

**BIG LAKE CITY COUNCIL
REGULAR MEETING MINUTES
MAY 26, 2010**

1. CALL TO ORDER

Mayor Lori Kampa called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

3. ROLL CALL

Council Members present: Dick Backlund, Raeanne Danielowski, Chuck Heitz, Lori Kampa, and Duane Langsdorf. Also present: City Administrator Scott Johnson, Finance Director Corey Boyer, Community Economic Development Director Jim Thares (arrived at 7:45 pm), City Clerk Gina Wolbeck, Public Works Director Mike Goebel, Police Chief Sean Rifenberick, Fire Chief Tony Eisinger, City Attorney Soren Mattick of Campbell Knutson, City Engineer Brad DeWolf and Jared Voge of Bolton & Menk, Inc.

4. OPEN FORUM

Mayor Kampa opened the Open Forum at 7:01 p.m. No one came forward. Mayor Kampa closed the Open Forum at 7:02 p.m.

5. PROPOSED AGENDA

Council Member Danielowski motioned to adopt the proposed Agenda. Seconded by Council Member Langsdorf, unanimous ayes, agenda adopted.

6. CONSENT AGENDA

Council Member Heitz motioned to approve the Consent Agenda as presented. Seconded by Council Member Backlund, unanimous ayes, consent agenda approved. The Consent Agenda consists of: 6A) Approve Regular Council Meeting Minutes of May 12, 2010, 6B)

Approve Temporary Use Fee Waiver Request for the Alzheimer's Association of MN Car Show Benefit, 6C) Approve Temporary Use Fee Waiver Request for the Big Lake Chamber Block Party Fundraising Event, 6D) Authorize the use of NSP Funds in the Purchase and Redevelopment of Four Residential Properties, and 6E) Approve Fireworks Permit to Northern Lighter Pyrotechnics for the 2010 Spud Fest Event.

Mayor Kampa presented the Police Department and the Fire Department with posters created by Big Lake High School Students in appreciation for participating in the 2010 Mock Crash event.

7. BUSINESS

7A. PRESENTATION – Big Lake Food Shelf Certificate of Appreciation

Mary McKie, President of the Big Lake Food Shelf, presented Council with a Certificate of Appreciation acknowledging the City's donations and support of the Food Shelf.

7B. PUBLIC HEARING – Meadows of Big Lake Assessment Hearing

Brad DeWolf reviewed the proposed Meadows of Big Lake Improvement Project which will impact 136 residential units. DeWolf indicated that the financial institution that provided the Letter of Credit and TSM Development are no longer operating. DeWolf noted that the needed improvements consist of installing the bituminous wear course, the removal and replacement of cracked concrete curb/gutter and sidewalk, bituminous patching, repair or adjustment to numerous street lights, gate valves, manhole castings, and street signs, and erosion control clean up is required throughout the development. The estimated project cost is \$403,300.00, of which \$241,980.00 will be assessed to the benefiting properties within the development according to the City's assessment policy. The estimated assessment per parcel is approximately \$1,779.26. Corey Boyer reviewed the current interest rates and estimated payments based on a 5, 10, or 15 year assessment.

Council questioned if the whole project needs to be done now, or if the City could just finish the final wear course. DeWolf explained that the improvements identified in the feasibility report are necessary to bring the development into compliance with City Code. Council recognized the property owners concerns and indicated that the public hearing discussion will help them to make an informed decision on the assessments.

Soren Mattick reviewed interest rate charges and the City's need to cover their bonding interest costs. Mattick also noted that at least two other communities have had problems with the TSM Development and indicated that lawsuits have been very costly. Judgments have gone in favor of the municipalities but the cities have not received any payments. Mattick also discussed Letters of Credit and the reasons why cities use them as security on new developments. FDIC insured is an indicator of the financial health of an institution.

Corey Boyer reviewed funding the improvements and indicated that a 429 Bond would require that the City assess a minimum of 20% of the project costs to the affected property owners.

Mayor Kampa opened the public hearing at 7:24 p.m.

Carl Mitchell – 18795 Providence Drive; Questioned if the property owners have already been assessed for the 1st bituminous wear course. Council explained that the City does not collect escrow or cash from homeowners for new development infrastructure improvements. Staff explained the Letter of Credit process which should cover the costs for the public improvements within a development if the developer does not complete the necessary improvements. The financial institution that held the Letter of Credit for the Meadows of Big Lake Development no longer exists so there is no way to draw on the Letter of Credit.

Joe Welker – 15772 Range Pole Point; Questioned why the property owners have to pay for the cost of the road again if they already paid for it when they purchased their property. Mr. Welker also noted that if the City decides to assess the property owners, they should not have to pay interest on the assessment.

Scott Perry – 18778 Range Pole Point; Questioned the timeframe of when TSM Development went out of business. Staff indicated that the City found out that there were two lawsuits filed in 2007. No notice was provided by creditors that either the developer or the lender was going out of business. Perry questioned why it has taken so long to get the road completed. DeWolf reviewed correspondence attempts made to the developer. Council Member Heitz discussed the number of developments that were being constructed at the time and noted that the City enacted a moratorium on the number of housing starts that could start in a year to help control the population growth.

