

**City of Columbus**  
**Regular City Council Meeting**  
**July 26<sup>th</sup>, 2017**

The July 26<sup>th</sup>, 2017 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 Jeff Duraine, Bill Krebs, Denny Peterson, and Mark Daly; City Administrator Elizabeth Mursko, City Attorney Bill Griffith, City Engineer Dennis Postler, and Public Communications Coordinator Jessica Hughes.

Also in attendance were: Jeanine Sachs, Wendy Sachs, Bruce Malkerson, Kent Peterson, Jon Rausch, Frank Frattalone, John Young, Kris King, Paul Peskar, Myron Organ, Thomas & Geraldine Olson, Richard Swanson, Mark & Jackie Kotchen, Dan Robinson, Glenn Grubbs, William Bobick, Barb Bobick, Vernon Roisum, Margie Roisum, Dan Mike, Roger Person, Dave Schueler, Commissioner Jim Watson, Public Works Superintendent Jim Windingstad, Julia Parent (Forest Lake Times), and Teri Hodges (LATV).

**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 06.29.17**
- 4. Motion – Agenda Approval with Additions**
- 5. Motion – Pay Bills as Posted**

**Motion by Daly to approve the Consent Agenda items 3-5. Seconded by Krebs. Motion carried unanimously.**

**C. PRESENTATIONS**

**6. 2016 Audit (Redpath & Company – Peggy Moeller)**

Peggy Moeller from Redpath & Company presented the results from the City's 2016 audit. Moeller issued four reports; an opinion on the fair presentation of the financial statements, a report on internal controls, the Minnesota legal compliance report, and communication with those charged with governance. Overall the result of the audit was favorable with only two items noted in the report on internal controls; lack of segregation of duties, and audit adjustments. Moeller said that these findings were common for a small City staff. See the August 23<sup>rd</sup>, 2017 City Council minutes for a motion to accept the 2016 audit.

**7. Planning Commission Report**

Commission Chair Garth Sternberg presented the Planning Commission report. The Planning Commission has sent forward the report with three (3) topics for the City Council to consider.

City View Electric CUP Amendment

The Planning Commission is recommending approval of the City View Electric CUP Amendment, allowing a new 180' x 75' building on the site. City Council did not have any questions for City View Electric at this time.

**Motion by Peterson to approve City View Electric's CUP Amendment request (PC-17-116) to allow a new 180' x 75' building on the site, based on findings of fact and subject to conditions 1-28 as outlined the Planner's Memo (dated 07.12.17). Seconded by Krebs. Motion carried unanimously.**

City View Electric CUP Amendment Findings of Fact:

1. An application for a CUP Amendment was received by City View Electric, Inc. ("City View") on June 14, 2017 and supplemented on July 10, 2017. The application was found complete.
2. The 60-day review deadline is September 8, 2017. The 120-day review deadline, if extended, is November 7, 2017.
3. City View is proposing to construct a 75 feet by 180 feet warehouse building on its property located at 14309 Lake Drive NE, legally described as Lot 1, Block 1 Kinsella Acres ("Property").
4. The Property is zoned C/I Commercial/Industrial.
5. The proposed building is in addition to the office/warehouse building constructed in 2016 and three other existing warehouse buildings.
6. The proposed warehouse building will be constructed to the north of the new office/warehouse building and connected by a new surfaced maneuvering area between the buildings.
7. A total of eight new parking stalls are proposed.
8. There is no new access proposed to the Property.
9. New impervious surface area resulting from the proposed construction is approximately 0.9 acres.
10. The proposed building will exceed all required setbacks.
11. The proposed building has 20 feet tall sidewalls and is approximately 32.5 feet tall. There are three 14 feet by 14 feet garage doors and three service doors on the south elevation of the building.
12. The proposed building will include sewer and water services.
13. The foundation and framing plans submitted in the application are dated 4/24/15 and are for a 50 feet by 100 feet building.
14. The proposed building walls are all tan colored metal panels with a 4-foot brown wainscot and brown roof, matching the color schemes of the existing office/warehouse building.
15. The exterior building materials facing Lake Drive NE are all metal.
16. Construction of the proposed building and parking area requires the removal of three existing structures on the Property, abandonment of an existing well, abandonment of a drain field, and removal of approximately 10 shade trees and 14 pine trees.
17. There are also approximately 17 undisturbed existing pine trees along the north Property line, abutting an existing residence.
18. An existing driveway on Lake Drive that was required for removal has not been completely removed, according to Anoka County standards.

