 2014, the City Council held a workshop to discuss the potential terms of an IUP with the Applicant.
48. On April 9, 2014, the City Council voted to approve the IUP, subject to certain conditions.
49. The Applicant agrees to the conditions below.

**Conditions for the Interim Use Permit for Forest Lake Contracting, Inc. on property described as part of the SW ¼ of the NW ¼ of Section 36, Township 33, Range 22 (approximately 36 acres) owned by Kathryn Haluptzok. (PC14-101)**

1. The Applicant shall, at all times during the life of this IUP, maintain the Property in compliance with the City Code, state and federal law and with the other conditions of the Permit. Noncompliance may result in modification, suspension, or revocation of this Permit or in prosecution as the law may provide.
2. The Applicant is hereby authorized to mine a maximum of 340,000 cubic yards of material from the land.
3. The legal description for the Property for which this Permit is issued and where mining is permitted is limited to the 36-acre Property located in the SW ¼ of the NW ¼ of Section 36, Township 33, Range 22.
4. The Permit shall expire ~~three (3)~~ four (4) years from the date of its issuance by the City Council.
5. The Applicant shall notify the City Administrator in advance of any truck hauling activity, when such hauling has been preceded by a minimum of three weekdays of no truck hauling activity. The Applicant shall also inform the City Administrator of the estimated duration of truck hauling.
6. The hours of operation during which trucks, vehicles, machinery, heavy equipment, engines, and other noise generating devices or machines may be used on the Property are restricted and shall be no earlier than 7:00 a.m. and no later than 5:30 p.m., Monday through Friday.
7. There shall be no mining or hauling on weekends or holidays.
- ~~8. Hauling on school days shall not begin until after 9:00 a.m.~~
8. ~~There shall be a maximum of 170 days of hauling during the term of the IUP. A "hauling day" will not be assessed when inclement weather (rain or snow) causes hauling to cease prior to noon on a day when hauling is initiated.~~ There shall be a maximum of 170 days of hauling during the term of the IUP. A "hauling day" will be assessed as a half day when inclement weather (rain or snow) causes hauling to cease prior to noon on a day when hauling is initiated. (the Engineer and Attorney will work on the final language to clarify this condition.)
9. The use of electric pumps for dewatering is not restricted by any hours of operation.
10. Dust control measures, required by the City, shall be employed at all times during the life of this Permit on the Property, on exposed stockpiles, and on any gravel roads used under this Permit. Mud and dirt from the Property shall be promptly cleaned from all roads.

11. Erosion and sedimentation control shall be consistent with City standards and upon recommendation of the City Engineer.
12. The Applicant shall install any traffic control signs (e.g. "Trucks Hauling") required by the City.
13. The Applicant shall maintain and submit weekly reports to the city on the number of days hauling occurred and the amount of sand removed.
14. The Applicant shall abide by all normal and seasonal axle weight restrictions on authorized haul routes.
15. The Applicant shall provide an \$85,000 performance bond, in a form acceptable to the City Attorney, for potential damages to City streets.
16. Suspension of hauling may be required by the City due to weather or road conditions.
17. Haul routes within the City shall be limited to:
  - a. "Southerly Access" - Vassar Street, Tulane Street, Notre Dame Street (north of Broadway Avenue), 181<sup>st</sup> Avenue, 186<sup>th</sup> Avenue, and County roads. The hauling pattern shall be one-way on Vassar Street, Tulane Street, ~~Notre Dame, 181<sup>st</sup> Avenue,~~ and 186<sup>th</sup> Avenue; so that no truck entering the Property uses the same route to exit the Property. Trucks shall not pass each other in the same or opposite direction on Vassar Street, Tulane Street, , or 186<sup>th</sup> Avenue. It was preferred by the council that two way traffic is distributed between both roads. (181<sup>st</sup> Ave & Notre Dame Street)
  - b. "Northerly Access" - 189<sup>th</sup> Avenue, 250<sup>th</sup> Avenue, Kettle River Boulevard and County roads.
18. The maximum amount of material removed from the Property shall not exceed 3500 cubic yards per day.
19. ~~The Applicant shall impose on its truck drivers a voluntary speed limit of 20 mph on all local streets.~~ The applicant shall impose on its truck drivers a voluntary speed limit of 20 mph on all local streets that are unpaved and 40 mph on all paved local roads.
20. The Applicant shall be required to obtain and maintain all other permits and actions required for the operation, including but not limited to any future wetland delineations, any wetland permitting, any floodplain delineations and permitting, any Anoka County licensing, additional water appropriations permitting, NPDES permitting, and any other agency permitting.
21. Facility operations shall be consistent with the IUP application and the supporting documentation submitted to the City on December 31, 2013.
22. The Applicant shall be responsible for providing potable water to and the correction to or replacement of any adjacent private well determined by the Minnesota Department of Natural Resources to be negatively impacted by water pumping on the Property.
23. The Applicant shall abandon all wells on the Property according to state standards upon completion of mining.
24. The Applicant shall respond to all calls from neighbors or the City regarding facility complaints within 48 hours of receipt of the calls. The Applicant shall record all complaints and the proposed resolution to complaints and shall furnish such record to the City on a monthly basis.
25. Final site restoration and wetland mitigation shall be completed within 12 months of final site extraction.
26. A minimum of four (4) inches of topsoil shall be required as cover over all upland areas on the Property, except wetland areas shall be restored with materials and seeding consistent with the approved wetland mitigation plan. All restored upland areas shall be seeded and maintained to establish permanent turf.
27. Only clean fill and topsoil may be back hauled to the Property for site restoration.
28. The Applicant shall provide a \$75,000 performance bond, in a form satisfactory to the City Attorney, to guarantee wetland mitigation and site restoration.

