

**City of Columbus
Regular City Council Meeting
October 23, 2013**

The October 23, 2013 meeting of the City of Columbus City Council was called to order at 7:05p.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 Clerk Emmy Robinson.

Absent: None

Also in attendance were: Pat Bergin, Myron Organ, Bonnie Parenteau, Kathy Sianko, Greg Proulx, Mary Hoyt, Lucas Tetrault, Marcus Johannes, Jeff Linnerooth, Jody Krebs 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 City Council Meeting Minutes on 10/09/2013
4. Motion - Agenda Approval with Additions (including #19 HRA Resolution)
5. Motion - Pay Bills as Posted
6. Award Vibratory Plow Contract to Paul's Landscaping, Metro TT (Pages 1-2)

Council Member Peterson requested item #6 be removed from the consent agenda for discussion. The City Administrator is adding an HRA resolution under item #19.

Motion by Peterson to approve the consent agenda removing item #6 and adding an addition under item #4 above of an HRA Resolution under agenda item #19. Second by Duraine. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.

6. Motion - Award Vibratory Plow Contract to Paul's Landscaping, Metro TT (Pages 1-2)

Council Member Peterson said he thought vibratory plowing was not going to be done in the future and questioned if it is beneficial. It was explained that the 2014 budget was adjusted down by the Tree Board and the Tree Board felt vibratory plowing was important and should be done. The Forester explained to the Tree Board during budget discussions this past summer that the vendor selected does this very inexpensively. There are 14 sites being plowed this year. Council Member Messina said other communities with oak wilt programs support vibratory plowing. Council Member Peterson asked that more information be presented before vibratory plowing is budgeted for next year.

Motion CON 00050 by Peterson to approve the oak wilt contract. Second by Messina. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - nay; Povolny - aye. Motion Carries.

C. PRESENTATIONS

7. PLANNING COMMISSION REPORT

Garth Sternberg presented for the Planning Commission tonight. Three public hearing were held. The discussion for Insurance Auto Auctions, Inc. was continued to the next Planning Commission meeting. Mayor Dave Povolny suggested that concerns regarding the IAAI site the Planning Commission should consider for this application are sound, smell, possible lighting concerns. Council Member Peterson and Council Member Krebs toured the site; both agreed a good size berm and trees should be a requirement to provide a buffer between the residential area and the site. Council Member Messina questioned whether this property should be used at all for the proposed use.

8. Motion - 17566 Xingu Street Bowman Variance Request (Pages 3-9) (PC-13-114)

The Planning Commission made a motion to forward to the City Council the application for a variance for the property at 17566 Xingu Street, to permit and construct a mound type septic system of “other construction” with a recommendation for approval based on findings that the Zoning Ordinance causes a practical difficulty. The property owners are Daniel and Michelle Selfors and the applicant is Ronnie Bowman. A letter dated September 20, 2013 from the City Building Official approving the “other” system was included in the agenda packet.

Motion PLZ 02400 by Krebs to approve the application (PC-13-114) for a variance by Ronnie Bowman for the property at 17566 Xingu Street owned by Daniel and Michelle Selfors to permit and construct a mound type septic system of “other construction” with a recommendation for approval based on findings by the Planning Commission at their October 16, 2013 meeting that the Zoning Ordinance causes a practical difficulty. Second by Messina. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.

9. Motion - 14609 Lake Drive Variance Request (Pages 10-20) (PC-13-115)

The Planning Commission made a motion to forward to the City Council the application for a variance from the 75-foot height requirement to a 100-foot height for the property at 14609 Lake Drive to allow Cemstone Products Company construction of a 100-foot enclosure surrounding the mixing towers. Mr. Bergin with Cemstone was in attendance tonight to answer any questions. Two different renderings of the building were displayed at this time. Construction is expected to begin this year. Mr. Bergin explained that lighting higher than the soffit will be removed, downward lighting will be used. The lighting on the walls will be reduced in intensity.

Motion PLZ 02400 by Peterson with a recommendation for approval of the application (PC-13-115) by Cemstone for a variance from the 75-foot height requirement to a 100-foot height for the property at 14609 Lake Drive to allow Cemstone Products Company construction of a 100-foot enclosure surrounding the mixing towers based on the findings, considerations and

recommendations from the Planning Commission minutes dated October 16, 2013 and the Planner's memo dated October 10, 2013 and based on the Planning Commission minutes dated October 16, 2013 and the Planner's memo dated October 10, 2013 and subject to the Planning Commission minutes dated October 16, 2013 and the Planner's memo dated October 10, 2013. Second by Messina. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.

