

MINUTES

The meeting was called to order with Roll Call by Mayor David Anderson.

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| Roll Call: | Cannon | Present | Urbanek | Present |
| | Maniez | Present | Zindler | Present |
| | Templin | Present | | |

The Mayor led the citizens in the Pledge of Allegiance.

Citizens signed the book on page 20.

PUBLIC HEARING: Consider approving ordinance vacating a portion of public right-of-way adjoining 84th Street.

Patrick Reavey, City Attorney, explained that this is excess right-of-way the City has no use for at this time, and the affected property owners have been notified that this property will go back on the tax rolls. Discussion by Mike Brungardt, City Engineer. He stated there are no utilities in these right-of-way areas. The City is reserving utility easements for future use if needed. Proper notice and publication have been provided.

Mayor Anderson opened the public hearing. No public comment was received. Mayor Anderson closed the hearing.

Motion by Councilwoman Zindler to adopt Ordinance No. 2052; second by Urbanek.

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| Roll Call: | Cannon | Yes | Urbanek | Yes |
| | Maniez | Yes | Zindler | Yes |
| | Templin | Yes | | |

Motion carried.

Consent Agenda Items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action.

1. Consent Agenda:
 - a. Approve Minutes from the Council meeting of June 30th, 2004.
 - b. Approve Pay Ordinance No. 501.
 - c. Consider Resolution No. 693 to abate environmental code violation at 8715 Penner Avenue.

Discussion by Patrick Reavey, City Attorney.

Motion by Councilman Urbanek to approve Consent Agenda Items 1.a and b; second by Cannon. Discussion by Councilman Maniez on the street light that was damaged. Mr. Johnson stated this was damage done during a snow plow incident and the City is just now receiving the invoice.

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| Roll Call: | Cannon | Yes | Urbanek | Yes |
| | Maniez | Yes | Zindler | Yes |
| | Templin | Yes | | |

Motion carried.

Patrick Reavey reviewed the contents of the proposed resolution.

Motion by Councilwoman Templin to approve Resolution No. 693; second by Urbanek. Discussion on abatement of vehicles.

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| Roll Call: | Maniez | Yes | Urbanek | Yes |
| | Cannon | Yes | Templin | Yes |
| | Zindler | Yes | | |

Motion carried.

2. Call to Public:

“Members of the public are welcome to use this time to comment about any matter relating to City business that is not listed on this Agenda. The comments that are discussed under Call to Public may or may not be acted upon by the Council during this meeting. **There is a four-minute time limit.** Please stand and wait to be recognized by the Mayor.”

Roland Ohrenberg, 33865 W. 84th Street, stated many years ago, the strip of land at the back of his property was an abandoned alley. He has maintained the property for 37 years and he feels it should be placed back on the tax roles. He would like the property to be vacated back to him. Discussion by Councilman Maniez and Mr. Brungardt to ascertain that no utilities exist on this property prior to the vacation. Mr. Brungardt stated the right-of-way for 84th and Penner Avenue should be retained for future utility easements. Council agreed the property should be vacated back to Mr. Ohrenberg. Mr. Reavey will prepare the necessary documents and public hearing notification.

Susan Plummer, 8685 Waverly Road, stated her concern is that she had called the City Hall three days straight and did not get a real person, only voice mail. On the third day, she finally reached Larry Baxter, after trying different extensions. She is a taxpayer and expects to be able to contact a real person. The City is for the patrons and when they need an answer, they want it today, from a real person, and not voice mail. She would like the City Council to direct someone to answer the telephone so the taxpayers don't have to punch through an entire telephone listing and then get voice mail. Discussion by Mr. Johnson that the problem has been solved this week. If you call City Hall now, you will be able to dial “0” and reach someone at the front desk.

Archie Bedford, 34250 W. 84th Terrace, stated he wanted to comment on the 83rd Street lack of progress. He knows there is an upcoming project on Lexington Avenue, and he strongly urges that the City have something in the contract for the number of working days on a project, or some type of enforcement. He feels this is totally unacceptable and he hopes the City will, in future, reject any bids submitted by R. D. Johnson. Discussion by Mayor Anderson that a letter has been sent to the bond company. Mr. Bedford stated there needs to be pressure put on the contractor. Mr. Bedford stated there is minimal effort being made by the contractor to finish this project. He feels very sorry for the Yummies business owners.

