

Detroit Lakes, Minnesota
June 8, 2010

The regular meeting of the City Council was called to order in the Council Chambers of the City Administration Building at 5:00 P.M., Tuesday, June 8, 2010; all members of the City Council having been notified of the meeting and business to be transacted.

Present: Mayor Matt Brenk; City Attorney William Briggs; City Administrator Robert Louiseau; Assistant City Administrator Lynne Krieger; Finance Officer Louis Guzek; Community Development Director Larry Remmen; Public Utilities Superintendent Curt Punt; Public Works Director Bradley Green; Police Chief Kelvin Keena; City Engineer Jon Pratt and Fire Chief Jeffrey Swanson.

Aldermen: Aune, Heltemes, Imholte, Marks Erickson, Sukke Tollefson, Tucker and Zeman.

Absent: Alderman Anderson; Building Official Calvin Mayfield and Liquor Store Manager Bradley MacMaster.

There being no corrections or additions to the minutes of the regular City Council Meeting held May 11, 2010, Mayor Brenk declared that they would stand approved according to copies of same sent to each member of the Council.

The Mayor called to order a continued hearing from the April 13, 2010, City Council Meeting at 5:04 P.M. to hear public comment and give consideration to the matter of the proposed vacation of a portion of the dedicated public road in the plat of Curfman Beach. Community Development Director Larry Remmen advised that the property owner who requested the vacation has not contacted him about the easement being resolved. Mayor Brenk continued the hearing to the July 13, 2010, Council Meeting.

Pursuant to notice having been published in the official newspaper that the City Council, this date, would hear public comment and give consideration to the matter of the proposed vacation of a portion of right-of-ways on McKinley Avenue and Holmes Street (Central Market), the Mayor called the hearing to order at 5:05 P.M. Community Development Director Remmen advised that this item is related to the Highway 10 Project and the proposed vacation lies east of the new alignment of McKinley Avenue between Frazee Street and the new alignment of Highway 10. There being no further comments, Mayor Brenk closed the hearing at 5:06 P.M.

Upon the recommendation of the Community Development Committee, a resolution was introduced by Alderman Aune, who moved its adoption, vacating a portion of right-of-ways on McKinley Avenue and Holmes Street (Central Market). The

motion for the adoption of the resolution is seconded by Alderman Tucker and carried without a dissenting vote. Mayor Brenk declared the resolution adopted.

Pursuant to notice having been published in the official newspaper that the Council would at this present meeting conduct a hearing for the purpose of hearing public comment in the matter of construction of curb, gutter, driveway and sidewalk repair/replacement at various locations throughout the City, Mayor Brenk called the hearing to order at 5:06 P.M. There being no comments, the Mayor closed the hearing at 5:07 P.M. and reconvened the regular Council Meeting.

Upon the recommendation of the Public Works Committee, a resolution was introduced, by Alderman Marks Erickson, who moved its adoption, ordering the improvement of curb, gutter, concrete driveway and concrete walk for 2010. The motion for the adoption of the resolution was seconded by Alderman Zeman and carried without a dissenting vote. Mayor Brenk declared the resolution adopted.

The Mayor called to order a hearing at 5:07 P.M. to consider the matter of a reported nuisance at 1110 Linden Lane created by an inoperable/unlicensed white Ford truck. Police Chief Kelvin Keena advised that, as of this date, the truck is still parked at that location. There being no further comments, Mayor Brenk closed the hearing at 5:07 P.M. and reconvened the regular Council Meeting.

Upon the recommendation of the Public Safety Committee, a motion was made by Alderman Heltemes, seconded by Alderman Marks Erickson and carried, without a dissenting vote, that the Council finds that a nuisance exists in violation of City Code Chapter 901 at 1110 Linden Lane and directed Police Chief Keena to abate the nuisance by removing the truck at 1110 Linden Lane.

Police Chief Keena advised the Council that the inoperable/unlicensed vehicles at 1519 Gary Avenue, 202 West Grant and 1142 Hawk Street have been removed.

Tim Flaherty, Coalition of Greater Minnesota Cities, updated the Council on the Legislative Session that has recently concluded.

Pursuant to the recommendations of the Planning Commission which were submitted to the City Council, and upon the recommendation of the Community Development Committee, a motion was made by Alderman Aune, seconded by Alderman Tucker and carried, without a dissenting vote, approving the issuance of a 10' front yard setback and a 3' side yard setback allowing construction of a 24' x 36' foot garage at 1728 East Shore Drive.