29. The maximum height of stockpiles shall be fifteen feet and no more than 20,000 cubic yards of material shall be stockpiled at any given time.
30. Any material stockpile remaining on the Property for more than ten days without disturbance or removal shall be seeded and mulched.
31. Weeds shall be controlled on the Property at all times.
32. Litter and debris shall be cleaned from the Property on a regular basis.
33. Portable toilets shall be provided and serviced regularly at all times during site operations and shall be screened from visibility by neighboring residences.
34. Hydraulic excavators, dozers, front end loaders, motor graders, sweepers, dewatering pumps, and a water truck are allowed to be kept on the Property. No other equipment, vehicles or materials shall be stored on the Property.
35. The proposed end use of the Property for residential use is subject to subsequent plan submission, review and approval in accordance with Chapter 8 of the City Code.
36. The Applicant shall allow access to the mining facility by the City's representatives, or other local, state or federal officials and agents, upon reasonable notice and in the company of a competent site representative, to inspect permitted facilities and site conditions, at intervals chosen by the City.
37. The Applicant shall defend and indemnify and hold harmless the City and its agents, officers, employees, against any and all claims, damages, losses, and expenses, including attorney fees, arising out of or resulting from any act or omission by the Applicant or any person employed by Applicant in carrying out the terms of the IUP ~~the issuance of the IUP or the enforcement thereof.~~
38. The City may rescind this IUP if, after thirty (30) days following written notice of violation, the Applicant has not corrected the violation and then following a public hearing wherein the City finds a violation of the terms of this IUP. This IUP shall be terminated if the Applicant does not commence operations under this IUP within six months, or if any provision of the City Code causes a termination of the IUP.
39. The Applicant shall reimburse the City for all out of pocket expenses incurred in the IUP application review and approval, facility inspections and enforcement of this IUP and local ordinances, including planning, engineering, and attorney's fees.
40. Approval of the IUP is conditioned upon the revocation of the 1993 mineral extraction CUP issued to John's Black Dirt, affecting all property owned by Kathryn Haluptzok in Sections 35 and 36, Township 33, Range 22.
41. The Applicant shall be required to enter into a development contract or performance agreement, as may be recommended by the City Attorney and any agreement shall be recorded on the Property title.

**Development Agreement inclusions:**

- The development Agreement will include the right for onsite inspections on the property.
- The Development Agreement will be subject to the applicant and the owner relinquishing any rights of the CUP, since this is the whole premise of this IUP.
- The Attorney will write a provision to cover the road restriction issue with the City of Wyoming in the development agreement which creates a good faith effort by FLC each and every season of the permit to approach the City of Wyoming about hauling on 189<sup>th</sup>.