19. The Planning Commission held a public hearing to consider the CUP Amendment by City View on July 19, 2017.

City View Electric CUP Amendment Conditions of Approval:

[NOTE: The relevant conditions from the 2003, 2004, 2012, 2013, 2014 and 2015 CUPs are combined together here].

1. The 2017 CUP Amendment authorizes a 75 feet by 180 feet warehouse building addition to the Property.
2. The 2017 CUP Amendment is subject to the detailed recommendations of the City Engineer.
3. The 2017 CUP Amendment is subject to the detailed building plan and plumbing review by the Building Official.
4. The 2017 CUP Amendment is subject to the requirements of the Rice Creek Watershed District.
5. The 2017 CUP Amendment shall be developed consistent with “City View Electric Phase 2” plans prepared by Plowe Engineering, dated June 15, 2017; revised “Drainage Plan Sheet C2” by Plowe Engineering, dated July 10, 2017; “City View Electric New 75’ X 180’ Post Frame” floor plan and building elevations (preparer and date unknown); and full building plan details to be accepted by the Building Official.
6. The west elevation of the new warehouse building shall include stone wainscoting and corner treatments complementary with the existing office building design facing Lake Drive NE to meet ordinance design requirements.
7. Access to the Property shall be limited to a single access drive on the southerly portion of the Property.
8. The former northerly access on the Property shall be completely removed, according to requirements of Anoka County.
9. The existing off-site access easement on Lot 8, Will’s Addition may continue to be used on a secondary use basis.
10. The existing residence, two associated accessory buildings, residential well and drain field on the Property shall be removed according existing standards.
11. The existing pine trees along the northerly lot line of the Property shall not be removed.
12. Exterior storage of equipment and materials shall be limited to locations between the three easterly existing storage buildings and to the east of said storage buildings.
13. Equipment and material storage areas shall not occupy any parking areas, stormwater infiltration areas, wetland areas, or sewage treatment areas.
14. No filling, excavating or other land disturbances are permitted in stormwater infiltration or wetland areas without written approval by Rice Creek Watershed District and the City.
15. Routine maintenance and minor repair of company equipment and vehicles are permitted within structures on the Property.
16. Additional businesses, expansion or intensification of the proposed contractor's business from what has been presented to date, shall require an amendment to the Conditional Use Permit.
17. All exterior lighting shall be downcast, shrouded and directed away from adjacent properties and public streets.
18. All refuse must be stored in a building, trash transport (dumpster), or in covered cans. Any outdoor storage area shall be enclosed on all sides visible from adjacent property by

screening, compatible with the exterior of the building, not less than two (2) feet higher than the refuse container.

19. The hours of operation for City View shall not exceed 6:00 a.m. to 6:00 p.m. Monday through Friday, with periodic use allowed on weekends and evenings.
20. Any hazardous materials used or hazardous wastes generated on the Property shall be in compliance with federal, state, and county permitting and licensing requirements.
21. City View shall be responsible for removing any waste or debris dumped on adjacent property, when evidence exists that such illegal dumping occurred via driveway accesses controlled by City View.
22. The operation of the contractor's shop must be consistent with all local, Federal, and State laws that apply to the use of the Property.
23. In the event the City Council determines, in its sole discretion, that the contractor's shop is not being operated in accordance with any term or condition contained herein, the CUP may be revoked by the City upon proper notice and a hearing. The City shall notify regulatory authorities that have issued licenses or permits in connection with the Conditional Use Permit of any such revocation.
24. City View shall be obligated to pay all costs and expenses incurred by the City in connection with any proceeding to revoke the CUP, including reasonable attorneys' fees and consultant fees.
25. There must be a total of 47 paved, striped parking spaces on the Property, consistent with minimum design standards, including three signed, handicapped accessible parking spaces. The City Council has reduced the minimum number of required parking spaces, based upon the proposed use of the Property and evidence that sufficient areas exist to construct additional parking. At any time the City Council determines additional required parking is necessary, and upon one-year written notice, City View shall construct additional parking consistent with minimum ordinance design standards.
26. All buildings must be complementary in appearance with each other.
27. The CUP Amendment does not eliminate the requirement for obtaining any other permits and approvals as may be required by City, watershed, county, or state laws, rules, ordinances, and policies, including but not limited to grading permits, building permits, plumbing permits, electrical permits, stormwater permits, sign permits, water appropriation permits, and sewage treatment system permits.
28. City View shall be responsible to reimburse the City for its out of pocket expenses incurred in the review and approval of the CUP amendment, including any subsequent inspection and enforcement actions.