Findings for (PC-13-115) by Cemstone 14609 Lake Drive:

1. Cemstone Products Company ("Cemstone") applied for a variance for height exceptions in the C/I District in a complete application received on September 23, 2013.
2. The 60-day review deadline is November 22, 2013. The 120-day review deadline, if necessary, is January 21, 2014.
3. Cemstone received a CUP and constructed a ready-mix concrete plant in 2011 on Lot 1, Block 1, North Pine Addition, 14609 Lake Drive ("Property").
4. Cemstone proposes to enclose the existing ready-mix plant in a building as described in the 2011 CUP.
5. The maximum building enclosure height for bins, silos, conveyors and accessory equipment in the C/I District is 75 feet.
6. The maximum height for uncovered silos and accessory equipment is 100 feet
7. The existing ash and cement silos and accessory equipment are approximately 95 feet in height.
8. A building enclosure for the aggregate bin and central mixer can be constructed within the 75 feet height limit; however, the existing silos would extend above such enclosure by about 20 feet.
9. Cemstone has requested a variance to allow the building enclosure to be at 75 feet in height on either side of the silos and construct an enclosure over the silos, not to exceed 100 feet.
10. A condition of the current CUP included "Any proposed site lighting or security lighting shall require plan review and approval by the City and shall include shrouded fixtures to prevent direct lighting on adjacent properties or public right-of-way."
11. Any variance consideration should address site lighting consistent with this condition.
12. The Planning Commission held a public hearing on October 16, 2013, to consider the variance application on behalf of Cemstone.

10. Motion - SE Quad 35 Preliminary & Final Plat (Pages 21-28) (PC-13-116)

The Planning Commission made a motion to forward to the City Council the application of the City of Columbus for a preliminary/final plat with a recommendation for approval based the Planner's memo dated October 14, 2013. A site diagram has been developed for the area. A diagram of the area was displayed at this time and the City Administrator reviewed it at this time.

Motion PLZ 01300 by Krebs to approve the SE Quad 35 preliminary/final plat (PC-13-116) based on the findings of fact and recommendations from the Planning Commission minutes dated October 16, 2013 and the revised Planner's memo dated October 14, 2013 and subject to the Planning Commission minutes dated October 16, 2013 and the revised Planner's memo dated October 14, 2013. Second by Peterson. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.

Findings of Fact for the SE Quad 35 preliminary/final plat (PC-13-116)

1. The City has completed the realignment of Hornsby Street in the southeast quadrant of Interstate 35.
2. The street realignment was contained entirely within property owned by the City Economic Development Authority (“EDA”).
3. The 21.06 gross acre plat is necessitated by the establishment of new right-of-way and the creation of two lots from one lot, resulting from the street realignment. Total right-of-way in the plat is 4.02 acres.
4. The plat is not created for development purposes at this time; although, future development is not precluded. Public sewer and water are currently available within the plat.
5. There no additional public improvements proposed at this time.
6. Proposed Lot 1, Block 1 is 6.33 acres, of which 4.37 acres is wetland area.
7. Proposed Lot 1, Block 2 is 10.71 acres, of which 9.56 acres is wetland area.
8. The Planning Commission held a public hearing on October 16, 2013 to consider the plat application for the City.

Conditions for the SE Quad 35 preliminary/final plat (PC-13-116)

1. Final recommendations of the City Engineer.
2. Title review and recommendations of the City Attorney.

11. MOTION – AWARD CONTRACT 135TH & HUMBER STREET PROW (PAGES A1)

A memo dated October 15, 2013 including bids from two contractors was received for removal of trees from the road right of way. Three contractors submitted bids for the project. The City Administrator explained that the right of way is narrow and needs to be widened not only for the Zakowski Trucking facility but to facilitate road maintenance such as snow plowing by the City. The right of way was dedicated by Zakowski Trucking as part of the site plan review. The plan is to clear trees on both Humber Street and 135th Ave. (the east /west and north /south roads). Council Member Duraine was against removing trees on the north/south (Humber Street) road. The money for the project will come from the blacktop fund.

Council Member Messina recommended the Reliable Tree Service Option 1 bid because it included not only the removal and stump grinding but grading and removal of all debris.

Motion CON 00050 by Peterson to clear the trees and remove them on both 135th and Humber Streets. Second by Krebs. Votes as follows: Peterson - aye; Messina - aye; Duraine - nay; Krebs - aye; Povolny - aye. Motion Carries.

Council Member Messina recused himself from voting on the award of the contract at this time as he submitted a bid for the project.

