

**City of Columbus  
Regular City Council Meeting  
October 8, 2014**

The October 8, 2014 meeting of the City of Columbus City Council was called to order at 7:00 P.M. by Mayor Dave Povolny at the City Hall. Present were Council Members Denny Peterson, Jeff Duraine & Bill Krebs. City Administrator Elizabeth Mursko; Attorney Bill Griffith, Jr., Engineer Larry Bohrer and Recording Secretary Michael Healy.

Absent: Council Member Jessie Messina

Also in attendance were: Jody Krebs, Kris King, Paul Peskar, Mike Nelson, Theresa Nelson 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 of 9/24/14
4. Motion- Agenda Approval with Additions
5. Motion- Pay Bills as Posted

Item #6 was removed from the consent agenda.

**Motion by Peterson to approve the consent agenda with one alteration. Second by Krebs. Votes as follows: Peterson- aye; Povolny-aye; Duraine-aye; Krebs-aye. Motion carried.**

6. Acceptance of Gifts Resolution

Mel Mettler DBA Auto Solutions has donated funding towards a portable walking bridge for the City of Columbus to use in their Fall Fest celebrations. Mayor Dave Povolny donated the labor and materials for the sign on the walking bridge. The City Council graciously accepts these gifts on behalf of the City and thanks the generous donors.

**Motion by Peterson to approve Resolution 14-23 Authorizing Acceptance Of Gifts Received By The City Of Columbus And To Authorize The City To Administer The Gifts In Accordance With The Terms Prescribed By The Donors. Seconded by Duraine. Votes as follows: Peterson-aye; Povolny-aye; Duraine-aye; Krebs-aye. Motion carried.**

**C. PRESENTATIONS**

**7. PLANNING COMMISSION REPORT**

Jody Krebs of the Planning Commission made a report to the City Council on information generated at the last Planning Commission meeting. She reports that there was an application for a variance by Kevin Dunaway to allow him to use an “other system” to replace an existing failing system. The Planning Commission accepts the findings of the checklist and recommends that the City Council to approve the variance.

**Motion ADM0500 PLZ 02400 by Peterson to approve the variance for 7615 Camp 3 Road/PC 14-108 to permit and construct a mound type septic system of “other construction” to replace an existing failing system. Seconded by Krebs. Votes as follows: Peterson-aye; Povolny-aye; Duraine-aye; Krebs-aye. Motion carried.**

Councilmember Peterson inquired as to how many variances of this nature have been granted in Columbus. Might it be worth looking into changing the ordinance to simply allow “other systems” in this sort of situation. Mursko responded that there have been four such variances that have been granted recently. She says it may be worth changing the ordinance to give the building inspector more authority to allow these uses without Council action. This needs to be looked into by the City Attorney, however, as septic ordinances can be complicated and involve county and state regulations as well.

## **8. PUBLIC OPEN FORUM**

No members of the public chose to speak during the open forum.

## **9. Clarification- 14331 Lake Drive CUP Conditions**

Mursko introduced the issue and provided relevant background material. City View Electric attended a Council meeting earlier this year to amend their conditional use permit for their property in Columbus. At the time, they proposed having two buildings, one for storage and one as an office building with fifteen employees. Halfway through the process, however, City View purchased three lots that are adjacent to the original project and now would like to combine all of their lots into a single project. They now have a different idea of what their project will look like and desire to build a new building for their office and use the two “new” planned buildings for storage. The second structure of those two originally planned buildings has not yet been constructed. The new plan does not align with the existing Conditional Use Permit so it is unclear whether they should still be able to build the second structure under the old CUP.

Attorney Griffith informed the Council that in order for the new parcels to be authorized for any use, a Conditional Use Permit would need to be issued. The question, at this time, is how to proceed with the construction of the second building covered by the old CUP. The existing CUP quite clearly authorizes the construction of a second building for storage, but not a third. Mike Nelson, Vice President of City View Electric, states that the hope is that this third building can be constructed sometime in the next several weeks. He maintains that if he were compelled to go through the process of amending his CUP it would cause significant delays and impede his project.