### Bituminous Roadways Preliminary Plat, Rezone, and CUP

City Attorney Bill Griffith provided the Council with a short update on the status of the Bituminous Roadways applications. City Planner Dean Johnson has informed City Staff that if the City Council approves the rezoning application from Bituminous Roadways, the City would also have to get approval from the Met Council for a Comprehensive Plan amendment to include these changes. In light of that, Bituminous Roadways' lawyer has requested that the City Council choose one of two possible options going forward; either process the application as is (which would require Met Council approval), or do a text amendment to the Light Industrial zoning code, adding language which addresses outdoor storage and the connection to City utilities, which would eliminate the requirement for Bituminous Roadways to rezone the parcel

of land. The latter option would include adding an asphalt plant as a listed use in the Light Industrial (LI) district, allowing the storage and recycling of certain materials in the LI district, as well as clarifying that the obligation to connect to City utilities only arises when they become available in the area. Griffith clarified that the third option for the Council would be denying the application all together.

The second topic to consider, was that the City received a copy of the citizen's petition for the completion of an Environmental Assessment Worksheet (EAW). The petition will go to the Minnesota Environmental Quality Board, who will have five days to determine if the petition is adequate. If it is determined to be adequate, then there is a prohibition on further action until it is decided whether an EAW will be ordered. However, Griffith clarified, this petition should not influence the decision that the Council must make tonight. Mayor Dave Povolny asked who will be required to pay for the EAW, if it was deemed necessary? Griffith replied that the applicant would be required to pay for the study.

At this time, Bituminous Roadways' President Kent Peterson as well as his lawyer Ken Rohlf, from LeVander, Gillen, and Miller, came forward to answer questions and discuss recent updates in the situation. Rohlf summarized the letter that was sent to the City, requesting the Council consider the two options that were explained by Griffith previously. Rohlf clarified that their preferred choice is to table the current applications and instead amend the LI zoning code to include three details; the addition of an asphalt plant as a conditional use in the LI district, the addition of storage and handling of various construction and recycling materials related to an asphalt plant as a conditional use, and clarifying that the obligation to connect to public utilities only arises when utilities become available to the property. If this is the option the Council chooses, the next step would be a Public Hearing with the Planning Commission to consider the text amendment. If the amendment is approved, the Bituminous Roadways preliminary plat and CUP applications could be processed without a rezoning application. Rohlf finished by saying that either of the two options are acceptable to his client and to the sellers of the property.

Mayor Povolny asked Peterson about his timeline, and whether he would be open to waiting for the time it may take to do a Comprehensive Plan amendment and/or the EAW? Peterson said he would be willing to wait for the completion of such items, although it is not ideal. Mayor Povolny asked Griffith to give a rough guess at how long an EAW and a Comprehensive Plan amendment would take? His rough guess was that an EAW could take four (4) to six (6) months and a Comprehensive Plan amendment could take up to six (6).

Daly asked Rohlf and Peterson how City utilities would be addressed in the scenario where the Council processes the current applications and tries to rezone the land? Griffith clarified that the Commercial/Industrial (CI) district does not requiring hooking up to public utilities, so if the application for rezoning is approved, Bituminous Roadways will not have to connect. Griffith went on to say that the LI district requires connection to public utilities, however there is no statement on timing. So, if the text amendment is approved the City would have to extend utilities to the property. Mayor Povolny asked Peterson how he felt about incurring the cost to make that happen? Peterson said that there is not the demand for public utilities in that area yet, so it would be ideal for Bituminous Roadways to wait until the demand is there to pay for the extension. Mayor Povolny said that this could be an issue because the City's utilities infrastructure is financed through connection charges. And without extending to that area

(without connection fees paid by Bituminous Roadways), the City must carry the cost for that infrastructure indefinitely. Griffith clarified that at any time the City can decide to extend utilities to that area, and based on the language of the proposed text amendment, Bituminous Roadways would be required to hook up to the utilities. Mayor Povolny asked if anyone has a rough idea of the cost to extend utilities under the freeway? Peterson said that in their initial calculations, a rough guess is around \$500,000.

