

**City of Columbus
Regular City Council Meeting
September 11, 2013**

The September 11, 2013 meeting of the City of Columbus City Council was called to order at 7:03 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 Julie Perrus, Engineer Larry Bohrer and Deputy Clerk Emmy Robinson.

Absent: None.

Also in attendance were: Jody Krebs, Paul Peskar, Kris King, Doug Schliesing, Joan Schliesing, Cheryl Nelson, Peter Neihart, 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

1. Motion - Approval City Council Meeting Minutes on 08/28/2013
2. Motion - Agenda Approval with Additions
3. Motion - Pay Bills as Posted

Motion by Peterson to approve the consent agenda. Second by Krebs. Motion Carried.

C. PRESENTATIONS

4. PLANNING COMMISSION REPORT

The City Administrator reported for the Planning Commission tonight. The Planning Commission continued their discussion on how to stimulate both residential and business growth and finding a balance between them. Commissioners Krebs and Preiner interviewed land Development Manager Darn Laberee with Mattamy Homes. The Joint Meeting is scheduled for September 18th.

5. PUBLIC OPEN FORUM

No topic was raised for Public Open Forum.

6. MOTION - 2014 PRELIMINARY LEVY RESOLUTION (PAGE 1)

A resolution adopting the preliminary levy was included in the agenda packet; the action is approval of the resolution. A 2014 Budget Preliminary Levy handout was distributed to the City Council and the City Administrator explained that there is an updated summary sheet in the handout. This is the preliminary levy and is the highest the levy can be, it can be lowered during the Truth and Taxation Hearing in December. The city is under the levy limits set.

Motion ADM 05000 FIN 01310 by Peterson to approve Resolution 13-16 Adopting Preliminary Tax levy for 2013 for the City of Columbus in the amount of \$2,193,994.00. Second by Krebs. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.

D. STAFF & CONSULTANT REPORTS

9. ENGINEER REPORT

Anoka County Ditch #35 Partial Abandonment (Pages 2-4)

A Fact Sheet regarding the partial abandonment of a portion of Branch #3 of Anoka County Ditch #35 dated August, 2013 was included in the agenda packet. A Notice of Public Information meeting which is scheduled for September 19, 2013 from 5:00 p.m. to 7:00 p.m. at Columbus City Hall was in the agenda packet. It is anticipated there will be no assessment to private land owners for this action. A Public Hearing will be held at Anoka County on October 24, 2013 at 10:00 am in Room 710 of the Anoka County Government Center. Question can be addressed to Jon Olson, Division Manager Public Services, 763-323-5789 or Andrew Witter, Assistant County Engineer, 763-862-4249.

The map of the ditch system was displayed at this time and the Engineer reviewed the map and explained where the abandonment would take place. The Engineer suggested that questions need to be asked regarding this abandonment, the reasons and effects it will have on surrounding properties. The Public Works Superintendent is scheduled to attend the meeting. The Engineer asked if the Council wanted him to attend the September 19th meeting.

Motion PWE 02100 by Messina to direct the Engineer or other staff from TKDA in the Engineer's absence to attend the September 19th, 2013 public information meeting. Second by Krebs. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.

Council Member Peterson added that the culverts recently replaced were in very bad shape, the city will need to continue replacing culverts.

10. ATTORNEY REPORT

Update - MOU Forest Lake Contracting (FLC) (Pages 5-11)

An updated MOU was included in the agenda packet. The Attorney reviewed the changes at this time which were made based on comments from the public and council at the last meeting.

The Attorney said that in addition to presenting the changes to the MOU, staff is asking for guidance on negotiating points the City Administrator and Attorney can strive for with Forest Lake Contracting regarding the difficulties that are being presented by the continued operation on the site. Guidance including the IUP term, the term of the MOU, making it clear that if there is not an IUP application and negotiated, then there won't be any more hauling. The council

should address zoning, which is a timing issue, not FLC contractual issues. Forest Lake Contracting's contractual dealings are irrelevant to the IUP.

The following comments were made:

- Expiration of the MOU December 31st, 2013.
- If an IUP is not brought in by December 31, 2013 the revocation process will begin.
- FLC should be actively correcting problems at the site as they work at the site.
- Have the mining operation done by the end of construction season 2014.
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What is the end date?