3. Chamber / EDC Report: Sara Ritter, Executive Director, had no report.

4. Old Business:

- a. Discuss building permit issued to VFW. Patrick Reavey provided Council with a summary of a meeting he and Mike Brungardt had with the VFW officials. The project will go through the site plan approval process. The VFW is very limited on funds and a compromise on the timing of some items will come before the Council for delayed implementation through a development agreement. Discussion by Mayor Anderson. Discussion by Councilwoman Templin on a development agreement.

Mr. Archie Bedford, VFW representative, stated the chairman of the building committee was unable to be here this evening. The VFW's intent is to provide a curb and gutter and improved parking area. They certainly intend to do that, but they can't afford to do it right now. He explained the history of the Miller house and the proposed memorial area for veterans. They wanted to put in a new entrance onto 84th Street because the sight distance at the current driveway is very limited. He said Larry Baxter was working under the information that was given him by the VFW, and Mr. Bedford stated they had figured it at 42% approximately. The VFW stated there was never any intent by anyone in this process to avoid

any City regulations, and they are aware that if the footprint is over 50%, there is a site plan review. At this time, they have a \$145,000 commitment and/or paid already. Their concern is that if they cannot proceed, all costs will be going up, and their contract costs will go up.

Discussion by Mr. Reavey that he and Mr. Brungardt have called a site plan meeting and they hope to get this item on the July Planning Commission meeting. Mr. Brungardt stated no submittals have been received from the VFW for the site plan review committee to review. Discussion by Mr. Reavey that the landscaping needs to be approved and the site plan submitted. Mr. Bedford will try to contact the VFW committee and ask them to contact Mr. Brungardt on Friday with a site plan submittal. Mr. Bedford stated this site plan review committee isn't a quick process. He has been through this before and they have wanted three, and even four, review meetings. This will really slow down the building process. Mayor Anderson stated the City is willing to work with the VFW and the City needs a response from the VFW as quickly as possible. Discussion by Councilman Maniez that if the Council passes this resolution, the VFW can't proceed until the plans have been approved by the Planning Commission. Discussion by Mr. Bedford and Mr. Brungardt that the City must issue a building permit that is legal and conforms with the City's process and regulations. Mr. Brungardt stated the requirements of the Zoning Ordinance must be imposed. The timing of the improvement requirements can be managed through a development agreement.

Mr. Bedford stated he wants to make one point clear. As far as most of the VFW is concerned, the exception was made under the 50% and the enclosed area they are building is less than the 50% area that the City states exceeds 50%. He doesn't want to get into a nitpicking process with the site plan review committee. He feels some of the items imposed on some developments is in excess.

Discussion by Councilman Maniez and Mr. Bedford. Councilman Maniez stated the building permit was issued in good faith, and the City has to be responsible for some part of this. Councilman Maniez stated the City should allow the VFW to build the building first and then do a development agreement for the remainder of the project and the completion details. Discussion by Mr. Brungardt that this would take away the process from the site plan review committee. Councilman Maniez stated there is a question on the 42% or the 50%, and as Mr. Bedford stated, this seems to be a difference of opinion within the City staff. Mr. Brungardt stated he certainly feels the inconvenience and the importance of the situation; however, it is not within his discretion to grant a building permit as that is the decision of the site plan review committee and the planning commission. Discussion by Mr. Reavey that the City has a future obligation to be able to defend the building permit process. Mr. Bedford stated they (VFW) do not agree they exceeded the regulations. Mr. Reavey stated that the patio area that is proposed is very much a part of the structure. Mr. Reavey stated this is a very difficult process for the City staff as well as the VFW. There is no legal way to verify the building permit without the site plan approval process.

Mr. Bedford stated the VFW's intent is to have a paved parking lot. Mr. Bedford stated he can't determine at this time how much vegetation the VFW is going to plant around the property. Mayor Anderson stated the site plan review committee will follow the guidelines, and then the Planning Commission will review the site plan for approval. The Council can then determine the process and work with the VFW on a development agreement. Mr. Bedford said he hopes the City will not get hung up on all the vegetation requirements because it is very time consuming.

Councilwoman Cannon stated she is a member of the VFW Auxiliary. Councilman Urbanek stated he hates to delay this problem. He has a resolution to the problem with the 50% question. Discussion by Mr. Reavey and Councilman Urbanek. Mayor Anderson stated parking is also an issue that has to go before the site plan review. Councilman Maniez stated he sees the problem as the 50% and the interpretation of how it was arrived at. He doesn't see where the City would be in any danger of approving the footprint only with the remainder being reviewed by the site plan review committee, as it will come back to the Council for future approval. Councilman Maniez stated he did not want to see the VFW being penalized for an inconsistency in the City's determining the percentage.