Mayor Povolny asked the Council how they were feeling about the two options. Council Member Peterson said that he was in favor of a text amendment to LI zoning code. Mayor Povolny said that he agreed, and that by the time the text amendment was completed the consideration of an EAW would likely be completed as well. Griffith said that the process for an EAW could take roughly four (4) to six (6) months, and the City can discuss both a text amendment and a Comprehensive Plan amendment during that time, but cannot take action the Bituminous Roadways applications until that process is complete.

Kent Peterson called Joe Radach of Carlson McCain forward to discuss the EAW. Radach said that they looked at thresholds of certain products that would require an EAW. They found that the threshold for petroleum products which would mandate an EAW is 1 million gallons of petroleum storage, and Bituminous Roadways is proposing to store approximately 120,000 gallons. Radach clarified that EAWs can also be ordered at the discretion of the Local Government Unit, however the concerns that are considered with discretionary EAWs (soil tests, wildlife impact, storage of materials, water resources, etc...) have all been approved through their dealings with the DNR, MPCA, EPA, Army Corps of Engineers, and the Rice Creek Watershed District. It is the belief from Carlson McCain and Bituminous Roadways that the EAW, if it is ordered, will not provide any new findings.

Mayor Povolny continued the discussion by asking other Council Members their thoughts. Daly expressed support for the text amendment option as well, because approaching the Met Council for approval could take a long time. Duraine stated that he is in favor of denying the Bituminous Roadways application all together. Lastly, Krebs also voiced support for the text amendment option, while also wanting to see how the EAW petition turns out. Griffith said that if the Council decides to go with the text amendment, further discussion on the Bituminous Roadways applications would be continued to either a date certain or an event certain (the event being the completion of the text amendment). To continue the applications to an event certain, a written agreement would have to be signed by the applicant.

Peterson asked Jon Rausch (one of the property owners, along with Frank Frattalone) to come forward and present some further information for consideration. Rausch handed out a map that shows all the asphalt plants located within the Twin Cities seven (7) county metropolitan area. He pointed out facilities in Maple Grove, Eden Prairie, Minneapolis, and Shakopee. Rausch explained some asphalt plants are located closer to schools, horse stables, fitness clubs, hospitals, than the proposed Bituminous Roadways facility is to Running Aces. Duraine asked if asphalt is crushed at Bituminous Roadways' Minneapolis plant? Peterson replied that they don't crush asphalt at that location because the lot is too small, but they do crush asphalt at their Inver Grove Heights and Shakopee locations.

Mayor Povolny asked Peterson how he would feel about additional conditions being added to the

Company's CUP - things like adding screening, limiting pile heights, or requiring additional enclosures? Peterson said he would be willing to consider additional conditions, so long as they are reasonable, as a way to address concerns of Columbus residents. Mayor Povolny asked if trucks could be covered as they leave the facility? Peterson replied that yes, it would be possible to cover all loads with tarps, as the trucks are equipped with a tarp that can be deployed automatically by the driver. He clarified that most of the time the truck loads are covered, but if it is a really hot day they might not cover it because they don't have to worry as much about retaining heat. Mayor Povolny asked if that helps mitigate the smell? Peterson said that he supposes it would cut down on the odor because there wouldn't be air moving directly across material in the back of the truck. Lastly, Mayor Povolny asked if the location where the trucks are being loaded and unloaded will be paved? Peterson said the current application shows the area around the plant as paved, and the area around the stock piles as gravel. So the trucks would travel on a paved section before driving onto the roadway.

Mayor Povolny asked Griffith if it is the opinion of City Staff that the text amendment option is the best choice? Griffith said that both options are viable legally, subject to cooperation on the 60-day rule; one requires a Comprehensive Plan amendment through the Met Council, and one requires a text amendment. In addition, the text amendment option would require the extension of City utilities at some point, and the Comprehensive Plan amendment would not. Mayor Povolny clarified that there is also the third option, to deny the Bituminous Roadways applications all together.