Motion CON 00050 by Krebs to award the bid to Reliable Tree Service for \$15,950.00 Option 1. Second by Peterson. Votes as follows: Peterson - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.

12. PUBLIC OPEN FORUM

No one asked to speak during Public Open Forum.

13 MOTION - HAIR PLAT WAIVER REQUEST (PAGES 29-31)

A letter dated October 18, 2013 from Cornerstone Land Surveying on behalf of Mr. Dan Hair was included in the agenda packet. The request is waiving certain platting requirements on Mr. Hair's property which is located in the east side of the freeway district. The purpose of platting is to split the upland portion of the property from the lowland and wetland areas in the hopes to donate a majority of the property to Rice Creek Watershed district. No physical development of the property is proposed at this time. The letter outlined the code sections included in the waiver request. The City Administrator displayed a diagram of the property involved and explained the request.

Questions from the Council:

Why does Mr. Hair want to donate the land?

Mr. Hair feels this is the most appropriate use for the property. He has entered into a wetland banking program and retains wetland credits. Mr. Hair doesn't feel this property could be developed. This does not affect the amount Mr. Hair owns for sewer and water assessments and he is required to pay them.

When are the assessment paid?

The City Administrator explained that Mr. Hair has been paying his assessments annually, and he would have to pay up on the land being donated.

Does this take away tax value?

Not really, a very small percentage of the tax capacity is in the land to be donated, the majority is in the billboard of the parcel that is being partially donated.

What happens to the wetland credits; can't they be used for the property for development?

Mr. Johanas, Edina Realty approached and said that once the land is donated the wetland credits would not be available for use by anyone else.

The Attorney explained that because the property is not being developed at this time, some of the platting requirements are not needed, that is the request before the Council at this time.

Motion PLZ 01400 by Messina to approve the request for Waiver of Preliminary Plat requirements for the property located at 9500 145th Ave NE, Columbus, MN PIN # 25-32-22-42-0003 and 25-32-22-43-0002 as outlined in the letter dated October 18, 2013 from Cornerstone Land Surveying, Inc. subject to the 2 conditions outlined in the planners

memo. Second by Peterson. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.

14. DIRECTION - RICE CREEK WATERSHED DISTRICT APPOINTMENT (PAGES 32-35)

A letter dated October 11, 2013 was received from the Rice Creek Watershed District which included a notice that a vacancy will occur on the RCWD Board of Managers due to the expiration on January 17, 2014, of the term of Patricia Preiner. Term of appointment is for three years. A nominee list can be submitted by the City. A list from the City is considered valid if it contains at least three eligible nominees for a manager's position and is submitted at least 60 days prior to the expiration of the term. Patricia Preiner is interested in seeking re-appointment.

Motion ADM 01100 by Peterson to direct staff to submit a letter of support from the city to reappoint Patricia Preiner to the Rice Creek Watershed District Board of Managers. Second by Krebs. Votes as follows: Peterson - aye; Messina - nay; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.

D. STAFF & CONSULTANT REPORTS

15. ENGINEER REPORT

Discussion - Proposal for Public Works Bldg. HVAC System

The City Administrator has contacted 2 HVAC companies regarding the project; information is not complete from these vendors at this time. The Engineer reviewed the situation with a TKDA lead mechanical Engineer and was told the steps would include a site visit, an interview with PW staff; review of building plans etc., alternatives would be prepared. This is about 36 to 40 hours of work with a price of between \$5500 and \$6000, this would not include any hardware just analysis. The Engineer said the 2 ways to control humidity is by dehumidification and temperature control in the shop area. Energy consumption will increase in either case. The City has received proposals in the past. The Engineer said the Pfiffner quote would accomplish a majority of the requirements to fix or control the problem. The Engineer recommended moving forward with the quote instead of spending money on a study. In addition fans may be needed to help move the air.

Motion ADM 03800 by Krebs to proceed with the Engineer's recommendation to accept the bid from Pfiffner Heating and Air Conditioner service dated March 12, 2013 for \$3600, plus wiring costs, plus \$1500 for fans plus electrical costs. Second by Peterson. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.

Direction - Citizen Suggestion Street Light at Howard Lake Dr and KRB (Page 36)

An email was received on October 18, 2013 requesting evaluating installing a street light at the corner of Kettle River Blvd and Howard Lake Drive. The Engineer said one of the biggest costs involved is the pole, there are 2 poles at that intersection now, Connexus charges a lump sum per month for lighting. The direction was for staff to contact Connexus to get pricing for installation of a light.