Pursuant to the recommendations of the Planning Commission which were submitted to the City Council and upon the recommendation of the Community Development Committee, a motion was made by Alderman Aune, seconded by Alderman Tucker and carried, without a dissenting vote, approving the issuance of a variance to Zirbel Construction/Hamilton Enterprises allowing a 5' six" rear yard setback allowing

construction of a commercial building at 303 Frazee Street East subject to the driveway access on Frazee Street, closest to the McKinley Avenue exit, be eliminated and moved to McKinley Avenue. The McKinley Avenue entrance must be set back a least 40 feet from the lot line near the intersection.

Pursuant to the recommendations of the Planning Commission which were submitted to the City Council and upon the recommendation of the Community Development Committee, a motion was made by Alderman Aune, seconded by Alderman Zeman, approving the issuance of impervious surface variance for 34.3% impervious surface to 1317 Summit Avenue allowing Eleanor Forseth to construct a 40 square foot addition to a home at 1317 Summit Avenue, subject to the following conditions:

1. That the impervious surface coverage not exceed 34.3%;
2. That the owner obtains a Pelican River Watershed District Permit prior to issuance of a building permit; and
3. That the addition be constructed as shown on the approved site plan.

Alderman Imholte clarified the Planning Commission's reasons for recommending approval was because they did not perceive this to be a large addition and there was onsite water treatment. Mayor Brenk then called the question and the motion carried with one dissenting vote (Marks Erickson).

The Council deferred action until the July 13, 2010, Council Meeting on an ordinance enabling people to have dogs in outdoor serving areas of local restaurants giving City Staff time to notify the City's liquor licensees and restaurants about this issue.

Pursuant to the request of Bar Hopper LLC and upon the recommendation of the Public Safety Committee, a motion was made by Alderman Tollefson, seconded by Alderman Heltemes, introducing, for its first reading, an ordinance amending Section 700, Chapter 704, 704.01 Subds. 1, 2 and 4, adding Minnesota Statute 169.A35, Subd. 6 as an exception to consumption and possession of liquor and beer. Upon the inquiry of Alderman Heltemes, City Administrator Robert Louiseau advised that if the Council wants to set conditions, the time to do that is when Bar Hopper LLC applies for a taxi license. Alderman Zeman expressed concern about allowing a group on the proposed bicycle taxi to have liquor but not allow people in the park and on the beach to have liquor. Mayor Brenk then called the question and the motion carried with one dissenting vote (Zeman).

Mayor Brenk advised the Council that Tom Hanson has withdrawn his request for a temporary tent at 402 West Lake Drive but has asked to address the Council. Tom Hanson, after giving a review of events relative to his first request to the City Council for a permanent tent, asked that the City Council approve, this date, his offer to build a permanent structure with garage doors on the east side of the building and accept \$50,000.00 for parking lot improvements. He advised that the Pelican River Watershed District had just approved his permit. Bernie Sauer, Mike Hutchinson, Mike Gunderson

and Jeff Leighton appeared before the Council and encouraged them to vote in favor of Mr. Hanson's request. Alderman Imholte stressed that asking for Mr. Hanson to pay for parking improvements in conjunction with his proposed building plans is not unreasonable. Alderman Tucker opposed voting on Mr. Hanson's request because it was not on the agenda and people were not made aware that this request would be considered at this meeting. Alderman Zeman spoke in favor of Mr. Hanson's request. Upon inquiry of Mayor Brenk, City Administrator Louiseau advised that the City Engineer's original estimate for parking improvements was \$83,000.00. The City agreed to pay for the storm sewer improvements. After Alderman Zeman spoke in favor of Mr. Hanson's request, he made a motion, which was seconded by Alderman Imholte, authorizing Tom Hanson/Zorbaz on the Lake, to construct a steel building with two garage doors on the east side and one garage door on the end which will remain closed when there is music and be assessed the full cost of the parking lot improvements. Upon the inquiry of Alderman Heltemes, City Attorney Briggs advised that the open meeting law would not be violated because this is not a special Council meeting and new items can be added to regular Council meetings. Alderman Imholte spoke in favor of the garage doors and parking lot assessments. Alderman Tucker stressed that noise is a big issue for the neighbors around the vicinity of Zorbaz and reiterate that the Planning Commission's intent and spirit was by approving the building with solid sides and therefore will vote against the motion. Alderman Aune advised that he was in favor of the solid walls but would be willing to compromise in favor of the garage doors and will vote for the motion. Alderman Zeman spoke in favor of the motion and mentioned that the Street Faire probably had more calls about noise than what Zorbaz had last year. Alderman Heltemes expressed his concern about the neighbors in the vicinity having to deal with the noise. City Administrator Louiseau advised that if this motion is approved it would permit three garage doors on one side of the building because the parking assessment and construction of the building had already been approved at an earlier Council Meeting. Alderman Tucker inquired as to if the solid wall on the original building will still be required if this motion is passed. Upon the inquiry of Mayor Brenk, Tom Hanson advised that there would be two garage doors on the east side of building and one garage door on the end. Mayor Brenk then called for a roll call vote and the following vote was recorded: Ayes: Sukke, Aune, Zeman, Imholte; Nays: Heltemes, Tucker, Marks Erickson. The Mayor declared the motion carried.

