

Pursuant to due call and notice thereof, a regular meeting of the North Mankato City Council was held in the Municipal Building Council Chambers on August 6, 2012. Mayor Dehen called the meeting to order at 7:00 p.m. asking that everyone join in the Pledge of Allegiance. The following were present for the meeting, Mayor Dehen, Council Members Schindle, Freyberg, Steiner and Norland, Interim Administrator Fischer, City Clerk Gehrke, Finance Director Thorne, Attorney Kennedy and Engineer Malm.

Approval of Agenda

Council Member Steiner moved, seconded by Council Member Norland, to approve the agenda as presented. Vote on the motion: Schindle, Freyberg, Steiner, Norland and Dehen, aye; no nays. Motion carried.

Approval of Minutes

Council Member Schindle moved, seconded by Council Member Norland, to approve the minutes of the Council meeting of July 16, 2012. Vote on the motion: Schindle, Steiner, Norland and Dehen, aye; Freyberg abstained; no nays. Motion carried.

Correspondence – none.

Public Hearing, 7 p.m. – Vacation of Perpetual Dike Easement (Christensen Street)

Mayor Dehen opened the public hearing to consider the vacation of a Perpetual Dike Easement. Interim Administrator Fischer reported the City owns a residential lot addressed as 202 Christensen and as a result of a recent survey, a perpetual dike easement was found on the property. Since the construction of the flood walls and because no dike is present, he reported it is necessary to formally vacate the easement. There being no one else appearing before the Council, the Mayor closed this portion of the meeting. **Council Member Freyberg moved, seconded by Council Member Schindle, to adopt Resolution No. 47-12 Vacating Perpetual Dike Easement (Christensen Street). Vote on the Resolution: Schindle, Freyberg, Steiner, Norland and Dehen, aye; no nays. Motion carried.**

**Open the Meeting to the Public for the First Time
Barbara Church, 102 E. Wheeler Avenue**

Barbara Church, 102 E. Wheeler Avenue, appeared before the Council and expressed her concern about the noise created from the events held at Riverfront Park. She reported she has contacted City of Mankato staff regarding this issue and asked the Mayor to discuss it at the next Intergovernmental meeting.

Joe Kluender, 2126 Rolling Green Lane

Joe Kluender, 2126 Rolling Green Lane, appeared before the Council and encouraged the Council to support the Benson Park Plan.

Bess Tsaouse, 136 Mary Circle

Bess Tsaouse, 136 Mary Circle, appeared before the Council and asked the status of the formation of a Park Board. Council Member Norland reported this would be an upcoming agenda item.

Sylvia Norman, 2106 Rolling Green Lane

Sylvia Norman, 2106 Rolling Green Lane, appeared before the Council and reported she purchased the property at this address because she was impressed with Benson Park and the proposed improvements. She stated her opposition to a playstructure in the southeast corner of the park.

Phil Henry, 1306 Noretta Drive

Phil Henry, 1306 Noretta Drive, appeared before the Council and stated he was in favor of a Fall Special Services pick-up rather than a drop-off. He stated community development funds should be used for this purpose instead of using the funds for art murals and softball banquets.

Consent Agenda

Council Member Norland moved, seconded by Council Member Steiner, to approve the Consent Agenda which includes:

1. Resolution No. 48-12 Approving Donations/Contributions.
2. Parade permit for "Remembering Our Loved Ones" Walk/Run, Benson Park, Saturday, October 13, 2012 from 9:30 a.m. to 11:45 a.m.
3. Large Group Permit for "Remembering Our Loved Ones" Walk/Run, Benson Park, Saturday, October 13, 2012, from 8 a.m. to 1 p.m.

Vote on the motion: Schindle, Freyberg, Steiner, Norland and Dehen, aye; no nays. Motion carried.

City Planner**Minutes of August 2, 2012 Planning Commission Meeting**

The Council accepted the minutes of the August 2, 2012 Planning Commission meeting.