Griffith informed the Council that in a situation like this there are essentially two options. The first option, and the one the is most traditional and consistent with the City's typical behavior, would be to require City View to go back to the Planning Commission with their new project and seek to amend their CUP to allow the newly proposed use. The second option would be for the Council to determine that the new use does not differ substantially from the approved use and will have no effect on the public. They could then elect to waive the condition about the building being office space.

Mayor Povolny maintained throughout this discussion that the Council's policy in these situations has always been to send projects back to the Planning Commission if changes are being made. Other members of the Council inquired about whether the new use would result in more intensive land use and whether it might have a negative effect on neighbors. Would there be more trucking due to the added storage, for instance? Mike Nelson reports that the new use will actually result in a lessened impact on the neighborhood as the Phase 2 buildings will no longer involve the moving of 15 employees to the site. There will be a lessened need for parking and less traffic as a result.

Council members expressed a desire to assist City View in expediting the building of their project. According to Mursko, going through the amendment process would require a minimum of 60 days. Attorney Griffith presented a potential "middle ground" solution between the Mayor's desire to require another Planning Commission meeting and the Council's inclination to simply allow the change. The Council could authorize the building inspector to authorize the construction of the building but City View would still have to go through the amendment process before they could get the new use approved. There would be a slight risk to City View Electric since they could potentially end up building a structure that they would not be allowed to use the way they wanted. They would still need to amend the CUP before they could use the building for storage.

Mayor Povolny has concerns that because the new building will require less parking and different amenities it should be considered a substantially different use and ought to be evaluated by the Planning Commission. Mayor Povolny requested that it be stated on the record that this is not the best procedure and he continues to believe that City View should go to the Planning Commission to begin the process of amending their CUP before construction is approved.

**Motion made by Duraine to have the building inspector authorize the construction of the second building with the understanding that they will need to amend the Conditional Use Permit before it can be used as storage. Seconded by Peterson. Votes as follows: Peterson- aye; Povolny- nay; Duraine- aye; Krebs- aye. Motion carried.**

Attorney Griffith made a final statement to clarify the matter. The construction is authorized but the use is not. There is a slight risk that something could change in the conditions and that is the landowner's risk to assess.

## **10. Direction- MPCA Letter- SSTS Ordinance**

Mursko reported that the Minnesota Pollution Control Agency (MPCA) has sent a letter to the City concerning the sanitary sewer system and Columbus's local program requirements. The MPCA needs written assurance that the City has a Subsurface Sewage Treatment System (SSTS) program that is as strict as the county's current SSTS ordinance. The letter states that if the City declines to implement an SSTS program, then the County will assume responsibility for the City. The MPCA would like a response to their letter by October 17<sup>th</sup>. The building official is recommending that the City comply with the County ordinance and amend Chapter 14, the part of the City's code that deals with septic matters, to reflect this compliance.

Mursko further reports that if there are already ordinance alterations being made, it might be a good opportunity to deal with the high number of variances that have been sought recently relating to septic systems. She recommends that the attorney be directed to look into whether it is possible to streamline the code so that these variances are no longer necessary and it becomes just an administrative process. A landowner would still have the option to apply for a variance if administration denied their request.

Griffith reports that in situations like this, where there are a lot of variances being issued for the same thing, it might be a sign that the code could use updating. However, there are county and state regulations relating to septic systems that also must be considered and it may or may not be possible to streamline things in the manner that the City desires. The Council is directing City staff to evaluate the options that are available and determine if there is an acceptable and more efficient way to deal with septic variances than what the City is doing now.

