

**BIG LAKE CITY COUNCIL  
REGULAR MEETING MINUTES  
MAY 23, 2007**

**1. CALL TO ORDER**

Mayor Don Orrock 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, Chuck Heitz, Lori Kampa, Patricia May, and Don Orrock. Also present: City Administrator Scott Johnson, Finance Director Corey Boyer, Community Economic Development Director Jim Thares, Building Official Sam Rudd, City Clerk Gina Wolbeck, City Planner Ned Noel, EDA Intern Sam Woods, Public Works Director Mike Goebel, Police Chief Sean Rifenberick, Fire Chief Tony Eisinger, Liquor Store Manager Jan Kostrzewski, City Attorney Sorren Mattick of Campbell Knutson, City Engineer Brad DeWolf and Jared Voge of Bolton & Menk, Inc. City Planner Nate Sparks of Northwest Associated Consultants, Inc. (NAC) and Consultant Building Official Fred Patch of Northwest Inspection Services.

**4. OPEN FORUM**

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

**5. PROPOSED AGENDA**

Soren Mattick informed Council that the City has been served legal papers relating to item 6L - Reject Bids and Authorize Re-advertising for the CR 43 Interceptor Improvements on the Consent Agenda. Mr. Mattick requested that the item be discussed during Closed Session allowed per MN Statute 13D.05, subd. 3b – Attorney/Client Privilege.

Council Member Kampa motioned to adopt the proposed Agenda with the removal of item 6L - Reject Bids and Authorize Re-advertising for the CR 43 Interceptor Improvements, to be discussed as item 12B during Closed Session. Seconded by Council Member May, unanimous ayes, agenda adopted.

## **6. CONSENT AGENDA**

Council Member Heitz motioned to approve the Consent Agenda with the removal of items 6A, 6D, 6E and 6M for separate consideration. Seconded by Council Member Kampa, unanimous ayes, consent agenda approved. The Consent Agenda consists of: 6B) Approve Change Order No. 1 for Demolition Contract for 140 and 200 Eagle Lake Road North, 6C) Accept Public Works Employee Resignation and Authorize Posting of Position, 6F) Approve Police Department Purchase of FEMA Trailer, 6G) Authorize Retaining Officer Hanssen as a part-time temporary employee until vacant position is filled, 6H) Approve Amendments to Personnel Policy, 6I) Approve Single Family Housing Affordability Loan Application, 6J) Set Council Gathering on Wednesday, May 30, 2007 at 5:00 p.m. for the Big Lake Clinic Groundbreaking Ceremony on 198<sup>th</sup> Avenue, 6K) Approve Donation Resolution, 6N) Approve Park Advisory Board Recommendations, and 6O) Approve Public Works Purchase of a one-ton Cab and Chassis and Pickup Truck Dumper Box.

### 6A) Approve Regular Council Meeting Minutes of May 9, 2007

Council Member Kampa requested the minutes reflect a deadline date of six-months for the property owners of 206 Montana Avenue, discussed under item 7B. Jim Thares also indicated that he was in attendance at the meeting and requested that he be listed under Roll Call.

Council Member Kampa motioned to approve the Regular Meeting Minutes of May 9, 2007 with changes as discussed. Seconded by Council Member May, unanimous ayes, motion carried.

### 6D) Accept Planner Resignation and Authorize Posting of Position

Council Member Kampa requested that staff review the Job Description for this position as it entails more EDA and marketing duties than Planning. Council explained that the position would still be responsible for code enforcement.

Council Member Kampa motioned to accept the City Planner Resignation and directed staff to rewrite the job description for the position. Seconded by Council Member Heitz, unanimous ayes, motion carried.

### 6E) Approve Police Department Purchase of 2007 Chevy Tahoe

Chief Rifenberick reviewed the proposed purchase of the budgeted Chevy Tahoe and discussed the size of the Police Departments current fleet of vehicles. Council Member Backlund questioned the need for a new Tahoe as that type of vehicle is not able to be used in pursuits, and explained that the purchase of a Crown Victoria would better serve the department at a lower cost. Council Member Heitz discussed other larger communities switching to "green" vehicles which are more environmentally friendly which may be an option in the future.

Council Member Heitz motioned to approve the purchase of a Crown Victoria police department vehicle. Seconded by Council Member Backlund, unanimous ayes, motion carried.

6M) Approve Plans and Specifications and Authorize Bidding for the Martin Avenue Phase III Improvements.