V-3-12, Variance Request to Reduce Front Yard, Rear Yard and Side Yard Setbacks at 23 Howard Court

Planner Fischer presented a variance request from Preston Lougheed to reduce a front yard setback from 25 feet to 18.9 feet, a rear yard setback from 25 feet to 13.3 feet and a side yard setback from 10 feet to 3.7 feet as part of the construction of a new single-family dwelling at 23 Howard Court. He reported that due to a miscommunication between the Building Inspector and the contractor, the applicant's home is being constructed in violation of front, side and rear yard setbacks. Council Member Schindle reported the Planning Commission discussed changes to the policies and procedures to prevent similar situations from occurring in the future requiring a Registered Land Surveyor to provide staking services for a new dwelling, addition, deck or patio. Council Member Freyberg stated his concern that the contractor continued work on the home prior to approval of the variance. The Planning Commission reviewed the request and recommended approval of V-3-12. **Council Member Steiner moved, seconded by Council Member Norland, to approve V-3-12 as recommended by the Planning Commission. Vote on the motion: Schindle, Steiner, Norland and Dehen, aye; Freyberg abstained; no nays. Motion carried.**

Preliminary and Final Plat of Parks Edge Addition No. 2

Planner Fischer presented a request from Drummer Development to replat Lot 1, Block 4, and Outlot D of Parks Edge Addition to accommodate the development of a new single-family dwelling. He reported that a portion of Outlot D would be used to enlarge Lot 1, Block 4. As part of the replatting process, the Planner reported it is necessary to formally vacate an existing utility easement. The Planning Commission reviewed the request and recommended the approval of the preliminary and

final plat of Parks Edge Addition No. 2. **Council Member Schindle moved, seconded by Council Member Freyberg, to approve the preliminary and final plat of Parks Edge Addition No. 2. Vote on the motion: Schindle, Freyberg, Steiner, Norland and Dehen, aye; no nays. Motion carried.**

Preliminary and Final Plat of Whispering Oak Addition

Planner Fischer presented a request from William Freitag to replat Lots 1 through 5, Block 1, Whispering Oak Twins to accommodate the construction of four single-family dwellings. He reported the lots within Whispering Oak Twins were originally platted to accommodate two-family dwellings and there are existing two-family dwellings in the area; however, single-family dwellings are located on the south side of St. John Court. The Planning Commission reviewed and recommended approval of the preliminary and final plat of Whispering Oak Addition. **Council Member Steiner moved, seconded by Council Member Norland, to approve the preliminary and final plat of Whispering Oak Addition. Vote on the motion: Schindle, Freyberg, Steiner, Norland and Dehen, aye; no nays. Motion carried.**

Set Public Hearing for Consolidated Annual Performance and Evaluation Report (CAPER) for 7 p.m. on Tuesday, September 4, 2012

Planner Fischer reported that as part of our status as a HUD Entitlement Community, it is required to submit a Consolidated Annual Performance and Evaluation Report (CAPER) to report the use of 2011 Community Development Block Grant (CDBG) funds which the City receives on an annual basis. As part of the reporting process, it is necessary to set and hold a public hearing to present the CAPER and allow a fifteen (15) day comment period after the public hearing. **Council Member Freyberg moved, seconded by Council Member Steiner, to set a public hearing for the CAPER for 7 p.m. on Tuesday, September 4, 2012. Vote on the motion: Steiner, Freyberg, Norland, Schindle and Dehen, aye; no nays. Motion carried.**

Interim City Administrator

Res. No. 49-12 Awarding Bids for Project No. 12-02ABC, Caswell North Soccer Complex

Interim Administrator Fischer reported that on July 18, 2012, bids were opened for site work, drainage, irrigation and electrical as part of the Caswell North Soccer Complex Project. The Engineer's estimate for the project was \$518,000 and the project was bid at \$580,166.52 or \$62,166.52 above the Engineer's estimate. He reported the Engineer worked with the low bidder to reduce the project to \$530,908.62 or \$12,908.62 above the Engineer's estimate with items that could be done in the future, performed by City staff or deleted from the project. The work will be done by three local contractors: Ulrich Acres of Good Thunder was the low bidder for the Site Work, Dirt Merchant of Mankato was the low bidder for the Drainage Work and GreenCare of Mankato was the low bidder for the Irrigation and Electrical work. **Council Member Freyberg moved, seconded by Council Member Norland, to adopt Resolution No. 49-12 Awarding Bids for Project No. 12-02ABC, Caswell North Soccer Complex. Vote on the Resolution: Schindle, Freyberg, Steiner, Norland and Dehen; aye, no nays. Motion carried.**