## **11. Motion- Midcontinent Communications Grant Support Resolution**

Mursko reports that recent state legislation has set aside funding to bring fiber communications upgrades to underserved areas in Minnesota. Midcontinent Communication is putting together a grant proposal to bring fiber to parts of Columbus, Scandia, and Forest Lake that are underserved but where it is considered too costly to bring in service under normal conditions. Midcontinent has requested that these affected cities endorse their pursuit of this grant money. Mursko reports, however, that their proposed resolution for support is in need of a wording alteration before the City can give its endorsement. The resolution currently has a section that reads "whereas the City believes the sources and amounts of the match to be identified in the application of Midcontinent Communications are committed to the project identified." While Mursko has been informed of the areas that will be affected, Midcontinent has not informed the City of what amounts of funding are being sought out in this grant request. The City Council should not endorse the statement about funding amounts until those amounts have been confirmed. The attorney advised the Council to strike out the offending line and approve the remainder of the resolution.

**MotionADM0500 by Peterson to approve Resolution 14-24 in support of Midcontinent Communications' grant but striking the section about Columbus being aware of the amount of funding being sought. Second by Krebs. Votes as follows: Peterson-aye; Povolny-aye; Duraine-aye; Krebs-aye. Motion carried.**

## **12. Direction-Columbus Land Question**

Mursko informed the Council about a parcel of land near Kettle River Blvd. and Broadway. The parcel, which is landlocked between several other parcels and does not have street access, is currently owned by the City. Mursko does not know how the property was acquired and there is no easement upon it. The parcel is 3.3 acres in size. A landowner who owns property a few parcels away from this City owned parcel has approached the City and expressed an interest in buying the parcel. Mursko is seeking Council direction with how to proceed in responding to offer.

Attorney Griffith stated that if the City determines that it does wish to sell the property, it would need to be sold openly on the market. In the absence of an appraisal, the City would need to hold the property open to see if there were multiple interested buyers. There would need to be a bidding process if more than one party were interested in acquiring the parcel. Members of the City Council were enthusiastic about the idea of selling the property, since it does not appear that the City has any other use for a landlocked parcel.

Engineer Bohrer asserted that it would be important to determine exactly how the City acquired this property because it might limit sales options. If it is a tax forfeiture, for instance, it may be required to be used in a specific way. Griffith reported that if the property were a park dedication, it might actually revert back to the granter if the City determines that it has no use for it. Mursko reports that there are four landlocked properties like this one currently owned by the City. Griffith recommends that all four properties be investigated simultaneously in order to clarify their history and determine what options the City has in making use of them.

**Motion by Krebs to direct City Staff to investigate the 4 landlocked lots. Second by Peterson. Votes as follows: Peterson- aye; Povolny- aye; Duraine- aye; Krebs- aye. Motion carried.**

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

### **13. ENGINEER REPORT**

#### **Road Improvement Projects**

It is time to set up the assessment hearing for road improvements so that the City can meet the requirements to submit the levied assessments to the County. Engineer Bohrer has prepared two resolutions for the Council's consideration.

### Resolution Preparation for Project Assessment

The first resolution declares the estimated cost to be assessed at \$333,000 at a 4.6% interest rate and orders the clerk to declare the assessment role. There was discussion between the City Council and Engineer Bohrer concerning the intricacies of assessments. There was some concern, on the part of the Council, that the numbers being presented were higher than what had been previously discussed. Bohrer explained that assessments are made based on the true costs of a project. Since the project is not completed yet, the City can only provide estimates at this time. The City is required, by statute, to set a proposed amount for the assessment but can lower that amount later if it is appropriate. This final amount will be determined at the assessment hearing.

There was also some concern by Council Members that way interest is calculated on these projects has the potential to result in some profit for the City. Council Members questioned whether it was appropriate for the City to be making a profit off of compelling people to improve roads. Attorney Griffith, responding to these concerns, stated that the way these things work sometimes the City makes a small amount of money and sometimes the City loses a small amount of money. The important thing is that the assessment approach eliminates the need to raise taxes to pay for road improvements. Following discussion, Council Member Duraine excused himself from participating in the vote since he is an affected property owner in the area.