Council Member Duraine asked if there will be any effort at all to use 189<sup>th</sup>, if it could be split up it would be so much more palatable for the neighborhoods. Mayor Dave Povolny suggested adding another condition that would say reasonable effort should be made to go north.

The Attorney suggested that the city ask the applicant if they will contact the City of Wyoming and make an effort to use 189<sup>th</sup>.

Mayor Dave Povolny said if the council doesn't address what happens if they are allowed to haul on 189<sup>th</sup> (north) they could still continue to haul south 170 days with all the restrictions.

The Attorney said a condition could be that if 189<sup>th</sup> Avenue is not restricted as a haul route, they will make reasonable use of that route.

Mayor Dave Povolny said there could be changes – with the upcoming elections if something changes, why should the City burden only the people on the gravel roads with the 170 days.

Mr. Vollhaber said 189<sup>th</sup> is their preferred haul route, and he said they (FLC) will continue working with Wyoming to secure that route, without a lawsuit.

The Attorney explained that if the applicant is willing to pursue this every year, that creates a record that this city council or some future city council who wants to challenge the restriction before the 4 years is over will have good evidence that in good faith the hauler tried to use a road that was legally permissible until a year ago and the city (Wyoming) kept turning them down without a basis, this could set up a challenge by this or a future council.

Mayor Dave Povolny said there is still nothing in the 42 conditions that requires them (FLC) taking this other route (189<sup>th</sup> Avenue).

The Attorney will write a provision to cover this issue in the development agreement which creates a good faith effort by FLC each and every season to approach the City of Wyoming about hauling on 189<sup>th</sup> Avenue (Columbus) 250<sup>th</sup> Street (Wyoming).

Mayor Dave Povolny said he did not want to burden future councils with this council's lack of forethought on what the IUP didn't cover which is if FLC could go north they should go north, possibly adding something about splitting routes between north and south.

The Attorney said they will work on language, this will be reviewed with the applicant and it will come back to the council for final approval.

Mayor Dave Povolny said one of the revisions referred to coming in empty on the north route and going out the south route should be considered.

Council Member Messina added that for 40 years this has been a thorn for these residents, and we will give them 4 more years, talking about elections coming up, this will be a huge burden on the residents. Council Member Messina re-iterated that there could be a truck every 3 minutes for 4 summers. Council Member Duraine agreed that this is a huge burden and wants to see 189<sup>th</sup> looked at as an option also. Mayor Dave Povolny said he believes something will change in Wyoming. Council Member Messina added the council that issued the Conditional Use Permit in 1993, had they known it would be a belly dumper every three minutes would they have given the Conditional Use Permit – probably not. They didn't put the restrictions in the CUP that should have been to define the use and restrictions.

The vote was taken at this time. Mayor Dave Povolny stated if the applicant accepts than there is an agreement. Mr. Vollhaber said yes this will work, none of us are happy but it will work.

The Attorney said a performance agreement will be on the next agenda which will include these conditions, the additional items mentioned earlier and the issue of 189<sup>th</sup>. This will go to the applicant in about a week so they have an opportunity to review it.

## **8. PUBLIC OPEN FORUM**

### **Joan Schliesing – 18507 Vassar Street**

Mrs. Schliesing said the road was graded yesterday and they left a windrow along the side of the Vassar Street. No gravel was applied to this section of the road, only from 181<sup>st</sup> to 183<sup>rd</sup> Avenue. The road is not wide enough for a bus and car. Mrs. Schliesing also asked why limestone is not used instead of gravel as was done on Vassar Street south of 181<sup>st</sup> Avenue.

Mayor Dave Povolny asked why the road has never been straightened and widened. The City Administrator said this wasn't a developer road, it was as traveled. There are some right of way issues on that road and this may be something the Public Works Advisory Board should investigate.

Council Member Peterson said there is a budget for gravel and Vassar Street will get gravel the entire length of Vassar Street this year. Limestone is reserved for use on lesser traveled and short roads. The issue of the narrow road will be brought to the Public Works Advisory Board for review.