Set Public Hearing for 7 p.m. on Tuesday, September 4, 2012 for Vacation of Utility Easement – Parks Edge Addition

Interim Administrator Fischer reported that as part of the proposed replatting of Parks Edge Addition, it is necessary to set and hold a public hearing to formally vacate an existing utility easement. All local utility companies will be notified of the utility easement vacation to receive comments as to any existing underground utilities which may be in place. **Council Member Norland moved, seconded by Council Member Schindle, to set a public hearing for 7 p.m. on Tuesday,**

Septemer 4, 2012 for vacation of utility easement – Parks Edge Addition. Vote on the motion: Schindle, Freyberg, Steiner, Norland and Dehen, aye; no nays. Motion carried.

Set Public Hearing for 7 p.m. on Tuesday, September 4, 2012 for Vacation of Utility Easements – Whispering Oak Twins

Interim Administrator Fischer reported that as part of the proposed replatting of Whispering Oak Twins, it is necessary to set and hold a public hearing to formally vacate existing utility easements. All local utility companies will be notified of the utility easement vacations to receive comments as to any existing underground utilities which may be in place. **Council Member Schindle moved, seconded by Council Member Steiner, to set a public hearing for 7 p.m. on Tuesday, September 4, 2012 for vacation of utility easements – Whispering Oak Twins. Vote on the motion: Schindle, Freyberg, Steiner, Norland and Dehen, aye; no nays. Motion carried.**

Set Fall Special Services Drop-off for September 28-30, 2012

Interim Administrator Fischer presented a memo from the Street Superintendent regarding the Fall Special Services. The Street Superintendent is recommending a continuation of the drop-off to maximize efficiency and stated that Public Works personnel will assist residents with the drop-off and a sharing tent will be available for items that are still usable and valuable. Council Member Steiner stated it was his understanding the Council would review the budget late summer and determine if there are funds available to conduct a fall pick-up. Council Member Schindle asked if it was possible to add a \$1 or \$2 surcharge to the utility bill to fund spring and fall pick-ups and charge the going rate for picking up appliances. Council Member Norland noted that it was a funding issue but also a manpower issue. The Finance Director presented a cost comparison for conducting a pick-up versus a drop-off reporting a cost reduction of \$8,297 for a drop-off. **Council Member Steiner moved, seconded by Council Member Schindle, to table action on setting Fall Special Services until the August 20, 2012 Council meeting asking staff to review the budget. Vote on the motion: Schindle, Freyberg, Steiner, Norland and Dehen, aye; no nays. Motion carried.**

Set Watermain Flushing for October 15-26, 2012

Council Member Norland moved, seconded by Council Member Steiner, to set watermain flushing for October 15-26, 2012. Vote on the motion: Schindle, Freyberg, Steiner, Norland and Dehen, aye; no nays. Motion carried.

Set Leaf Pickup for October 22-26, 2012 for Valley and October 29-November 2, 2012 for Hilltop

Council Member Steiner moved, seconded by Council Member Norland to set leaf pickup for October 22-26, 2012 for the valley and October 29-November 2, 2012 for the hilltop. Vote on the motion: Schindle, Freyberg, Steiner, Norland and Dehen, aye; no nays. Motion carried.

Set Brush and Compost Pile Closing for November 26, 2012 to Re-Open April 1, 2013

Council Member Norland moved, seconded by Council Member Steiner, to set the brush and compost pile closing for November 26, 2012 to re-open April 1, 2013. Vote on the motion: Schindle, Freyberg, Steiner, Norland and Dehen, aye; no nays. Motion carried.