Mayor Anderson stated the VFW cannot build this building, as outlined in the memo directed to the Council. It is the City Council's duty to work diligently with all concerned to move this project as soon as possible and get it back on the agenda in August. Mr. Reavey stated the site plan review committee and the Planning Commission will be briefed on the circumstances of this situation. Councilwoman Zindler

stated, under the circumstances, the City has no choice. She is a huge supporter of the VFW; however, the City must stand behind the regulations and the legal advice of counsel. Councilwoman Templin concurs and she feels this is an embarrassment. She wants to move through this as quickly as possible.

Motion by Councilwoman Zindler to approve Resolution No. 694, revoking the building permit issued by the City Building Inspector to the Linden-Tripkos VFW Post 6654; and further direct staff to implement the process outlined by the City Attorney in the memo dated July 9th, 2004; second by Templin.

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| Roll Call: | Maniez | No | Urbanek | Yes |
| | Cannon | Yes | Templin | Yes |
| | Zindler | Yes | | |

Motion carried.

Discussion by Mayor Anderson and Mr. Brungardt that they will work with the VFW on this matter.

5. New Business:

- a. Consider Resolution ordering abatement of public health nuisance located at 8820 Waverly Road. Mr. Reavey outlined the reason for the abatement. He has talked with the property owner this afternoon, and they are going to have their septic tank pumped next Wednesday. They feel confident that by pumping the septic, this will resolve the problem since we have had so much rain lately. Discussion by Council on repairing or installing the lateral lines. The property owner does have a child care facility in this location. Larry Baxter, City Building Official, stated the property has been sold and divided several times. The septic system passed the buyer's inspection at the time the owner bought it.

Motion by Councilman Maniez to adopt Resolution No. 695 as written; second by Templin.

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| Roll Call: | Cannon | Yes | Urbanek | Yes |
| | Maniez | Yes | Zindler | Yes |
| | Templin | Yes | | |

Motion carried.

- b. Consider bids for Lexington Avenue street project. Mr. Brungardt has summarized the bids that were received. All bids exceeded the engineer's estimate. The low bidder was Blacktop Paving & Construction with a low bid of \$1,225,752.35. Mr. Brungardt stated that the bids received were competitive and there is no cause to reject any of the bids. The funding shortfall can be addressed by reduction of the project scope by eliminating four items, including some culvert end section repairs, eliminating the bike lane construction, some underdrain system, and fencing changes. Discussion by Councilwoman Templin on the striping with thermoplastic vs. painting. Councilwoman Zindler asked for clarification on the shortfall amount. Discussion by Mayor Anderson on the full-depth asphalt repair and the underdrain system.

Motion by Councilman Maniez to select Blacktop Paving and Construction for the Lexington Avenue Improvement CIP Project; to direct Staff and HNTB to negotiate a reduction in construction scope as outlined in the staff report prior to the execution of the agreement for construction services; and to authorize the Mayor to enter into the agreement for construction services in an amount not to exceed \$981,606.94; second by Cannon.

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| Roll Call: | Cannon | Yes | Urbanek | Yes |
| | Maniez | Yes | Zindler | Yes |
| | Templin | Yes | | |

Motion carried.

Mayor Anderson called a five-minute recess at 8:25 p.m. Mayor Anderson reconvened the Council at 8:30 p.m.

- c. Consider bids for automatic floor scrubber. Greg Johnson stated Jay Garvin would like Council to

consider an automatic floor scrubber due to the mopping of the floors after parties and events in the gym and senior center. It takes several hours after each event to clean the floors, and this is currently being done manually. Councilman Urbanek asked why the cost analysis isn't attached to the memo. He wants good numbers coming in with the request.

Motion by Councilman Maniez to approve the scrubber purchase from Hillyard, Inc. in the amount of \$3,500; second by Templin. Council members Urbanek, Cannon and Maniez requested cost analysis be provided in future requests.

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| Roll Call: | Cannon | No | Urbanek | No |
| | Maniez | Yes | Zindler | Yes |
| | Templin | Yes | | |

Motion carried.