### **Ceil Neihart 18516 Vassar**

Mrs. Neihart said she wanted to add input on why the road narrows at their houses and gave a history of the Haluptzok development. Mr. Neihart said she was told that cost is the factor for not using limestone on the road and she was told that they are only going to put 2 inches of gravel.

Council Member Peterson said the city has problems with road height due to gravel applications over the years and said Public Works is working on these issues.

Mrs. Neihart said she read that land owned by Kathryn Haluptzok and contiguous land is covered by the CUP and she asked that the language in the IUP be double checked and is correct in case FLC buys the land to make sure it's correctly worded to prevent any future mining operations on contiguous lands.

Mr. Neihart added that she is very disappointed (with tonight's decision - Forest Lake Contracting IUP).

## **9. PHEASANTS FOREVER**

A letter dated April 14, 2014 from Eran Sandquist Wildlife Biologist, Pheasants Forever Inc. was included in the agenda packet notifying the council of its intention and allow for any discussion regarding the purchase 211.98 acres of land to be donated to the DNR. The property is owned by Tim Lang who came before the Planning Commission regarding his difficulties with developing this property. Pheasants Forever does not need the council's approval for this to proceed.

Mr. Lange has pursued all his avenues with the Wetland Conservation Act. The only option was to deviate from the 5 acre minimum for this property. The direction was to draft a letter to Mr. Lange informing him that the city would look at allowing cluster housing in his area. The time frame for this discussion was projected to be 60 days.

## **D. STAFF & CONSULTANT REPORTS**

### **9. ENGINEER REPORT**

#### Motion - Award Gravel Bids (Page 29)

A memo dated April 23, 2014 from the Public Works Superintendent was included in the agenda packet for one (1) quote was received for Class 5 gravel from Bjorklund Companies for \$11.00 per ton. The Action is award the contract or seek additional quotes.

**Motion PWM 02600 by Messina to award the 2014 contract for gravel to Bjorklund Companies for \$11.00 per ton. Second by Peterson. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.**

#### Motion - Award Truck Hauling Bids (Page 29)

Quotes were also received for port to port truck hauling of class 5 gravel. Two quotes were received the low bid was \$98 per hour by Bjorkland Company. The action is award the contract or obtain additional quotes. Documentation of hours has been submitted.

**Motion PWM 02600 by Messina to award the 2014 contract for hauling of gravel to Bjorklund Companies for the port to port quote of \$98.00 per hour. Second by Krebs. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.**

Council Member Messina asked if the city is on the MnDot contract for Salt. Yes.

#### Blacktopping roads

One inquiry came in for Xingu Street and Bender Street. 10 years ago a plat on Zodiac Street to the end the developer was required to pave half the road. Money was escrowed for this project; this October is 10 years which is the deadline for paving the road. The money would be returned to the current property owner. The amount is approximately \$6500; there are 5 or six lots. There was no interest in paving the road when this was looked at before. The direction was to call the residents on Zodiac to see if there is interest in paving or getting the money back.

The Engineer said following the normal city procedure the petitions would have to be received at the May meetings.

### **10. ATTORNEY REPORT**

#### Direction - Written Drug & Alcohol Testing Policy (Pages 30-37)

An information memo for the League of Minnesota Cities was included in the agenda packet. The City Administrator explained that the company the city has been using is no longer available and there are new rules regarding this requirement.

The consensus of the council is to direct the Attorney to work with the City Administrator to produce a drug and alcohol testing policy.

## **11. MAYOR & CITY COUNCIL MEMBER'S REPORT**

### **Council Member Peterson**

#### Park Board Report

The Park Board met last week and is working on the YMCA Park Play Days program. The Park Board decided not to participate in Fall Fest.

Council Member Peterson spoke with the DNR regarding an overlook deck to Howard Lake; the DNR said there is no money to install a dock/overlook.

Further discussion on the parking lot expansion in Columbus City Park resulted in Jim Windingstad contacting the watershed to see if there are any restrictions. It is an expensive project for 15 parking spaces.

New recycling containers are being looked at and will be paid for with grant money from SCORE recycling program.