City Clerk

Reminder of Primary Election

The City Clerk reminded voters of the Primary Election to be held from 7 a.m. to 8 p.m. on Tuesday, August 14, 2012. She reported that residents should have received a card notifying them of their polling location; however, the precinct finder will be printed in the *Free Press* on Monday, August 13, 2012 and is also located on the City website www.northmankato.com.

Finance Director**Res. No. 50-12 Declaring Costs to be Assessed for Municipal Charges – Northgate No. 2**

Finance Director Thorne presented Resolution No. 50-12 for costs to be assessed in the amount of \$6,375 for mowing and weed spraying on tax forfeiture property in Northgate No. 2. **Council Member Schindle moved, seconded by Council Member Norland, to adopt Resolution No. 50-12 Declaring Costs to be Assessed for Municipal Charges for Northgate No. 2. Vote on the Resolution: Schindle, Freyberg, Steiner, Norland and Dehen, aye; no nays. Motion carried.**

Res. No. 51-12 Approving Consent Assessment Agreement – 1712 Mary Lane

Finance Director Thorne presented Resolution No. 51-12 for costs to be assessed in the amount of \$11,585.43 for driveway and curb replacement as a result of new sewer line installation at 1712 Mary Lane. **Council Member Norland moved, seconded by Council Member Steiner to adopt Resolution No. 51-12 Approving Consent Assessment Agreement for driveway and curb replacement at 1712 Mary Lane. Vote on the Resolution: Schindle, Freyberg, Steiner, Norland and Dehen, aye; no nays. Motion carried.**

City Attorney**Belle House, LLC, 2107 Northridge Drive**

Attorney Kennedy reported that Belle House, LLC, presented to staff a petition for reasonable accommodation to house more than six (6) female recovering alcoholics at 2107 Northridge Drive. The request does not fall into any easily defined category. It relates to real estate but does not fall into a typical request for rezoning or variances. He reported the request for reasonable accommodation has been fairly common in the Twin Cities area for quite some time. He also stated the request must be acted upon by the City within sixty (60) days of the request. This timeline would require final resolution by the City by the end of August. If no final action is taken within the sixty (60) day period, the request is considered granted. Attorney Kennedy reported the attorney for Belle House was in attendance at the meeting. Attorney Kennedy stated that since the City of North Mankato does not have a reasonable accommodation policy currently in place, the Council will need to determine how to proceed.

The Attorney presented background indicating such requests for reasonable accommodation generally come from someone with a disability. He advised the City not require the request be made by someone with a disability and allow the request by Belle House, LLC to proceed as a qualified request for reasonable accommodation.

The Attorney offered three options for the Council to consider: 1) Appoint a hearing officer at the staff level who would hear all the information that anyone wanted to bring before the officer. The decision of the hearing officer could be subject to appeal to the City Council. 2) The Council could determine that the Planning Commission could be the body to hear the evidence and make a decision on the request. Any decision would be subject to appeal to the City Council. Such a review would be on the record with no new testimony or exhibits. 3) The City Council could be the hearing body and would make the decision and any appeal would go to the Courts. In such an event, the City's position would likely be defended by the League of Minnesota Cities Insurance Trust. The Attorney recommended the Council consider using the Planning Commission as the hearing body. The standard that would be applied in deciding whether to grant the request for reasonable accommodation would be based on standards set previously by the courts. Council Member Schindle stated that all Planning Commission members should be polled to see if they are willing to be the hearing group. Council Member Norland stated that since the Planning Commission is in the land use area, it would make sense to ask them to do this. Attorney Kennedy was instructed to question the Planning Commission

to ascertain their willingness to serve as the hearing group and report to the Council at the August 20, 2012 Council meeting. Mayor Dehen asked the Attorney to draft a resolution assigning the Planning Commission to be the hearing group for this type of land use issue and to follow up with Belle House attorney to extend the sixty (60) day time period.

City Engineer

Engineer Malm reported the CSAH 41/Carlson/Howard project is basically completed and the 14/41 interchange project is on schedule.