Condition #8 (of the amended MOU) addresses this question. The City Administrator said FLC did not agree with the end date of December 2014, they either want to see the MOU end December 2013 or when the IUP is granted, and if the IUP is not granted then the city will start grounds for revocation. The Attorney said the term was the end of 2014 to offer the City some time to process the IUP application. Then if the expiration on the MOU is December 31st, 2013 and no IUP application is submitted, the council is willing to move forward on the revocation process of the CUP. This would be made clear to Forest Lake Contracting.

Is 2010 the time when they dug outside the permitted area?

The City Administrator explained that the expanded excavation was during the Leroy Haluptzok time period.

FLC is dewatering at this time,

A question was asked whether FLC is cleaning up the site as they are digging.

The City Administrator said they are actively dewatering at this time, they (FLC) are digging and equipment is moving on the site.. They have to dewater the material before they can haul it. The permit states the maximum height of stockpiles shall be 15 feet and no more than 20,000 cubic yards, the City Administrator asked the Engineer to confirm.

Council Member Krebs said if they are digging and not hauling are they cleaning up the problem as they are back there digging now?

Mayor Dave Povolny asked are we getting to a solution or just moving dirt to make money (FLC). Council Member Krebs continued by saying that with the pressure you would think they (FLC) would be trying to clean up and straighten out the site at the same time. Council Member Messina interjected that with all the equipment and all those trucks they (FLC) can't fix it in a year's time?

Mayor Dave Povolny added that restricting the trucks may be the strangle hold on fixing it in a year. Council Member Duraine said the city could say the work should be complete in a year and let FLC come back with the number of trucks needed to accomplish this, the city doesn't know this. The problem is there is no plan for the land.

The City Administrator added that not having an end plan, the slopes done properly, having haul roads in between ponds are all problems at the site.

Council Member Messina added that FLC has read the council minutes, seen the petition, heard the concerns of the residents. Discussions already held have pointed out years and years of problems and distrust, as an olive branch they (FLC) need to start being pro-active. They should be doing something to fix the site right now, not waiting.

Mayor Dave Povolny asked about a memo regarding equipment running at 6:15am. It appears this is an unsubstantiated complaint as both the City Administrator and Council Member Peterson spoke with FLC who said they did not have equipment working that day.

Mayor Dave Povolny said he would like to see the MOU adopted, but also give direction to staff to go get the end plan, seriously talk about the length of time and amount of trucks. There needs to be a balance between time and discomfort to the people.

Council Member Krebs said he would like to visit the site with FLC and have them show the city what the end plan would be. Mayor Dave Povolny added that the end plan Leroy Haluptzok had was grandiose and so far from reality today, so let's get a real end plan in place and get a way to validate and verify that they are getting to the end plan.

Council Member Krebs asked who's in charge of all this.

The DNR is in charge of dewatering and the dewatering permit. The DNR required the monitoring well and they are responsible for monitoring the water level.

The Watershed is required to monitor the mitigation plan. Although Anoka Conservation District acts as the city's agent, the City is the LGU for Sunrise, so the city is responsible to make sure the mitigation plan is put in place and is in charge of overseeing zoning.

The City Administrator received a report stating the water table from the monitoring well is being checked weekly and it's only fluctuated five inches since July 5th. Neither the City Administrator nor Engineer goes on site however.

Mayor Dave Povolny asked if the city has authority to do checking, and suggested the city hire someone who has the ability to make sure the slopes are right, the mitigation plan is being followed, etc. The Attorney responded that Item "T" speaks to this question and does allow the City access to the property with notice.

Council Member Krebs suggested that the DNR, city and FLC go to the property and have FLC say what they plan to do and what it will look like when it's done. The City Administrator said this is a zoning requirement; they were required to have an end plan from the beginning.

Council Member Krebs summarized by saying that FLC will not get any more time after the MOU expires until they come up with a site plan and a way that this operation will be ended.

There was concern expressed by the council of further bidding by FLC out of this pit affecting the IUP.

The Attorney explained that the council is determining a zoning decision, an IUP application related to a CUP, the council is not governing whether they are out for bids on other projects, it's irrelevant to the council, what is relevant is whether there is an IUP application that meets the council's standards, whether you approve that or not and if not whether you revoke the CUP, whether they have bids out is irrelevant to this decision, they will have to address that issue if you don't have an IUP in front of you that you want to approve.

Council Member Duraine re-iterated that the important fact is to give them a timeline of when the council wants them out of the site and operations to cease. Council Member Duraine, Council Member Peterson and Council Member Messina all agreed they did not want to see excavating continue beyond the 2014 season.