- d. Consider bids for Global Positioning System and GIS enhancements. Mr. Brungardt stated he, Kim and Clarence have been looking at systems for several months that would aid staff in locating infrastructure system. Mr. Brungardt stated this is a handheld unit that would great assist the Water Department and Sewer Department in locating lines and valves. Several systems were demonstrated and looked at. Mr. Brungardt explained the function of this system. Discussion by Councilman Maniez on compatibility of the software with other programs. Mr. Johnson stated this system is related to the mapping system and GIS that the City currently uses. Council discussion.

Motion by Councilman Maniez to instruct Greg to purchase the GPS system not to exceed \$4,000; second by Cannon.

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| Roll Call: | Cannon | Yes | Urbanek | Yes |
| | Maniez | Yes | Zindler | Yes |
| | Templin | Yes | | |

Motion carried.

6. Executive Session: Mr. Reavey stated he has two items under attorney-client privilege on two litigation items the City is currently involved in for a total of 15 minutes; another attorney-client privilege for 20 minutes; and a personnel item for 15 minutes.

Motion by Councilman Urbanek to go into Executive Session at 8:50 p.m. for three attorney-client privilege items and one personnel item, and return at 9:40 p.m.; second by Cannon.

All Council approved by "ayes".

Councilman Urbanek requested an additional 15 minutes at 9:40 p.m. until 9:55 p.m.

Motion by Councilman Urbanek to return to regular session at 10:00 p.m., five minutes late, and only the items stated were discussed and no votes were taken; second by Cannon.

All Council approved by "ayes".

7. Advisory Reports:

- a. City Administrator, Greg Johnson, reminded the Council about the budget workshop next Wednesday at 5:30 p.m. Mr. Johnson stated there has been increased skateboarding at the park and there has been damage to the picnic tables and structures at the park. He asked if the Council would like to consider an ordinance to enforce skateboarding regulations. Council discussion on reducing some of the damage to the property if an ordinance is enforced.
- b. City Attorney, Patrick Reavey, had no report.

- c. City Engineer, Mike Brungardt, provided the Council with a copy of a letter to the Merchants Bonding Company, the bonding company for R. D. Johnson, regarding the 83rd Street project. Mr. Johnson stated to Mr. Brungardt that he is now overseeing the project, and has replaced the former superintendent on this project. The surface lift of the asphalt is to be installed Friday, weather permitting. Mr. Brungardt told Mr. Johnson he wants 83rd Street open to traffic this weekend. There is still a substantial amount of work to be done on driveways, curbs and sidewalks. The streets are being prepared in the Brady subdivision project. They may pave next week depending on weather. Mr. Brungardt will be sending letters to the property owners on Waverly regarding the right-of-way requests.
- d. City Clerk, Lana McPherson, had no report.

8. Council & Mayor Comments:

Councilwomen Templin and Zindler had no comments.

Councilman Maniez asked about the island being mowed by McDonald's. Greg Johnson stated Kent Fry has been notified, and he has not responded. Discussion by Councilwoman Zindler that the City needs to ensure this area is maintained as we go through this every year. Councilman Maniez stated this is a real safety hazard and you cannot see for the tall vegetation. Discussion on enforcement. Councilman Maniez asked about 87th Street between Waverly and Corliss concerning dust control. He asked Mr. Brungardt if the dust control could be put down. Discussion by Mr. Brungardt. Councilman Maniez stated the new gravel the City put down has made it really bad. Mr. Johnson said next Tuesday is slated for dust control.

Councilman Urbanek asked about the high grass on the lot on Commerce Drive. Mr. Johnson stated this property also belongs to Kent Fry and he has been sent a letter.

Councilwoman Cannon asked about the Primrose Lane matter. Mr. Reavey stated JoAnn Thompson has never signed the Escrow Agreement, so the matter is now a dead issue. Discussion by Mr. Brungardt.

Councilwoman Cannon asked about the Lexington Avenue ditching and cleaning by the Gallitto King. Discussion by Mr. Brungardt and Mr. Johnson that the drainage way was retaining water and the area needed to be cleared of brush and debris so the water can move out. Councilwoman Cannon asked about the boat ramp process. Mr. Brungardt stated the Corp of Engineers has sent him some information and he has responded to their letter. Their 90-day process will be up in August. Nothing has been done to the building or to the property. Councilwoman Cannon stated she does buy water from the City. Elvyn Jones apologized for the error in the newspaper.

Motion by Councilwoman Templin to adjourn at 10:20 p.m.; second by Zindler.
All Council approved by "ayes".

Respectfully submitted:

Lana R. McPherson, CMC
City Clerk