**Motion ADM05000 by Peterson to approve Resolution 14-25, a resolution declaring costs to be assessed and ordering preparation of proposed assessment role for project 2014-1 & 2014-2 road improvement projects. Seconded by Krebs. Votes as follows: Peterson-aye; Povolny-aye; Duraine- Did not vote; Krebs-aye. Motion carried.**

### Setting up An Assessment Hearing

Bohrer stated that the only date that will really work to hold the assessment hearing for these road improvements is Thursday, October 23. This is due to notice requirements that prevent the meeting from being any earlier and a tight timeline in order to get the project pushed through before the end of the year and winter weather conditions. It was discovered that at least two of the Council members are slated to be unavailable that evening and Council Member Duraine will not be able to vote on the project due to being a property owner in the area. Council Member Messina was not able to attend tonight's meeting so it could not be determined whether or not he would be available for a meeting on the 23<sup>rd</sup>.

The Council moved on to other discussions while the City Attorney was assigned to use the internet to determine what the rules were governing quorums at assessment

hearings. Towards the end of the meeting, Griffith determined that the meeting could be held as long as there was a quorum of three Council Members. Two of the three members would need to vote to pass a resolution. Mayor Povolny stated that he would be willing to rework his schedule in order to be able to attend the meeting.

**Motion ADM 05000 by Peterson to approve Resolution 14-26, a resolution to set an assessment hearing for the 2014-1 & 2014-2 road improvements at 7:00 p.m.on October 23<sup>rd</sup>. Seconded by Duraine. Votes as follows: Peterson-aye; Povolny-aye; Duraine-aye; Krebs-aye. Motion carried.**

#### **HRA Resolution for Ziegler Water Tank**

This resolution authorizes Mursko to apply for Anoka County HRA funds in order to make the final payment of \$215,423.90. This resolution will allow the request to go forward to the Anoka County HRA Board and they will then determine whether or not to approve the funds.

**Motion ADM 05000 by Krebs to approve Resolution 14-27 to seek HRA funds to make the final payment on the acquisition of the Ziegler tank that will be added to the Columbus Public Water System. Seconded by Peterson. Votes as follows: Peterson-aye; Povolny-aye; Duraine-aye; Krebs-aye. Motion carried.**

#### **Motion- Neighborhood Meeting for 153<sup>rd</sup> Road Improvement**

Bohrer announced that it is time to hold a neighborhood meeting for 153<sup>rd</sup> Avenue road improvements. There have been significant amounts of inquiries into road improvement from residents. The proposed time and date would be Monday, October 27<sup>th</sup> at 6:30 PM. City Council Members are not required to be in attendance but traditionally there has been an attempt for at least one or two members to attend. The meeting is hosted by City Staff.

**Motion by Krebs to hold a Neighborhood Meeting for the 153<sup>rd</sup> Avenue road improvement at 6:30 PM on October 27<sup>th</sup>. Seconded by Peterson. Votes as follows: Peterson-aye; Povolny-aye; Duraine-aye; Krebs-aye. Motion carried.**

### **14. ATTORNEY REPORT**

#### **New Attorney Collaborating with Griffith**

City Attorney Griffith introduced a colleague of his, Mr. Jacob Steen, who will be collaborating with Mr. Griffith to advise the City of Columbus. He will also occasionally be replacing Mr. Griffith at City Council meetings on occasions where Mr. Griffith is not available. Tonight, Mr. Steen is presenting materials on steps the City can take in dealing with dangerous dogs.

## Potentially Dangerous Dogs and Dangerous Dogs

Columbus has been having issues with dangerous dogs residing in the City. There have been three attacks in recent months, two of which have resulted in the need for hospitalization. The recent attacks have been committed by a single dog that is housed at 7645 172<sup>nd</sup> Ave. NE.