Pursuant to the recommendations of the Planning Commission which were submitted to the City Council and upon the recommendation of the Community Development Committee, a motion was made by Alderman Aune, seconded by Alderman Heltemes, introducing, for its first reading, an ordinance amending the Zoning Ordinance allowing daycares/preschools as a conditional use in the "I-1" and "I-2" Industrial Districts subject to the following conditions:

- 1) That the proposed daycare/preschool operators understand that the environmental conditions in an Industrial District including: noise, vibration and odors may not be conducive to the operation of a daycare/preschool;

- 2) All design, operating and licensing requirements of appropriate Federal, State, County and City agencies are met;
- 3) The proximity of the outdoor play area to the building shall be designed so children do not have to cross areas of vehicle traffic;
- 4) Loading and drop-off locations shall not interfere with traffic flow;
- 5) Outside play areas shall be fenced for safety; and
- 6) Other conditions as the City Council may deem appropriate.

Alderman Zeman spoke in opposition of the proposed ordinance because the City put in heavy duty roads, storm sewers, and oversized sewer mains to bring in industry and requested City staff find a more suitable location for the daycare. Mayor Brenk then called the question and the motion carried with one dissenting vote (Zeman).

Upon the recommendation of the Community Development Committee, a resolution was introduced by Alderman Aune, who moved its adoption, approving the appraisal for the underlying value of the Highway 10 right-of-way turnback property. The motion for the adoption of the resolution was seconded by Alderman Sukke. Alderman Imholte expressed concern about the \$44,0000.00 appraisal value and stressed that if MnDOT does not agree to pay this expenditure, the City will have to come up with the funds. Mayor Brenk advised that this resolution is only accepting the appraisal value of the turnback properties and not the expenditure for the underlying residential rights. It was noted that City staff will be setting up a meeting with MnDOT to discuss their involvement with the expenditures. The Mayor then called the question and the motion for the adoption of the resolution was carried.

Pursuant to the recommendation of the Community Development Committee, a resolution was introduced by Alderman Aune, who moved its adoption, designating a Recovery Zone in tracts #27005950500 and #27005950600 which are qualified census tracts under the "New Markets Tax Credit" Program. The motion for the adoption of the resolution was seconded by Alderman Zeman. Community Development Director Remmen advised that Becker County allocated their authority to issue Recovery Zone Facility Bonds in the amount of \$1,371,000.00 to the City. He further advised that there are several projects that could be possible users, including the Waterfront Development and the Crescent Redevelopment Project.

Upon the recommendation of the Public Works Committee, a resolution was introduced by Alderman Heltemes, who moved its adoption, approving plans and specifications for storm sewer and paving improvements for the alley behind MeritCare Clinic, 1245 Washington Avenue. The motion for the adoption of the resolution was seconded by Alderman Sukke and carried without a dissenting vote. Mayor Brenk declared the resolution adopted.

Upon the recommendation of the Public Works Committee, a motion was made by Alderman Heltemes, seconded by Alderman Sukke and carried, without a dissenting vote, authorizing the issuance of a permit for Brett and Heather Bridgeman to have three

dogs at 1873 Hickory Lane for 2010, pursuant to their application, licensing the dogs and \$20.00 fee.