**Motion by Peterson to continue the present Bituminous Roadways applications [(PC-17-111) for a preliminary plat combining two lots and creating two new lots, and (PC-17-112) for rezoning two land parcels (46.44 acres) from Light Industrial to Commercial Industrial, and a conditional use permit to allow Bituminous Roadways to construct and operate an asphalt production plant with storage and handling of various construction materials at the facility (dated 05.11.17)] to a date certain following the conclusion of the Planning Commission and City Council discussion on the text amendment, subject to agreement by the applicant to waive the requirements for the 60-day rule. Seconded by Krebs. Votes as follows; Peterson – aye; Daly – aye; Povolny – aye; Duraine – nay; Krebs – aye. Motion carries.**

#### Richard Swanson Rezone Request

Richard Swanson's rezone request was forwarded to the City Council with approval conditional on the approval of Bituminous Roadways' rezone application. Swanson would like to rezone his land to be in the same district as the Bituminous Roadways' operation, in order to improve its marketability. Griffith explained that the City Planner, Dean Johnson, has some concern that this is spot zoning, which could be an issue when considering the requirement to connect to City utilities services. The current language of the City's ordinances state that anyone benefitting from a utility extension will have to pay an assessment. The consensus from the Council was that if the Bituminous Roadways rezoning goes through, so should the Swanson rezoning. Griffith commented that if the Council denies Swanson's rezone request today, he could wait and see what happens with Bituminous Roadways, and then come back to the Planning Commission with his application again. In this case, Swanson's property would be subject to the same text amendment as Bituminous Roadways and he will have to wait for this project to come back to

the Planning Commission before his application can be considered again. Lastly, Swanson would have to waive the 60-day review period with the application denial.

**Motion by Duraine to deny the Richard Swanson Rezone request (PC-17-117) for rezoning two land parcels (approx. 13 acres) from Light Industrial to Commercial/Industrial (dated 06.19.17). Seconded by Daly. Motion carried unanimously.**

## **8. Public Open Forum**

Taro Ito – President, Running Aces Casino and Racetrack; Anthony Edwards – Attorney, Parker, Daniels, Kibort; John Derus – Director, Running Aces Casino and Racetrack; Dr. Hovna – State Veterinarian for the Minnesota Racing Commission and Veterinarian for Canterbury Park.

Ito, Edwards, Derus, and Hovda came forward representing Running Aces Casino and Racetrack to discuss the Bituminous Roadways applications. Running Aces' lawyer Anthony Edwards presented a stack of hundreds of additional citizen's petitions for the completion of an EAW. Edwards then asked if additional Public Hearings will be held on the topic? Griffith replied that yes, additional Public Hearings are required by law in this case. He also stated that Public Open Forum is usually reserved for topics that are not on the agenda, however Mayor Povolny said he would allow some leeway on this particular topic. Edwards explained that Running Aces is particularly concerned about the health of horses that board and race there, due to the proximity of W Freeway Drive to the track itself. After W Freeway Drive is relocated, the road will be roughly 50 feet from the track. Edwards reiterated that Running Aces is Columbus' largest employer and has been a great addition to the area. He asked if the vision of the area is to see heavy industry right as one enters Columbus? And would that be worth it for only five employees that will be working there?

Next, Dr. Lynn Hovda, Chief Commission Veterinarian for the Minnesota Racing Commission, came forward to discuss the impact that an asphalt plant in the area would have on the horses at Running Aces. Dr. Hovda also submitted a letter outlining her concerns to the City with the citizen's petitions for an EAW. She explained that lungs are the most fragile organs in horses, and she has concerns about particulates from the asphalt plant affecting the lungs of horses at Running Aces. Krebs asked Dr. Hovda to explain the use of certain medications and steroids on the horses at Running Aces, and she explained that the administering of those medications and steroids is strictly regulated through the state.

Krebs commented that this whole process started in September of 2016, not a few weeks ago. In addition, consideration of the relocation of CSAH 54 started years ago as well, and if Running Aces is deeply concerned about traffic so close to the racetrack, that should have been brought up to the County during the planning phase of the relocation. Krebs argued that even without Bituminous Roadways' facility located on W Freeway Drive, there will be heavy traffic, dust, and exhaust coming towards Running Aces' track from that road. He asked why these concerns about the road have not been discussed until now? Dr. Hovda said that she can only speak about the fact that dust and particulate matter coming off the road could possibly be an issue with a racehorse. Krebs argued that dust and particulate matter will be coming off W Freeway Drive even without Bituminous Roadways in the picture.