Brad DeWolf requested that Council table this item to give staff additional time to meet with MNDOT regarding the Plans and specifications and funding for the project.

Council Member Heitz motioned to table item 6M to allow staff additional time to meet with MNDOT regarding the Plans and specifications and funding for the project. Seconded by Council Member May, unanimous ayes, motion carried.

**7. BUSINESS**

**7A. PRESENTATION – 2006 Audit Report; Kern, DeWenter, Viere, Ltd.**

Loren Viere from Kern, DeWenter, Viere, Ltd., presented the 2006 management letter and the audited financial statements. Mr. Viere also updated Council on new auditing standards related to future audits.

**7B. Tootsies Tavern Building Code Violation Discussion**

Fred Patch discussed the building code violation that has occurred at Tootsies Tavern located at 110 Jefferson Blvd. On April 25, 2007, it was observed that construction work was being done at the front entrance of the establishment without applying for, or obtaining a building permit. The vestibule walls were disassembled, the configuration was modified, and the owners were in the process of installing a new exterior door. Staff has given a verbal warning and sent stop work notices on April 26<sup>th</sup>, May 4<sup>th</sup>, and May 15<sup>th</sup>. Mr. McKernan has attempted to obtain a commercial building permit, but has submitted insufficient plans on two occasions. Mr. Patch explained that at this time, the owners remain in violation of the Minnesota State Building Code and that the front door exit does not provide for handicap accessibility and is an unsafe exit. Staff is seeking Council direction and is requesting that the City Attorney be authorized to assist in motivating the owners to immediately make the exit safe and to provide for accessibility to disabled persons.

Council Member Backlund questioned Mr. Patch's frost footing requirement and asked why footings would be required at Tootsies but not on a City project located at the municipal liquor store. Mr. Patch explained that all City projects are compliant with the MN State Building Code requirements. Council Member Backlund asked Mr. Patch to submit a letter of resignation.

Jerry McKernan; owner of Tootsies Tavern addressed Council with his frustration with the failure to communicate with Mr. Patch and indicated that he has been attempting to get in

contact with Mr. Patch on numerous occasions.

Council Member Heitz stated that he would like to see Mr. Patch and Mr. McKernan work constructively together to come to a conclusion without involving the City Attorney. Council Member Heitz stated his concern with actions conducted in the Council Chambers and insisted that the two parties set a meeting date and time within the next two days. Mr. Patch and Mr. McKernan agreed to meet at 8:00 a.m. on May 24, 2007.

### **7C. Northstar Commuter Rail Planned Unit Development/Rezone**

Ned Noel reviewed the planners report for the Planned Unit Development and rezone applications submitted by Kimley-Horn and Associates on behalf of the Minnesota Department of Transportation for the development of a public commuter rail station, park-n-ride lot and train maintenance facility for the proposed Northstar Commuter Rail project. The 50.64 acre site is located south of the Burlington Railroad Tracks and east of County Road 43. The Northstar Corridor Development Authority expects the line to be operational by late 2009. The applicant is seeking a parcel rezone from A-Agricultural to I-1 and I-2 Districts and is also asking for a Planned Unit Development zoning overlay for site and building plans and associated uses. Mr. Noel explained that a final plat is not required for the project as Metro Transit will operate the train station and MNDOT is the actual owner of the site and is considered exempt from the platting requirement. Council discussed the need for the outdoor storage area to be a hard-surfaced area. Mr. Noel indicated that the applicant is agreeable to that requirement. Council Member Backlund discussed concerns of the Planning Commission which included screening and water run-off.

Paul Danielson with Kimley-Horn discussed the timeframe of their project and addressed concerns of the Planning Commission.

Council Member Heitz motioned to approve Ordinance No. 2007-05 amending section 1042.03 (zoning map) of the Big Lake Municipal Code to provide for a change in zoning classification for the project known as "Northstar Commuter Rail" Project. Seconded by Council Member May, unanimous ayes, motion carried.

Council Member Kampa motioned to approve Resolution No. 2007-51 authorizing summary publication of Ordinance No. 2007-05. Seconded by Council Member May, unanimous ayes, motion carried.

Council Member May motioned to approve Resolution No. 2007-52 approving a Planned Unit Development Rezoning for the Northstar Commuter Rail Project. Seconded by Council Member Kampa, unanimous ayes, motion carried.