Pursuant to Public Works Director Brad Green obtaining quotes for the outdoor skating rink hockey boards at Peoples Park, the following quote were received:

	<u>Becker Arena Products</u>	<u>Athletica</u>	<u>Local Quote</u>
New Boards	\$66,155.00	\$65,380.00	
Used Boards	22,875.00	Not Available	
Cost to Construct Boards With Treated Lumber (Materials Only)	2x6 boards 32,585.00		¾" plywood \$23,128.00
*Company supervised installation \$2,240.00			

Upon the recommendation of the Public Works Committee, a motion was made by Alderman Heltemes, seconded by Alderman Marks Erickson and carried, without a dissenting vote, accepting the quote of Becker Arena Products, not to exceed \$25,115.00 for used boards.

Pursuant to the recommendation of the Public Works Committee, a motion was made by Alderman Heltemes, seconded by Alderman Imholte, to deny the issuance of a private dock license to Bonnie Helm, 716 West Lake Drive. City Attorney William Briggs advised that when the City Beach improvements were made along West Lake Drive, property owners along the Beach area provided deeds to the City with the covenant that they would be permitted certain activities (dock) but covenants have lapsed after 30 years. Alderman Imholte advised that the reason the Public Works Committee made this recommendation was because this property owner has never put a dock out before. Mayor Brenk then called the question and the motion carried unanimously.

Upon the recommendation of the Public Works Committee, a motion was made by Alderman Heltemes, seconded by Alderman Zeman and carried, without a dissenting vote, approving the issuance of a plumbing license for 2010 to Maloney's Plumbing, Inc. pursuant to their application, compliance bond and fee.

Upon the recommendation of the Community Development Committee, a motion was made by Alderman Heltemes, seconded by Alderman Tucker and carried, without a dissenting vote, that building permits for the month of May, 2010, in the estimated construction value of \$8,853,225.59, be issued pursuant to their applications accompanied by the required City fees and State Surcharges, the issuance of such permits having been recommended by the Building Official and approved by the Community Development Committee.

Pursuant to the recommendation of the Public Works Committee, a motion was made by Alderman Heltemes, seconded by Alderman Tucker and carried, without a dissenting vote, authorizing the Chamber of Commerce to use the area in front of the

Freeman Arena and the second arena for shuttle bus service parking for WE Fest, to use People's Park for over flow parking and to block off ten parking spaces on the east side of Washington Avenue in front of Norby's Department Store for a bus drop-off/pick-up point downtown for August 5-7, 2010.

Pursuant to the recommendation of the Finance Committee, a motion was made by Alderman Imholte, seconded by Alderman Heltemes and carried, without a dissenting vote, to accept and approve the audited 2009 Financial Statement.

Pursuant to City Charter, Chapter 6, Section 6.04 Mayor Brenk appointed the Finance Committee (Imholte, Heltemes, Tollefson and Tucker) as the Budget Committee for 2010.

Upon the recommendation of the Finance Committee, a motion was made by Alderman Heltemes, seconded by Alderman Tucker and carried, without a dissenting vote, accepting the work and authorizing final payment to Feldt Plumbing LP, in the amount of \$35,133.00, for the Lift Station Replacement on Willow Street.

Pursuant to the recommendation of the Public Safety Committee, a motion was made by Alderman Aune, seconded by Alderman Sukke and carried, without a dissenting vote, introducing, for its first reading, an ordinance to amend and revise Chapter 604 of the City Code entitled "Transient Merchants, Peddlers, Hawkers, Solicitors" to change violations of this Chapter from a petty misdemeanor to a misdemeanor.

Upon the recommendation of the Public Safety Committee, a motion was made by Alderman Aune, seconded by Alderman Heltemes and carried, without a dissenting vote, approving the issuance of permits to exceed the noise limits in the City for The Lodge on the Lake on June 18, 2010, and September 3, 2010.

Pursuant to the recommendation of the Public Safety Committee, a motion was made by Alderman Heltemes, seconded by Alderman Aune and carried, without a dissenting vote, authorizing seven firefighters to attend the State Fire Convention June 10-12, 2010, in Grand Rapids, Minnesota.

Upon the recommendation of the Public Safety Committee, a motion was made by Alderman Heltemes, seconded by Alderman Tucker and carried, without a dissenting vote, approving the issuance of a fireworks permit for Matt Winskowski allowing him to sell fireworks at 303 Frazee Street (former Sinclair Building) for 2010, pursuant to his application and \$350.00 fee.