Mayor Povolny asked what ppm (parts per million) of particulate matter would be significant enough to affect the health of a horse? Dr. Hovda said she does not know, but she could provide documentation from research that would answer that question. She also said that the answer to Mayor Povolny's question depends on a number of items including the quantity and makeup of the particulate. She noted that a horse's trachea will filter out anything larger than 10 microns, and anything less than 10 microns will enter the bronchi, anything smaller than 2 microns will enter the bronchioles. She finished by saying that the research is clear that dust and environmental contaminants in general are not good for the health of horses.

Krebs asked if there have been any issues with the horses at Canturbury Park, considering the level of industry located nearby? Dr. Hovda said that horseman have reported issues with air quality as well as loud noises fatiguing the horses. She said that Canterbury does a considerable amount of dust control (spraying magnesium chloride) on the property, and they built a significantly high berm around the border to keep the dust down. Dr. Hovda clarified that she does not believe any formal studies have been done in the area, however it is the perception that dust and particulate matter near racetracks can increase bleeding in horse's lungs and contributes to small airway diseases. She finished by saying that all horses are different; for example, some are lighter sleepers, and some are frightened easily, it is those horses that would be affected more than others by a road that is located so close to the racetrack.

Ito addressed the Council and said that Running Aces has a regulatory obligation to hold races 50 days out of the year. The issue is the perception that a nearby asphalt plant could negatively affect horse health, and this perception could influence horse owners to stop boarding at Running Aces. This would greatly jeopardize Running Aces' ability to hold 50 racing days each year. Ito said that the risk of adding an asphalt plant to the area is potentially losing Columbus' largest tax payer, employer, and tourist destination. Mayor Povolny replied that his choice is going to be based on facts and science; if the facts say that the addition of an asphalt plant in the area won't affect horse health, he will likely be in favor of it. Ito explained that real or imagined, the perception is what will affect business.

#### Margaret Hoffman

Hoffman came forward to speak about two concerns she has regarding the Bituminous Roadways applications. The first was for the health of the horses at Running Aces, because of particulate levels after the plant is built. The second was for the overall vision of Columbus, she believes the vision of the Freeway District as a destination for consumers would be jeopardized by the addition of the asphalt plant.

#### William Bobick – 8414 140<sup>th</sup> Avenue NE

Bobick came forward to also speak about the Bituminous Roadways applications. His family has problems with asthma, and have moved to Columbus to get out of larger cities because of air quality. In addition, he believes the smell from the plant will be particularly bad. Overall, he thinks it is a bad investment for the area, and is unhappy that he moved to the area and could potentially have an asphalt plant nearby.

#### Jody Wilson, Minnetonka

Wilson lives in Minnetonka, and races horses at Running Aces. She wanted to voice her support for the completion of an EAW to understand the impact on the environment. Wilson mentioned that when she lived in St. Louis Park she was involved with a group that spent time investigating the environmental effects that a smelting plant had on the environment, so she understands the concerns that have been voiced about the Bituminous Roadways applications. Wilson is also concerned for the health of the horses because of how close W Freeway Drive is to the track and the number of trucks that would be carrying asphalt on it. She said that she would have to reconsider racing horses at Running Aces if the plant is approved.

Krebs asked Wilson if she would be as concerned about the location of the road if the Bituminous Roadways project was not in the picture? Wilson replied that she would feel better about both items if an EAW was completed. Mayor Povolny asked how she would react if the EAW comes back without any concerns? Wilson replied that she would accept the findings.

Vernon Roisum – 14016 Julliard Street NE

Roisum is concerned about his wife, who has asthma. His concern is that the Bituminous Roadways facility would cause her asthma to worsen.

Tom Olson – 13332 Lyons Street NE

Olson came forward to also discuss the Bituminous Roadways applications. He asked that the City Council rely less on science and facts, and instead listen more to public opinion and the desire of residents not to locate the facility in Columbus. Mayor Povolny replied that he is someone who relies on facts to make informed decisions, and if the facts say it's not good for the area then he will most likely vote against it. Olson then asked why the City wants to jeopardize the operation that Running Aces has in Columbus? He stated that existing businesses help spur economic growth more than new business, and it concerns him that the Bituminous Roadways facility could hurt Running Aces.