#### **7D. Carlsons Village Final Plat & Rezone Applications**

Nate Sparks reviewed the planners report for the application submitted by the property owner at 230 Leighton Drive for a replat of a four unit townhome building from two lots into one lot to allow for a four unit condominium plat. Currently there are two-units each on separate lots with a property line running through the center of the four-unit building. In order to properly process this request, a rezoning is also required from R-2 to R-3. The site is located north of Leighton Drive and is identified as Lots 5 & 6 of Block 1 in the James L. McKeen 2<sup>nd</sup> Addition.

Council Member Heitz motioned to approve Ordinance No. 2007-06 amending section 1042.03 (zoning map) of the Big Lake Municipal Code to provide for a change in zoning classification for the project located at 230 Leighton Drive from R-2 to R-3. Seconded by Council Member Backlund, unanimous ayes, motion carried.

Council Member Backlund motioned to approve Resolution No. 2007-53 authorizing summary publication of Ordinance No. 2007-06. Seconded by Council Member Heitz, unanimous ayes, motion carried.

Council Member Kampa motioned to approve Resolution No. 2007-54 approving the Preliminary and Final Plat of Carlsons Village. Seconded by Council Member May, unanimous ayes, motion carried.

#### **7E. SCORE Grant Funding Discussion**

Mike Goebel discussed the memo received from Sherburne County Planning & Zoning relating to SCORE grant funding. The Solid Waste Advisory Committee has recommended that the SCORE grant funds be reduced in 2008 by 15%. Mr. Goebel informed Council that this reduction would affect budgeting for 2008 for the City of Big Lake compost facility operations. Mr. Goebel informed Council that the program started in 1998 and that all Sherburne County residents are allowed to use the facility. Council discussed generating a letter of support for continued SCORE grant funds and that the letter should be given to County Commissioner Petersen to present to the County Board. Council also suggested that the Township submit the same type of letter to the County.

Council Member Heitz motioned to approve Resolution No. 2007-57 stating the City of Big Lake's Support for continued SCORE grant funds for the Big Lake Compost Facility operation and directed staff to meet with representatives from Sherburne County Solid Waste. Seconded by Council Member Kampa, unanimous ayes, motion carried.

#### **7F. Concrete Pier Foundation Quotes for Salt Storage Building**

Fred Patch reviewed the quotes received for the installation of concrete pier foundations for the public works salt storage building. Four quotes were submitted with the low quote from Central Minnesota Concrete, Inc. in the amount of \$8,328.00 which is approximately 30% under budget.

Council Member Backlund motioned to accept the quote in the amount of \$8,328.00 and authorize the Mayor and Administrator to enter into a contract on behalf of the City with Central Minnesota Concrete, Inc. for the installation of concrete pier foundations for the public works salt storage building. Seconded by Council Member May, unanimous ayes, motion carried.

#### **7G. Concrete Bunker Panel Quotes for Salt Storage Building**

Fred Patch reviewed the quotes received for the installation of concrete bunker panels for the public works salt storage building. As there are only two vendors within the region that manufacture and install this type of bunker panel for bulk sand/salt storage, staff was limited to just the two quotes that were submitted. The low quote was submitted by Hanson Silo Company in the amount of \$41,322.00 which is consistent with budget expectations. Some additional expense for professional services will be incurred as the anchoring of the bunker panels should be reviewed and/or designed by a licensed professional engineer with an expected cost between \$500 - \$1,500.

Council Member Kampa motioned to accept the quote in the amount of \$41,322.00 and authorize the Mayor and Administrator to enter into a contract on behalf of the City with Hanson Silo Company for the purchase and installation of concrete bunker panels for containment of sand/salt in the public works salt storage building. Seconded by Council Member Heitz, unanimous ayes, motion carried.

#### **7H. Discuss Northwest Inspection Services Contract**

Administrator Johnson informed Council that Council Member Backlund has submitted a request to terminate City Contracts with Northwest Inspection Services. Staff is recommending that Council discuss this request to terminate services and formally vote on the issue as this is a policy decision of the Council.

Council Member Backlund stated that he feels the City would save money by hiring a full-time person in place of Northwest Inspection Services and stated his concern with false statements made by Mr. Patch. Council Member Backlund also informed Council that he has taken resident comments that the City should not be contracting this service out.

Mayor Orrock explained the Mr. Patch is a highly experienced, well respected Building Official in the State and that Mr. Patch only charges the City 77% of the plan review fees collected on commercial and industrial building permits. Mayor Orrock also explained that one of the advantages to the City having Mr. Patch on as a Project Manager and experienced building official is that he can catch things long before they become big issues. Council Member Backlund questioned the experience of Mr. Patch indicating a concern with fire protection flow monitoring at the new liquor store. Mayor Orrock suggested that Council Member Backlund bring these types of concerns forward so that Council can be better prepared to make decisions, instead of hiding them to be used at a later date.