Pursuant to the recommendation of the Public Safety Committee, a motion was made by Alderman Heltemes, seconded by Alderman Tucker and carried, without a dissenting vote, approving the issuance of a permit for Mike Checkalski dba Nightstorm to conduct dances in the Pavilion July 3-4, 2010, pursuant to the Police Chief's recommendation for approval.

Upon the recommendation of the Public Safety Committee, a motion was made by Alderman Heltemes, seconded by Alderman Tucker and carried, without a dissenting vote, approving the issuance of a Display of Fireworks License for the Detroit Lakes Regional Chamber of Commerce for the 4th of July Fireworks.

Pursuant to the recommendation of the Liquor/Gambling Control Committee, a motion was made by Alderman Tucker, seconded by Alderman Heltemes and carried, without a dissenting vote, authorizing the Velde/Kroger Wedding Party to permit guests to consume liquor outside in a fenced in area on the lawn and on the beach by the Pavilion the evening of August 14, 2010.

Upon the recommendation of the Liquor/Gambling Control Committee, a motion was made by Alderman Heltemes, seconded by Alderman Tucker and carried, without a dissenting vote, approving the issuance of permits to consume alcoholic beverages at the Pavilion for the Sundby Wedding guests on September 25, 2010 and Baukol Groom's Dinner on June 11, 2010.

Pursuant to the recommendation of the Liquor/Gambling Control Committee, a motion was made by Alderman Heltemes, seconded by Alderman Tucker and carried, without a dissenting vote, approving the issuance of temporary on-sale intoxicating liquor licenses to Bleachers Bar and Grill allowing them to sell intoxicating liquor at the Pavilion for the Velde Wedding on August 14, 2010, and the Baukol Wedding on June 12, 2010.

A resolution was introduced by Alderman Zeman, who moved its adoption, appointing the Assistant City Administrator as the Privacy Official and assigning duties pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPPA). The motion for the adoption of the resolution was seconded by Alderman Aune and carried, without a dissenting vote. Mayor Brenk declared the resolution adopted.

A motion was made by Alderman Heltemes, seconded by Alderman Tucker and carried, without a dissenting vote, authorizing the issuance of cigarette licenses, for one year, to Book World, 815 Washington Avenue, and Casey's General Store #2219, 104 Roosevelt Avenue, pursuant to their application and \$150.00 fee.

Mayor Brenk called for a Special City Council Meeting for June 22, 2010, at 5:00 P.M. to discuss the referendum for the 1% Food and Beverage Tax, to receive the report and recommendation from the McComb Group regarding the Municipal Liquor Store facility needs and discussion on the Crescent Redevelopment.

A motion was made by Alderman Heltemes, seconded by Alderman Tucker and carried, without a dissenting vote, authorizing the issuance of an on-sale intoxicating liquor license for July 9, 2010, and July 17, 2010, at the Pavilion

A motion was made by Alderman Heltemes, seconded by Alderman Tucker and carried, without a dissenting vote, approving the application submitted by the Detroit Lakes Jaycees, to conduct Bingo at the Pavilion on July 15, 2010.

Upon the recommendation of the Finance Committee, a motion was made by Alderman Heltemes, seconded by Alderman Tucker and carried, without a dissenting vote, that the trial balance, submitted by Finance Officer Louis Guzek, showing the balance in the City treasury to be in the amount of \$2,257,798.51 as of May 31, 2010, be accepted, approved and placed on file.

Pursuant to the recommendation of the Finance Committee, a resolution was introduced by Alderman Zeman, who moved its adoption, approving the payment of claims paid by proper authorization covering the period May 12, 2010, through June 8, 2010, in the amount of \$3,346,445.46. The motion for the adoption of the resolution was seconded by Alderman Tucker and carried without a dissenting vote. Mayor Brenk declared the resolution adopted.

The motion was made by Alderman Heltemes, seconded by Alderman Tucker and carried, without a dissenting vote, that the County Court Report for April, 2010, Animal Control Report, Chief of Police Report, Fire Chief's Report, Liquor Store Manager's Report and parking violations report for May 2010 be approved and placed on file.

There being no further business to conduct, by general consent, The Mayor adjourned the meeting at 7:03 P.M.

Respectfully submitted,

Lynne Krieger
Asst. City Administrator