Direction – White Bear Lake vs. DNR Subpoena (A3-A9)

A subpoena was served to the city this week from The White Bear Lake Restoration Association regarding the falling lake levels of White Bear Lake. The Engineer explained the subpoena is from DNR Attorneys and they are requesting documents from the city and a deposition by oral examination.

The Attorney is requesting the council allow him to contact the DNR Attorneys to suggest the Engineer be the contact instead of the City Administrator and to find out if costs can be recovered in providing the testimony. The Engineer added that the City of Columbus does not draw from the same aquifer as White Bear Lake.

Motion ATT 00700 by Messina to direct the Attorney to further investigate cost recovery and contact person for the subpoena. Second by Krebs. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.

FEMA

A technician is superimposing the new maps over the old map to make judgements regarding the floodplain; a report will be coming to the council after this review.

16. ATTORNEY REPORT

Discussion & Motion - Chapter 14 Code Amendment Residential Connection to Sanitary Sewer (Pages 37-45)

A memo from the Attorney dated October 15, 2013 regarding installment payment agreement for sewer availability charges was included in the agenda packet. At the September 25th, 2013 City Council meeting staff was directed to investigate options for residents required to connect to the municipal sewer system. The Attorney explained that the council does have authority to enter into installment agreements and said that there are instances that would require residents in the freeway district to connect to the system, i.e. a failing septic system. Connection to the municipal water system is not involved at this time.

The Attorney explained the process for the audience members affected by this ordinance. The resident would pay the local SAC fee of \$385 to the city and sign an agreement that when a sale happens, or development of the property occurs or their septic system fails the connection to the sanitary sewer would be mandatory.

There are 2 actions, first adopt the ordinance amendment, and secondly agree to the form of the payment agreement.

Motion UTL 02500 ADM 05000 by Peterson to adopt Ordinance 13-04 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.

Agreement to Pay Sewer Availability Charges (Pages 40 -45)

It was confirmed that a compliance inspection is a requirement in the agreement. There was debate as to who performs a compliance inspection and when that should occur. It was explained that this agreement only affects residents in the southwest area this year, but it will also apply to the other quadrants of the freeway district as those properties approach the deadline for connection to the municipal system. The Attorney will adjust the form to be compatible for recording purposes.

Motion CON 00050 by Peterson to approve the Agreement to Pay Sewer Availability Charges in the form presented on pages 40 through 45 of the agenda packet including reformatting the agreement to be compatible for recording. Second by Krebs. Votes as follows: Peterson - aye; Messina - nay; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.

Discussion & Motion - Chapter 5 Code Amendment ATV-UTV's language
(Pages 46-51)

The Attorney reviewed the changes and said the rules of the ordinance are compatible with DNR regulations for ATV's/UTV's. It was suggested that a copy of the ordinance be given along with the DNR regulations booklet to anyone asking about the regulations.

The council thought the ordinance was going to allow ATV's/UTV's to drive on the right hand edge of the traveled surface area of the road including the shoulder not in the ditch.

The consensus was to continue the discussion to the next meeting.

16. MAYOR & CITY COUNCIL MEMBER'S REPORT

Council Member Peterson

Bridge – used during Fall Fest

Council Member Peterson is looking for donations to help with the construction of a bridge to be used for pedestrian traffic during Fall Fest. The Public Works staff created a cost estimate for building the bridge and estimate of time required.

Council Member Messina

No report.

Council Member Duraine

Forest Lake Cable Commission

The Forest Lake Cable Commission met the franchise agreement has been approved by the cable commission and Mid Continent.

Park Board

Park Board met last week there was consensus on reducing the amount of time during off peak season for line and dragging of the softball fields. The next meeting is scheduled for January.

Council Member Duraine visited an IAAI site with Commissioner Anderson last week.

Council Member Krebs

No report.

Mayor Dave Povolny

Six City Mayors Meeting/DNR

Mayor Dave Povolny attended the “Six City Collaboration Meeting”, the topic of the DNR White Bear Lake level issue was discussed and he said he thinks the DNR is trying to create another agency and suggests people call their representatives about this.

Youth Service Bureau (YSB)

At the last YSB meeting they acknowledged that the city is not giving them money as they do not see the charitable gaming money from the race track as funding from the city. Mayor Dave Povolny asked for direction from the Council members on how to handle this question. The Attorney said that they are the beneficiary of the decision of the council and there were no charges back to the applicant, which is a donation to the YSB. The first year the percentage was 3%. Mayor Dave Povolny has been on the board as an associate member. The Attorney will write a letter to address this question for the Mayor to present to YSB.