### **Council Member Messina**

After the Joint Meeting, there was discussion regarding changing density for housing off Hornsby Street and by Menards. Council Member Messina asked how the council can make this happen? Mayor Dave Povolny explained that the Council is looking at another rural residential zone, not changing the whole city, which has created issues in the past and resulted in different clusters of housing not homogeneous with surrounding the areas. It will be challenging to find locations where surrounding properties don't object to smaller acreage lots. There was discussion regarding approximately 150 vacant acres located south of Broadway Avenue and north of Gehrig and Iverson Street.

The Attorney explained that to initiate this change the council would make a motion, the planner would look at the idea of the 2<sup>nd</sup> residential zone and if it could be created consistent with the comprehensive plan, there would be ordinance changes and then property would be rezoned after the ordinance changes, public hearings would be held. Council Member Krebs asked if the council should identify the areas before the motion is made. Mayor Dave Povolny said the motion would be to initiate the process, to proceed past discussions a motion is needed to begin the review process.

**Motion PLZ 01700 by Messina to direct staff to initiate the process to review areas of the city that could have higher density housing in a second residential zone. Second by Krebs. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.**

The Attorney will discuss this with the City Administrator to bring forward to the Planning Commission.

### **Council Member Duraine**

The Cable commission met, sound quality on the video recordings was discussed. The first step to resolve the issue is for council members to speak more directly into the microphone to see if this helps with sound quality.

### **Council Member Krebs**

The Fire Inspector has been going through Columbus, the issue is the Fire Marshall served his orders to the wrong person; it should be to the property owner not the renter as happened at Council Member Krebs commercial property. Deficiencies need to be given to the property owner unless there is a provision in the lease stating the renter is responsible. The direction was to bring this to the Fire Board meeting.

Council Member Peterson questioned the need for a Fire Marshall as his insurance company inspects his business and is more restrictive. Can the certificate of insurance be used as proof of compliance?

The Attorney said the certificate of insurance can't be used; the objective is there are Fire Codes and the Fire Marshal is to enforce the fire code. The private insurance is a private matter between you and the insurance company, this is good indication that the building is up to code. The question would be how much is too much, how often do they need to inspect, which businesses create the most potential, if there is fire code there needs to be a way to make sure there is compliance. The Attorney said the concern is there is tort immunity to protect the city from liability, but if there is not an inspection program reasonably enforcing compliance, then there may be a breach of that potential immunity. The Attorney's said the city is providing this service to the community, if the service is not being performed correctly or is outside the scope of the fire code then there is the issue to reign in the Fire Marshal. The city has a state duty to enforce fire code and if it doesn't do that then the city may be opened up to liability.

### **Mayor Dave Povolny**

Stop light at Running Aces Blvd – Mayor Dave Povolny asked if this light could be turned into a flashing yellow on Lake Drive/flashing red on Zurich Street (at times during the day when traffic is less) instead of a stop light. The Engineer said he will investigate.

Reflective Signs – Mayor Dave Povolny asked if city signs need to be replaced. It was unknown as to the deadline for this. Council Member Peterson will ask the Public Works Superintendent.

Mayor Dave Povolny asked Council Member Duraine if he had the petition from the resident unable to obtain cable service. This needs to go to the City Administrator so it can be taken to the Midcontinent Representative. Council Member Duraine said he will follow up and get the petition to the City Administrator.

There is a Fireboard meeting on May 1<sup>st</sup>; the discussion will include the cost of the new Fire Department facility and the Fire Marshall. The City has the ability to hire a fire marshal itself. The direction from the Council should be to direct staff to find a Fire Marshal and then opt out of the Forest Lake contract for the Fire Marshal service. The Attorney said the procedure for opting out should include reviewing the documents that govern this service.

**Motion CON 00050 by Messina to direct staff to investigate the Joint Powers Agreement regarding opting out of the Fire Marshal program with Forest Lake and what the cost would be for the city to hire a Fire Marshall. Second by Krebs. Votes as follows: Peterson - aye; Messina - aye; Duraine - nay; Krebs - aye; Povolny - aye. Motion Carries.**

Debt Service Schedule

Mayor Dave Povolny passed out the debt service schedule and said next year the city will begin paying principal on the property it owns. A question was asked why the previous council would have decided to pay interest only on the property. The Attorney gave a review of the history of the land purchase, the tax appeal of the land at that time, and the Hornsby Street project.