Norma Heuer

Heuer also stepped forward to address the Bituminous Roadways applications. She asked the Council to name one reason for approving the plant, besides money. Mayor Povolny replied that it is someone's right to sell their property to whomever they'd like, and he intends to honor that right for all residents of Columbus. Heuer emphasized that she believes public opinion is against the project, and that the City Council should represent that opinion.

**9. Discussion – Jeanine Sachs Driveway Easement**

Jeanine Sachs and her daughter Wendy Sachs came forward to discuss an easement on their property with the City Council. Wendy Sachs stated that they have been trying to sell their property for some time, and have run into difficulty because of a 90-foot easement on the lot. The Sachs' are wondering if the easement can be vacated or reduced to 16-feet? City Attorney Bill Griffith said that although he has had little time to look into the details of this situation, based on the information provided at the meeting this is a private easement that the City has no

control over. Griffith said he is happy to do further research on the situation, but would need the original deed to do so. Mursko recalled that there was a subdivision of the land in the past, and with that came a private shared driveway easement. In addition, to get public utilities to the area, a 20-foot easement was needed. Mayor Povolny suggested the Council give Griffith direction to research the City's involvement in the situation and report back. Wendy Sachs also asked what the procedure would be to move their property line south, so that the larger lot that they own is abutting the road and not vice versa? Mursko said that it is an administrative procedure to move a lot line 50-feet or less, however anything beyond must be done through the platting and subdivision process.

## **D. STAFF AND CONSULTANT REPORTS**

### **10. Engineer Report**

City Engineer Dennis Postler presented his Engineer's report with four (4) different topics.

#### Ziegler Change Order No. 1

The City is in the process of taking over the water tank at the Ziegler facility. Postler is requesting approval of a change order, which would add \$23,674.46 to the cost of the project. This is because moving the water main bypass required more pipe than was originally expected, an additional fire hydrant was needed, and other small changes had to be made. The Council asked Mursko where the money to fund this would come from? Mursko said that she would have to take time to look into that, because money for the project came from an HRA grant through Anoka County. Postler commented that the total project cost is around \$166,000, so this change order is roughly a 15% increase in cost.

**Motion by Peterson to approve the Ziegler Change Order No. 1, increasing the contract sum with Forest Lake Contracting, Inc. by \$23,674.46. Seconded by Krebs. Motion carried unanimously.**

#### Ziegler Tank Partial Payment

The second topic related to the Ziegler project is a partial payment request to Forest Lake Contracting, Inc. in the amount of \$85,582.39, for work completed up to now.

**Motion by Krebs to approve the partial payment request to Forest Lake Contracting, Inc. in the amount of \$85,582.39, for work completed up to now. Seconded by Peterson. Motion carried unanimously.**

#### Reduce Letter of Credit Thurnbeck Farms

The next item was a letter of credit reduction for the Thurnbeck Farms development in the amount of \$135,044.64. This is their second letter of credit reduction based upon the amount of work completed to date. Per the terms of the Development Agreement, the amount of the surety (letter of credit) may be reduced proportionately as the improvements are completed. The Council asked if they are still hauling sand from the site, and if so, are they using Furman Street

NE? Postler replied that yes, they are hauling sand from the south ponds, and they are using Furman Street NE. He explained that there will be another Letter of Credit Reduction in order to cover any possible damage to the road from hauling.

**Motion by Krebs to approve the Letter of Credit reduction for Thurnbeck Farms in the amount of \$135,044.64. Seconded by Peterson. Motion carried unanimously.**

#### Columbus Improvements and Developer Projects Update

Lastly, Postler reported on the different improvements and developments currently going on in Columbus. He said he will be bringing final pay requests to the next City Council meeting for improvements done in the City. In addition, he had an update on the relocation of CSAH 54 (W Freeway Drive). Postler displayed the newest plans for a pedestrian trail along CSAH 54 which would extend from the southerly roundabout to the cul-de-sac on the old W Freeway Drive. There will be a four (4) foot fence installed between the path and the fence, and Postler clarified that the trail will be made of bituminous and not crushed rock.