Council Member May questioned Council Member Backlund on the letter written by Mr. Patch to Mr. Lucht regarding Mr. Lucht's employment, and stated that she felt Mr. Patch's comments at the last Council Meeting were in-line with what the letter stated. Council Member Backlund stated that he feels it is clear why Mr. Lucht was terminated. Council Member May also explained that the City Council is not in the position to dictate to Mr. Patch who he should or should not employ.

Council Member Heitz stated that he agrees with Council Member May in that it is not the City's business who private businesses or consulting firms hire and fire. Council Member Heitz clearly stated that the e-mail intimidation and threatening manner that Council Member Backlund has been using towards City staff and departments should no longer be tolerated.

Council Member Heitz motioned to continue with all City Contracts with Northwest Inspection Services. Seconded by Council Member May, motion passed with a vote of 4:1 with Council Members Heitz, Kampa, May, and Orrock voting aye, and Council Member Backlund voting nay. Motion carried.

Council Member Heitz explained that issues need to be brought to the full Council for vote rather than by e-mailing threatening messages. Council Member Heitz indicated that he would welcome every issue Council Member Backlund brings to the meetings.

Mayor Orrock stated that the City Council is a body that has to make decisions in total, in a public forum.

## **7I. Temporary Use Permit/Fee Discussion**

Corey Boyer reviewed current fee amounts for various land-use applications. Temporary Use Permits and Home Occupation Use Permits are currently classified as Administrative Permits and have a fee of \$150.00. Discussion was held at the Planning Commission on May 16<sup>th</sup> and per that discussion, staff is recommending these two applications be listed out

separately on the fee schedule with a fee of \$50.00. Mr. Boyer indicated that there is staff time involved with the review on these types of permits, but it is limited in scope as compared to other administrative permits. Ned Noel discussed the Code on Temporary Use Permits and that there is no fee waiver for Organizations at events such as Spud Fest. Council inquired about the requirement for organizations that are conducting fundraisers at private businesses such as the local grocery store. Mr. Noel explained that the current code does not exclude them from the requirements. Council Member Kampa discussed the recent fundraiser held by the Big Lake Grad Party Committee and indicated that the organization thought their escrow of \$100 would be returned after the event. Staff discussed future issues that could arise with the code including licensing sidewalk sales. Council directed staff to look into revising the current code so that it is more easily understood and to include wording on exempting organizations.

Council Member May motioned to approve Amendment II to Ordinance No. 2006-17 amending the 2007 fee schedule to list out Temporary Use Permits and Home Occupation Permits with a fee of \$50.00. Seconded by Council Member Kampa, unanimous ayes, motion carried.

Council Member Heitz motioned to approve Resolution No. 2007-55 authorizing summary publication of Amended Ordinance No. 2006-17. Seconded by Council Member Kampa, unanimous ayes, motion carried.

Council Member Kampa motioned to refund the Big Lake Grad Party Committee their \$100.00 deposit. Seconded by Council Member May, unanimous ayes, motion carried.

#### **7J. Project Status Report – City Engineer**

Brad DeWolf reviewed the April 17, 2007 Engineers Report and answered questions from Council.

#### **7K. Ledger Board and Exterior Materials Ordinance Amendment**

Sam Woods reviewed the planners report for amendments to Section 1040 of the City Code. Proposed amendments include clarification of details on deck installation, correcting typographical errors, redefining exterior building standards, and clarifying ambiguous language in the current Code. Sam Rudd discussed safety issues with allowing the ledger boards to be covered and discussed the difficulty of conducting a proper inspection if the ledger board is attached to the structure after the Certificate of Occupancy is issued. The Planning Commission reviewed the changes at their April 18, 2007 meeting and was in favor of all modifications with the condition of ledger boards on residential structures being stained or painted. Staff is recommending removing the ledger board Ordinance from the Code.

Council Member Kampa motioned to approve Ordinance No. 2007-07 establishing

amendments to the Big Lake Zoning Code related to exterior materials on residential, commercial, and industrial properties with the additional conditions of requiring ledger boards on residential structures being stained or painted to match the surrounding area, and striking the word “conductive” from the Ordinance. Seconded by Council Member May, unanimous ayes, motion carried.