There was discussion regarding the costs of holding onto the property and whether it was in the best interest of the city to do so. With that, the city is burdened with the cost for the police contract increase, the deferments on assessment and other issues. Staff has done a good job covering these costs, but now something has to give, discussions are ongoing with the City Administrator regarding this issue. Some options to investigate include taking some funds, (as was discussed by Council Member Messina at the last budget session i.e. gravel, capital items such as graders) and do what any smart businessman or family would do to not overextend its finances. This Council needs to be more resourceful in handling the land costs coming up; cutting the budget is not the only answer. There is another upcoming budget season. The council needs to become more unified when it comes to businesses in the community, the density change, more residential and commercial tax base. In the meantime things that can be looked at include council pay, taking gravel off the road budget, saving that money and investing it, put in roads, for example fix the northeast corner of the commercial land to get it shovel ready, put money into advertising, signs, etc. to sell the land. The council needs to look at not getting paid until the land is sold.

Council Member Peterson agreed and added that the city needs to be more business friendly and resident friendly.

The BR&E is coming up and this can be discussed there. Getting the property owners in the Freeway District together so large blocks of land would be available for sale if the opportunity presents itself.

Council Member Messina said he agrees with the Mayors direction, but there is a difference in belief for the type of business for Columbus, there may need to be less spending for items such as new road graders.

Council Member Peterson said the loss of the last business gave the city a black eye in the business community. The city will have to really work to correct this.

Council Member Duraine responded that he was not in favor of buying the land, there was so much land available and now we're stuck. The right development needs to be allowed not just anything.

Mayor Dave Povolny summarized by saying he wants to start looking at what the council can do to prevent further loss of \$210,000 plus.

Council Member Krebs added that the council has to get together and work together. Council Member Krebs said the intention is not to change the zoning in the entire city, only in certain areas. No one could have predicted the long term affects of the downturn in the economy, the council needs to work together and figure out what to do. The Forest Lake Contracting issue was very difficult, but now there is a known end. There may have been another spot in the community where the IAAI could have gone. The council needs to find common ground and a direction.

## 12. Deputy Clerk Report

### Recycle Week June 2<sup>nd</sup> – June 7<sup>th</sup>

Spring Recycle and Clean up week will be the first week of June. We will have drop off locations for recycling items and garbage. The curbside pickup will be Friday June 6<sup>th</sup>. SRC has agreed to a 20% discount on items brought to their facility in Wyoming with proof of residence during this week. All Appliance Disposal will do the curbside pickup of items. The Flyer will be posted to the website and will be distributed in the Peach on May 11<sup>th</sup> and 18<sup>th</sup>.

## 13. City Administrator's Report

### Update - Linwood response Joint Meeting (Page 38)

A letter dated April 9, 2014 to Linwood Town Board Members regarding the Sheriff's Office Contract Services was included in the agenda packet. The date selected was April 29<sup>th</sup> at 7:00 p.m.

All five members of the Linwood Town Board indicated they wanted to meet on Tuesday April 29<sup>th</sup> at 7:00 p.m.

### FYI – Police Survey Results (A12-13)

The survey was up on the website and at the counter. The results were included in the agenda packet.

### Motion – Chapter 14 Ordinance Amendment (A14)

An agreement was approved several weeks ago for the Freeway District residential properties. The action is approval of the ordinance amendment.

**Motion ADM 05000 by Peterson to approve Ordinance 14-03 Amending the City of Columbus Chapter 14 – Public Health, Wells, Sewers, and Utilities in the Columbus City Code. Second by Krebs. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.**

### Treasurer's Report

Receipts:	\$0.00
Disbursements:	\$127,079.99
Balance:	\$1,562,701.24

## **E. ANNOUNCEMENTS & REMINDERS**

- ▶ Joint City Council & Planning Commission Workshop. 05/07/2014 7:00 p.m.
- ▶ Calendar of Meeting (**Page 39**)

*Motion* by Krebs to adjourn. Second by Messina

Meeting adjourned at:9:20 p.m.

Respectfully Submitted:

Emilia S. Robinson

Deputy City Clerk