The City Administrator added that if the council gives specific time constraints, then it's up to FLC to rework their business plan. FLC proposed a Phase 3 and the City Administrator recommended removing this as it is excavating more upland area.

The consensus was to have the mining operation done by the end of construction season 2014.

The Attorney summarized that by having a clear deadline from the council this allows FLC to come back with how they can make it work or offer other suggestions.

The Attorney explained that the conditions of the IUP would include the end plan and enforcement will be against the IUP.

The following parameters were consensus of council for staff negotiations:

- Submit an end plan for the east side only.
- The time line to end the mining operation will be the end of the 2014 Season.
- Remove Phase 3 from the area to be excavated.
- Time frame and number of trucks are interconnected; the number of trucks may have to be higher if the end time is shorter.
- Maximum 6- 8 trucks per hour (7 trucks average per hour (This is negotiable if the end plan is achieved sooner.)

Council Member Duraine and Council Member Messina both think that the higher hauling rates may be acceptable for a shorter end date.

Council Member Messina, Mayor Dave Povolny, Council Member Krebs agree with these suggestions. Council Member Peterson disagreed with the time frame.

The Engineer gave the numbers the City Administrator asked for earlier: 10 hours /day x 5 days per week x (construction season) 40 weeks with a side dump hauling 17 cubic yards. They will move 238,000 cubic yards. using 7 trucks per hour as the average.

The City Administrator asked for clarification on 2 questions at this time.

1. The City Administrator said the hauling route is in on Vassar and out on Tulane St. The gate leading out to Tulane Street is not currently used. FLC can't get trucks out that gate because of 2 birch trees that are on either side of the gate. The desire is to use the 2 different gates and remove the birch trees if needed.

The consensus was the city wants Forest Lake Contracting to use 2 different gates and to use the haul road.

2. Pump Noise – there are complaints about noise from the pumps, should the MOU be changed to address this.

The Engineer said the pumps are electric and possibly a hum from the motor could be making the noise. The pumps are not diesel or gasoline engines. A resident in the audience said the discharge of water is responsible for some of the noise created.

The direction was there would be no change to the MOU, but direction should be given to FLC to investigate other ways to quite the noise from the pumps including water discharge.

Motion CON 00050 by Duraine to approve the MOU as amended. Second by Peterson. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.

Mayor Dave Povolny asked if there is any action Columbus can take against Wyoming, the consensus of the council is to pursue this. The Attorney will investigate.

The Mayor invited comments from audience members at this time.

Paul Peskar 18339 Tulane Street

I like the direction on keeping the time limit short, Mr. Peskar said his personal opinion is to do it quickly then limiting the trucks and extending the time. Mr. Peskar thanked the council for their time and taking his comments into consideration for the MOU.

11. MAYOR & CITY COUNCIL MEMBER'S REPORT

Council Member Peterson

A resident asked about light shielding by the ready mix plant because it passes onto their property. There are no restrictions on light pollution at this time. The direction was to discuss this at the joint meeting with the Planning Commission. In the meantime the City Administrator will ask them to shroud the lights.

Council Member Messina

No report.

Council Member Duraine

Rush Line

The Rush Line task force meets next Thursday, Centerville and Lino Lakes approved their park and ride the northwest corner of 35 and Main Street. It should be open next fall with ground breaking in the spring.

MOST Program

Council Member Duraine attended the Forest Lake Area Partnership for Families meeting this morning, the meetings are held the first Wednesday of each month. They work with Forest Lake High School, area youth and families and they run the "MOST" program, similar to the DARE program, in addition to a suicide prevention program. They support positive reinforcement. Council Member Duraine suggested they have a booth at Fall Fest.

Council Member Krebs

Council Member Krebs attended the Planning Commission meeting.

Mayor Dave Povolny

Speed Limit on Zurich Street

Mayor Dave Povolny said people are not happy with the 40 mph speed limit for Zurich Street. The Engineer distributed a handout to the council which is

a synopsis of MN Statute 169.14 for speed limits. The Engineer reviewed the handout at this time. Mayor Dave Povolny said he would like to see the speed limit at 45mph as that may be more appropriate based on the data in the handout. The Attorney explained that since action has already been taken and another action would be required.

Motion PWE 01800 by Krebs to rescind the action from the August 28th meeting to accept the MNDot speed study to set the speed limit at 40 mph for Zurich Street (Running Aces Blvd). Second by Messina. Votes as follows: Peterson - nay; Messina - aye; Duraine - nay; Krebs - aye; Povolny - aye. Motion Carries.