Justin Vieths – 18998 Gunter Way; Questioned why it took so long to get the project done. Staff indicated that it is not uncommon for a developer to hold off on the final wear course until after the first thaw cycle is complete and until a substantial amount of the housing is built as the heavy equipment can damage the new roads. Vieths noted that it is important for the City to minimize the costs that will be coming out of property owner's pockets.

Kim Dailey – 18763 Range Pole Point; Asked the City for an apology and explained that she feels someone "dropped the ball" on the development. Dailey stated that someone should have been overseeing the development and noted that the damages are worse because it has taken so long to get the project done. Brad DeWolf indicated that the City did not pull the Letter of Credit early on because the City thought that it was a secured financial instrument. Engineering staff did follow-up with the developer until the developer became unreachable. Mayor Kampa issued a public apology.

Brian Marketon – 18635 Traverse Lane; Questioned why the City didn't start action in 2007 when other cities chose to. Marketon also noted that the City has a responsibility to go after the developer and should they choose not to, those saved attorney fees should be put toward the project to help reduce the costs the property owners will incur.

Daniel Gassler – 17080 – 166th Street SE; Stated that the City should have been looking out for their development.

Robert Werner – prospective purchaser of a property located on Meadow Lane; Questioned if the contractor's previously knew about these proposed assessments and questioned why potential buyers were not informed. DeWolf reviewed the notification process that is required and indicated that all underlying property owners received notice of the open house and assessment hearing.

Justin Graft – 19041 Gunter Way; Asked for a breakdown of costs for the entire project and stated that he feels Woodside Development has caused some of the damage to the sidewalk areas. Staff estimated that at least 90% of the project costs are from the final wear course and curb/gutter improvements. The Building Department will follow up with Woodside Development.

Trevor Roediger – 18738 Providence Drive; Questioned if the City signed an agreement with the developer. Mattick explained that the City and Developer enter into a Development Agreement outlining items that the developer will be responsible to complete. There is generally not a timeline identified in these types of Agreements.

Dan Lundt – 19012 Gunter Way; Questioned whose responsibility it was to ensure the Letter of Credit was secured. Lundt also stated that the government messed up and now the residents will be forced to pay for the mistake.

Mayor Kampa closed the public hearing at 8:14 p.m.

Council questioned if the City decides to hold off on the project, would we get a better bid next year. Staff discussed the current bid market and indicated that bids have been very favorable recently. Council also discussed the option to have the homeowners only pay for the final wear course and to only charge them the same interest rate the city will pay. Council Members noted that this assessment is not a normal assessment situation and that their intent is not to set precedence for decreasing future assessment projects. Staff noted that by ordering the project now, the plans and specifications can be started and the final assessments can be lowered, but cannot be increased.

Council Member Heitz motioned to approve Resolution No. 2010-36 Authorizing ordering improvements and directing preparation of Final Plans and Specifications for the Meadows of Big Lake Improvement Project and limiting the property owner's assessment to 60% of the costs for the final wear course at an interest rate not to exceed the City's interest rate. Seconded by Council Member Langsdorf, unanimous ayes, motion carried.

Corey Boyer reminded Council that the 429 bonding rules require that the City assess a minimum of 20% of the project costs to the affected property owners.

7C. PRESENTATION – 2009 Audit Report – Kern, DeWenter, Viere, Ltd.

Nancy Schultzenberg from Kern, DeWenter, Viere, Ltd. presented the 2009 management letter and the audited financial statements.

7D. Project Status Report – City Engineer

Brad DeWolf reviewed the May 2010 Project Status Report and answered questions from the Council.

8. LIST OF CLAIMS

Council Member Danielowski motioned to approve the List of Claims ranging from Check No.58478 through Check No. 58566 and electronic payments 1075E through 1087E. Seconded by Council Member Langsdorf unanimous ayes, motion carried.

9. ADMINISTRATOR'S REPORT - No report given.

10. MAYOR & COUNCIL REPORTS and QUESTIONS/COMMENTS

Council Member Danielowski: Discussed the City Website upgrades and encouraged the public to check out Mayor Kampa's welcome introduction.

Council Member Heitz: Informed the public that Mark Dayton was at the Big Lake Station recently and City Officials were invited to greet him. Council Member Heitz noted that the City does not endorse any particular candidate and that any other Governor candidates will be welcomed in the same manner.

Mayor Kampa: Reviewed train groups that she has welcomed to the Big Lake Community. Mayor Kampa also discussed dangerous swimming habits around the dock at Lakeside Park. Mike Goebel indicated that the park attendants did address concerns with the persons involved.

Council Member Langsdorf: Reviewed the May 19th Planning Commission Meeting.

11. **OTHER** – No Other.

12. **ADJOURN**

Council Member Heitz motioned to adjourn at 9:12 p.m. Seconded by Council Member Langsdorf, unanimous ayes, motion carried.

Gina Wolbeck
Clerk

Date Approved By Council 06/09/2010