### **11. Attorney Report**

#### SRWMO Required Economic Statement

Based on direction from the June 28<sup>th</sup> City Council meeting, Griffith researched the financial disclosure requirements for membership on the Sunrise Watershed Management Organization (SRWMO). What he found was that requested the financial disclosures are a legislative requirement from the campaign finance board. Mayor Povolny asked what the City can do to express their stance that this is an overreach which is causing Columbus to not have representation on the SRWMO board? Griffith replied that letters expressing this could be sent to three different entities; the League of Minnesota Cities, the committee of legislators who created the requirement, and the SRWMO board itself. Mayor Povolny would like to send all three of those entities letters expressing their disagreement with the rule.

**Motion by Peterson to send letters to the League of Minnesota Cities, the committee with legislators who created the financial disclosure requirements, as well as the SRWMO board. Seconded by Daly. Motion carried unanimously.**

#### Resolution English Official Language

Griffith presented an ordinance that the Council is considering adopting in Columbus. The ordinance is an English as official language ordinance. Griffith explained that the ordinance would be a symbolic move, as the City is still required by federal and state laws to provide services to anyone who does not speak English. Mursko said she has had to use a translator one time since she has been working in Columbus, and the City had to pay for it. In the end, the Council agreed that it was not worthwhile to pass the ordinance, because it would not change anything.

### **12. Mayor and City Council Member's Report**

### Mayor Dave Povolny

No report.

### Council Member Duraine

Council Member Duraine reported that he no longer wants to serve on the Fire Board. Mayor Povolny asked what happens if someone wants to leave halfway through their term? Griffith said that it shouldn't be an issue, and the seat would remain vacant. Mursko commented that there is a chance there may be issues creating a quorum, because she believes the Joint Powers Agreement requires two representatives. Daly volunteered to attend the next meeting and see how it goes. The Council agreed they would like to revisit this topic at the next City Council meeting on August 9<sup>th</sup>.

### Council Member Daly

No report.

### Council Member Peterson

Council Member Peterson addressed complaints from his neighbors around Coon Lake about engine braking noise coming from trucks driving through the area. He would like to install a few signs that say something like "no engine braking allowed", if the City can get them free of charge. The Council agreed that this was a good idea, but also suggested alerting the Anoka County Sheriff's Office about the complaints.

**Motion by Krebs to approve the addition of no engine braking signs around Coon Lake, if they are free of charge. Seconded by Duraine. Motion carried unanimously.**

### Council Member Krebs

No report.

## **13. Public Works Report**

Public Works Superintendent Jim Windingstad addressed the Council on a couple topics. The first was related to the tornadoes that came through Columbus the week of July 10<sup>th</sup>. He said that Public Works has spent the last two weeks cleaning up downed trees in the public right of way. The next time Columbus suffers damage of the same caliber as the July 12<sup>th</sup> storm, Public Works should rent a larger wood chipper, Windingstad said. The current wood chipper they are using is not large enough to handle the size of trees that fell. Also, because of the time spent on tornado cleanup, the Public Works team has been unable to install the "Land for Sale" signs. Duraine asked the Council what the City's response should be if another tornado of the same or larger size came through Columbus? He mentioned that other communities offer the service of picking up tree waste that is laid on the side of the road. Windingstad commented that Public Works does not have sufficient staffing or equipment to offer that service. Mayor Povolny said that he does not believe that tax dollars should go toward cleaning up private property. Krebs

commented that he believes in situations like this tornado, it is best for neighbors to work together and help each other clean up the damage.

#### **14. City Administrator's Report**

Mursko posed a question to the Council. Typically the City will hold budget meetings in the month of August, and she was wondering if the Council would like to do the same this year? The consensus was that they would like to do that, preferably during a City Council meeting.

#### **E. ANNOUNCEMENTS & REMINDERS**

**The next Planning Commission meeting is 08.02.17 at 7:00 p.m.  
Calendar of Meetings.**

#### **F. ADJOURNMENT**

**Motion by Krebs to adjourn. Seconded by Daly. Motion carried unanimously.  
Meeting adjourned at 9:54 p.m.**

Respectfully Submitted:

Jessica Hughes, Public Communications Coordinator