It was noted that based on the study there is not a problem (with speed) at this time, this is currently a road that is not posted. The speed study puts a lot of value in the reasonableness of a driver. Mayor Dave Povolny suggested finding out if the speed limit can be 45 mph. The Engineer explained that he did inform MNDot that the city accepted the 40 mph but can go back to MNDot with an alternate speed limit suggestion if the council proceeds that way.

Motion PWE 01800 by Peterson to direct the Engineer to inform MNDot that based on the speed study the council requests the speed limit for Zurich Street to be set at 45 mph instead of 40 mph. Second by Krebs. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.

BR&E

A meeting was held this morning and was well attended.

12. Deputy Clerk Report

Report - 14115 Lake Drive Kennel IUP (Pages 12-19)

A memo dated September 5, 2013 was included in the agenda packet outlining non compliance issues with the kennel IUP at this location. A copy of the minutes approving the IUP, a list of approved dogs and their rabies certificate expiration dates, and a letter dated July 29, 2013 were also included in the agenda packet.

Fence – condition #26:

This is a condition of the IUP. A voice mail message was left by Mrs. Copeland on September 6, 2013 stating that her belief is that the end of summer is September 21st. The condition was not completely clear on this issue. The consensus was to use September 21st for the deadline.

Rabies certificates – condition #3 and city code

The Attorney explained that four dogs have exposure issues to rabies and that is a public health issue.

There was concern from the council regarding the disregard by the owner of the expired dog rabies vaccinations, and the disregard of the conditions of the IUP.

The Attorney gave the following options for the council to consider:

- Extend the fence repair until September 21st as Mrs. Copeland suggested.
- Give up to 30 days to vaccinate the dogs.
- Seize the dogs if the rabies vaccinations are not updated within the next 30 days.
- Revoke the IUP.
- Enforce the required rabies vaccination code as a code violation.

The consensus is to allow the fence repair until September 21st, 2013 and give up to 30 days for the rabies vaccinations to be updated, if this is not met then the council will proceed with revocation of the IUP.

The Attorney re-iterated that the biggest concern is that this is a public health issue. Mrs. Copeland needs to be in compliance. Even without an IUP it is a code violation to have a dog with expired rabies vaccination.

A question was asked if there have been issues with other kennels holding IUP's. There haven't been complaints. It was noted that veterinarians make on-site visits if needed.

The Attorney added that under the code requirements for rabies vaccinations, if Mrs. Copeland does not fulfill the term, technically the dogs need to be seized, and held for up to 5 days, she will be able to retrieve the dogs at her expense.

Motion ADM 02400 PLZ 01200 by Messina to direct staff to deliver the message to Mrs. Copeland that she has until September 21st, 2013 to rectify the fence and must have the vaccinations updated for the dogs within 30 days. Second by Duraine. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.

The direction was to call Mrs. Copeland, since Mrs. Copeland was setting her own guidelines, to confirm the deadline dates with her, and follow up with a letter. Effective notice is a mailing. Mrs. Copeland has been notified multiple times and these are existing conditions of the IUP.

13. City Administrator's Report

Motion - Truth in Taxation Date (Pages 20-21)

A letter dated August 16, 2013 regarding the requirement for a Truth in Taxation meeting was included in the agenda packet. The recommendation is to hold the

meeting on December 11th, 2013 at 7:00 p.m. which will meet the requirement.
Consensus was to hold the meeting as recommended on December 11th, 2013.

FYI - St. Croix Valley Foundation (Pages 22-25)

Information from the St. Croix Valley Foundation dated August 22, 2013 was included in the agenda packet. The letter is an update on the Heritage Initiative, a project exploring National Heritage Area status for the St. Croix River region. A feasibility study document is expected to be available for comment in early 2014.

Treasurers Report

Receipts:	\$99,628.19
Disbursements	\$57,679.54

E. ANNOUNCEMENTS & REMINDERS

- ▶ Planning Commission & City Council Joint Mtg. 09/18/2013 7:00 p.m.
- ▶ Calendar of Meeting (**Page 26**)

F. ADJOURNMENT

Motion by Krebs to adjourn. Second by Duraine

Meeting adjourned at 8:46 p.m.

Respectfully Submitted:

Emilia S. Robinson

Deputy City Clerk