Steen reports that there are many laws in Minnesota that pertain to the regulation of dangerous dogs. Columbus's goal should be to create an easy to administer protocol for City Staff to use in the future. Steen recommends that Columbus designate the City Administrator to be the Animal Control Officer which would allow Mursko to exercise certain powers to intervene in the case of dangerous dogs. The Animal Control Officer can categorize a problem dog as a "potentially dangerous dog" which carries with it a micro-chipping order and requirements for confinement. If the problem escalates from there and the dog's bad behaviors are not curbed, the Animal Control Officer can officially designate the canine a "dangerous dog." This carries with it an annual fee, the requirement that the owner purchase insurance on the dog for at least \$300,000 to compensate the dogs' potential victims, and several other conditions that make it very difficult for the owner to continue ownership of the dangerous dog. The goal is to compel the owner to reconsider their decision to keep their violent dog. For the City to actually force the owner to destroy a dangerous dog requires legal action and might be expensive and time-consuming. This is often a more efficient solution.

City Council members wanted to ensure that assuming this role would not be burdensome for Mursko and the rest of the City Staff. Mursko maintains that someone needs to do it and she feels that it should probably be staff. There was some discussion about whether or not the City's existing nuisance laws could be extended to cover situations with dangerous dogs. Steen reported that Minnesota State statutes specifically regulate dangerous dogs and this generally takes precedence over public nuisance laws. He advised that the City use the tools that the State has put at its disposal to deal with dangerous dogs in the community. His recommendation is that the Council adopt the State's dangerous dog regulations and transfer responsibility to Mursko.

**Motion by Krebs to put the City Administrator in charge of Animal Control and adopt the dangerous dog policy recommendations made by Steen. Seconded by Peterson. Votes as follows: Peterson-aye; Povolny- aye; Duraine-aye; Krebs-aye. Motion carried.**

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

### **Council Member Peterson**

The extension of 135<sup>th</sup> Ave and Humber Street has been completed. Council Member Peterson says that City Staff and personnel did an excellent job on this

project. He invites everyone in the community to take a look at it when they get the chance.

**Council Member Messina**

Not present at meeting

**Council Member Duraine**

Council Member Duraine expressed his concern that the Running Aces Park-and-Ride lot does not yet have a bus shelter. He was under the impression that an agreement had been reached but it now seems that Running Aces has a few problems with the plan. He reached out to Running Aces by phone but has not yet heard back from them.

**Council Member Krebs**

No report

**Mayor Dave Povolny**

No report

**16. City Administrator's Report**

Job descriptions for Public Works Superintendant and Public Works Worker have been completed and are ready for review. There was some concern by a City Council Member that the job description does not include a pay scale. Mursko reports that the job description is just a report of what the job's responsibilities will be. The job posting included a pay scale and the determination of pay for the position would be made based on an analysis of what holders of other similar positions were receiving for compensation. There was also some discussion about the job requirement requiring keen vision, defined as eyesight being correctable to 20/40. There was a concern that this might be too restrictive but it was then remembered that a major responsibility of the worker would be snowplowing. Good vision would be essential for making sure that this task was completed safely.

**Motion HRS 02200 made by Krebs to approve the Public Works Superintendant and Public Works Worker job descriptions as they were presented by City Administrator Mursko. Seconded by Peterson. Votes as follows: Peterson-aye; Povolny- aye; Duraine-aye; Krebs-aye. Motion carried.**

Treasurer's Report

Receipts: \$31,903.53

Disburse: \$40,642.45

Balance: \$2,069,139.10

## **E. ANNOUNCEMENTS & REMINDERS**

- **Planning Commission Meeting 10/15/14 Cancelled**
- **Calendar of Meeting (Page 25)**

## **F. ADJOURNMENT**

*Motion* by Peterson to adjourn. Second by Duraine.

Meeting adjourned at 8:25 PM.

Respectfully Submitted:

/s/Michael Healy  
Recording Secretary/Intern