Report from Council Members

Council Member Freyberg

Council Member Freyberg reported there are new and exciting ideas involving economic development authorities. He asked the City Attorney if there is a provision to move away from the Port Authority and to a local or regional economic development authority. Attorney Kennedy gave some background on economic development authorities. **Council Member Freyberg moved, seconded by Council Member Schindle, to direct the City Attorney to evaluate what provisions are available and review the statutes of our Port Authority and converting it to an Economic Development Authority. Vote on the motion: Schindle, Freyberg, Steiner, Norland and Dehen, aye; no nays. Motion carried.**

Council Member Freyberg stated he has received a number of comments from concerned citizens regarding Benson Park and asked that the Council consider appointing a Park Board for a period of 12 months. Council Member Norland stated the Park & Green Spaces Committee did the job they were assigned and looked at other viable work for this Committee including fundraising and recruiting volunteers; however, none of those ideas went forward. She noted that a report was completed outlining the Benson Park Plan and how it is going forward and to date approximately \$1.6 million has been spent for the land and improvements to Benson Park. She has been speaking with several interested parties with special expertise. Attorney Kennedy reported a Park Board is similar to a Library Board and the Park Board should include the entire park system and terms and a selection process should be conducted the same as any other board.

Council Member Norland

Council Member Norland asked if a camera had been installed in the hallway at the Municipal Building. Interim Administrator Fischer reported staff is acting on this.

Council Member Norland thanked members of the Park & Green Spaces Committees for coming to the meeting tonight and asked them to contact her if they did not receive a copy of the report on Benson Park. She discussed the Benson Park allocation for 2013 for \$500,000 that will cover the infrastructure work. One of the reasons this did not happen is that the Legacy Fund did not fund Benson Park and the grant will be applied for again in 2012. **Council Member Norland moved that City staff go forward with a natural materials playstructure in the southwest corner of Benson Park and that additional screening be placed along the north/south line. This motion died for lack of a second.**

Mayor Dehen reported he spoke with School Superintendent Sheri Allen regarding the playstructure originally purchased for this site and that it be placed at the soccer field site. She is reviewing this with school staff and will be meeting with Interim Administrator Fischer. He stated by putting the playstructure in this area it would give residents and family members attending soccer games an area to play.

Council Member Schindle stated he believed the Park Committee was opposed to the playstructure in the southwest corner of Benson Park. Freyberg reported he received 12 emails in opposition to playground equipment.

Mayor Dehen reported the broader purpose of the meeting with Sheri Allen was to talk about parking at Dakota Meadows for the Minnesota State High School League softball tournament that will be held at Caswell Park for the next three years.

Report from the Mayor

Additional Funding for Veterans' Map

The Mayor reported the veterans' maps have been a success and he has contacted the services clubs in an effort to obtain funding for an additional 5,000 maps for a total cost of \$1,000.

Update of Hiring Process for City Administrator and Set Special Council Meeting

The Mayor reported the Expanded Personnel Committee will meet Tuesday night to consider the final candidates for the City Administrator position. He asked that a Special Council meeting be set for 1 p.m. on Friday, August 10, 2012 to announce the candidates and to set Special Council meetings for interviewing the finalists. **Council Member Schindle moved, seconded by Council Member Steiner, to set a Special Council meeting for 1 p.m. on Friday, August 10, 2012. Vote on the motion: Schindle, Freyberg, Steiner, Norland and Dehen, aye; no nays. Motion carried.**

Open the Meeting to the Public for the Second Time

Mayor Dehen opened the meeting to the public for the second time with no one appearing.

Bills and Appropriations

Council Member Steiner moved, seconded by Council Member Norland, to approve all bills and appropriations in the amounts of \$225,402.43 and \$1,497,359.09. Vote on the motion: Schindle, Freyberg, Steiner, Norland and Dehen, aye; no nays. Motion carried.

There being no further business, Council Member Steiner moved, seconded by Council Member Norland to adjourn the meeting. Vote on the motion: Schindle, Freyberg, Steiner, Norland and Dehen, aye; no nays. Motion carried. The meeting was adjourned at 8:37 p.m.

Mayor

City Clerk