Council Member Heitz motioned to approve Resolution No. 2007-56 authorizing summary publication of Ordinance No. 2007-07. Seconded by Council Member Kampa, unanimous ayes, motion carried.

#### **7L. Joint Planning Discussion for Northstar Commuter Rail Project**

Administrator Johnson reviewed the information provided by County Commissioner Ewald Petersen and explained that the County Board would like to establish a Joint Planning Committee with the City of Big Lake, Big Lake Township, and Northstar to address issues associated with the development of the Big Lake Station for the Northstar Commuter Rail project. Items the County would like to discuss include safety, mobility, pedestrian and bicycle traffic, increased traffic volumes, right of way width, and the CR 43 railroad crossing. Administrator Johnson indicated that the City could consider inviting County and Township Representatives to assist the TOD with transportation issues along CR 43.

Council Member Kampa motioned to invite Sherburne County and Big Lake Township to assist the Transit Oriented Committee in transportation planning efforts along CR 43 South for the future Northstar Commuter Rail project. Seconded by Council Member Heitz, unanimous ayes, motion carried.

#### **8. LIST OF CLAIMS**

##### **8A. Consider List of Claims**

Council Member Heitz motioned to approve the List of Claims ranging from Check No. 50863 through Check No. 51009 with the exception of Check No. 50865. Seconded by Council Member May, unanimous ayes, motion carried.

##### **8B. Consider Audio Communications Payment in the Amount of \$159.42**

Council Member Heitz motioned to approve payment of Check No. 50865 payable to Audio Communications in the amount of \$159.42 for street, fire, and police repair maintenance equipment. Seconded by Council Member Kampa, vote passed with a vote of 4 to 0 with 1 abstention with Council Members Heitz, Kampa, May, and Orrock voting aye and Council Member Backlund abstaining. Motion carried.

#### **9. ADMINISTRATOR'S REPORT**

Administrator Johnson informed Council that the June Parks Advisory Board meeting has been rescheduled from June 11<sup>th</sup> to June 5<sup>th</sup> at 6:00 p.m.

## **10. MAYOR & COUNCIL REPORTS and QUESTIONS/COMMENTS**

Council Member Backlund: Reviewed the May Planning Commission Meeting. Council Member Backlund also updated Council on a compliment he had received on the Municipal Liquor Store.

Council Member Heitz: Updated Council on the May EDA and TOD Meetings.

Council Member May: Reviewed the May Parks Advisory Board Meeting.

## **11. OTHER**

Mayor Orrock recessed the regular session at 9:32 p.m. to go to Closed Session to discuss negotiation of land purchase of a portion of parcel number 65-120-1400 allowed under MN Statute 13D.05, subd. 3c., to discuss pending litigation for the CR 43 Interceptor project allowed under MN Statute 13D.05, subd. 3b, and to conduct the Police Chief's Performance Evaluation allowed under MN Statute 13D.05, subd. 3a.

## **12. CLOSED SESSION**

Mayor Orrock opened the closed session at 9:40 p.m.

### **12A. Negotiation of Land Purchase**

Corey Boyer reviewed the potential purchase of 38.5 acres from Bruggeman Properties identified as a portion of parcel number 65-120-1400.

### **12B. Reject Bids and Authorize Re-advertising for the CR 43 Interceptor Improvements**

Soren Mattick reviewed the legal papers served to the City relating to the bids opened for the CR 43 Interceptor Improvements and discussed the City's options relating to the pending litigation.

### **12C. Police Chief Performance Evaluation**

Council conducted a performance evaluation for Police Chief Sean Rifenberick and reviewed a draft Performance Improvement Plan.

No Action was taken by Council during Closed Session.

Council Member Heitz motioned to close the Closed Session and reconvene the regular meeting at 10:15 p.m. Seconded by Council Member Kampa, unanimous ayes, motion carried.

Council Member Kampa motioned to authorize staff to negotiate a purchase of land for expansion of the Big Lake Industrial Park East. Seconded by Council Member May, unanimous ayes, motion carried.

Council Member Heitz motioned to reject all bids for the County Road 43 Interceptor Project, authorize re-advertisement of bids, and authorized the return of the bid bond with a cover letter to S.J. Lewis Construction. Seconded by Council Member Backlund, unanimous ayes, motion carried.

**13. ADJOURN**

Council Member May motioned to adjourn at 10:17 p.m. Seconded by Council Member Backlund, unanimous ayes, motion carried.

\_\_\_\_\_  
Clerk

Date Approved By Council \_\_\_\_\_