17. DEPUTY CLERK REPORT

Discussion & Direction - 14115 Lake Drive Kennel License (Pages 52-61)

A memo dated October 17, 2013 regarding the status of compliance with the conditions of Mrs. Copeland’s IUP was included in the agenda packet. In addition a memo from the Animal Control Officer’s site visit was included in the agenda packet. The request is direction as to any further actions staff should take. The consensus of the council is the condition for fence repair has been met. The final inspection will be scheduled for late November or early December.

Recycle Day on the Move update

The participation for the recycling event was very good. There was over 33,000 lbs of materials collected with appliances coming in at almost 19,000 lbs. The Deputy Clerk Thanked John Freimuth, All Appliance Disposal for working with the city on this event. Mr. Freimuth is a registered collector and recycler with the MPCA and accepts materials at his facility in East Bethel at 18641 Highway 65 NE.

18. CITY ADMINISTRATOR'S REPORT

Treasurer's Report - Receipts: \$XX Disbursements: \$XX

Receipts	\$2,057.78
Disbursements	\$88,042.02

Question: C/I District Residential Homes on 2.5 acres??

There are residential homes in the CI district. The person who asked about a residential business in the CI district has come back and asked if they can have a

house on less than 5 acres such as 2.5 acres and have a building for a business on 2.5 acres without going through a subdivision process.

Council Member Peterson suggested that if this is allowed it would be allowed only if the residential portion abuts another residential property behind it. It was noted that there must be a septic and an alternate septic identified for both buildings. Council Member Messina expressed concern that the council may be too eager to make changes to accommodate individual requests. The question is whether the council wants to allow 2.5 acres for residential property in the commercial district. The Attorney suggested that an IUP could be used as that would make the use transitional.

Mayor Dave Povolny suggested the council continue to think about this topic and how it affects the other properties in the CI district on Lake Drive. No action was taken on this question.

Motion - Resolution 13-XX Interfund Loans (Page 62-64)

A resolution was included in the agenda packet for an interfund loan between the capital fund 125, General Fund 100 and Water Enterprise Fund 601 to meet city obligations regarding the City's water system. The action is approval of the resolution. A copy of the resolution approved in 2012 was included in the agenda packet. This resolution and chart will be the policy on repayment of the Ziegler water tank. This resolution replaces Resolution 12-25 and includes a schedule for repayment. The plan is to repay the blacktop fund in three years. The Attorney suggested changes to the fifth "Whereas" statement in the resolution on page 62 of the agenda packet. (*see suggested changes in motion below*)

Motion UTL 03100 by Peterson to approve Resolution 13-17 Authorizing Interfund Loans Between Capital Fund 125, General Fund 100 and Water Enterprise Fund 601 to Meet City Obligations Regarding the City's Water System in the amount of \$375,652.63 with the changes to the fifth "Whereas" statement to read as follows: "WHEREAS, the City Council intended that Capital Fund 125 would be reimbursed by the General Fund for this loan by December 31, 2013 as indicated in Resolution 12-25, however *due to* the economic and *the City's* financial outlook for 2013 *the City* will not be able to achieve that goal;" . Second by Krebs. Votes as follows: Peterson - aye; Messina - aye; Duraine - aye; Krebs - aye; Povolny - aye. Motion Carries.

19. HRA RESOLUTION – ZIEGLER WATER TANK PURCHASE

This is the second year of a three year payment plan. Last year was covered by the blacktop fund; the second payment will be covered by this grant.

Motion ADM 05000 UTL 03100 by Peterson to approve Resolution 13-18 Authorizing Interfund Loans Between Capital Fund 125, General Fund 100 and Water Enterprise Fund 601 to Meet City Obligations Regarding the City's Water System. Second by Krebs. Motion Carried.

Question – Planning Commission Joint Meeting November 6, 2013??

The City Administrator asked if the Council wanted to schedule a joint meeting with the Planning Commission at their next meeting on November 6th. The consensus was to schedule the joint meeting.

Johns Black Dirt Update

The MOU was signed, Forest Lake Contracting (FLC) hauled six days this fall, there were a few issues with dust control and gate usage during that time. FLC indicated the IUP would most likely come in November as the construction season ends in October. Mayor Dave Povolny said there is new technology on quieter backup beepers that may be something to be considered for the FLC IUP.

E. ANNOUNCEMENTS & REMINDERS

- ▶ Planning Commission Mtg. 11/6/2013 7:00 p.m.
- ▶ Calendar of Meeting (Page 65)

F. ADJOURNMENT

Motion by Duraine to adjourn. Second by Krebs.

Meeting adjourned at 9:46 p.m.

Respectfully Submitted:

Emilia S. Robinson

Deputy City Clerk