

CITY OF GRANT  
MINUTES

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**DATE** : August 5, 2014  
**TIME STARTED** : 7:05 p.m.  
**TIME ENDED** : 10:05 p.m.  
**MEMBERS PRESENT** : Councilmember Bohnen, Tronrud,  
Huber and Mayor Carr  
**MEMBERS ABSENT** : Lobin

Staff members present: City Attorney, Nick Vivian; City Engineer, Phil Olson; City Treasurer, Sharon Schwarze; and Administrator/Clerk, Kim Points

**CALL TO ORDER**

Mayor Carr called the meeting to order at 7:05 p.m.

**PLEDGE OF ALLEGIANCE**

**SETTING THE AGENDA**

**Council Member Tronrud moved to approve the agenda, as presented. Council Member Huber seconded the motion. Motion carried unanimously.**

**CONSENT AGENDA**

Bill List, \$51,817.59	Approved
Envirotech, Dust Control, \$40,867.03	Approved
M.J. Raleigh Trucking, Road Maintenance, \$23,474.40	Approved
Kline Bros. Excavating, Road Maintenance, \$22,110.00	Approved
CliftonLarsonAllen, 2013 Audit Services, \$9,500	Approved
Resolution No. 2014-16, Jasmine Hills	Approved
Resolution No. 2014-20, 2014 Election Judges	Approved

Resolution No. 2014-21, Manning Court Agreement

Approved

**Council Member Bohnen moved to approve the Consent Agenda, as presented. Council Member Tronrud seconded the motion. Motion carried unanimously.**

**STAFF AGENDA ITEMS**

**City Engineer, Phil Olson**

**Consideration of Quote for Keswick and Hwy 96 Improvement** – City Engineer Olson stated that as requested by Council, quotes were requested from contractors for paving Keswick Avenue, north of Highway 96. The Council requested this project to address erosion issues on Keswick Avenue due to the steep roadway grades and the lack of ditches.

The plans included paving Keswick Avenue to the top of the hill which is approximately 300 feet north of the existing pavement on Highway 96. The existing gravel is required to be graded to direct the drainage to the southwest corner of the intersection where it will be directed by a bituminous swale to an existing culvert below Highway 96. Bituminous curb and gutter is proposed along the length of the pavement to contain the drainage and prevent erosion along the edge of the pavement. A copy of the plans and contract are attached for Council review.

Quotes and plans were requested from Brochman Blacktopping Co. and T.A. Schifsky and Sons. Two submittals were received and the costs are listed below.

Brochman Blacktopping Co.....	\$36,814
T.A. Schifsky and Sons.....	\$46,200

Council Member Bohnen advised a lower bid also received from Brochman and was included in the packets. He stated he believes the City can accomplish keeping the gravel off at a maximum bid price of \$20,000. He recommended the City approve the lower bid with an additional 40 feet included in the project. The project is budgeted under special road projects and dollars on grading and extra gravel would be saved every year.

**Council Member Bohnen moved to authorize up to \$20,000 for the Keswick/Hwy 96 project with the additional 40 feet of pavement. Council Member Tronrud seconded the motion. Motion carried unanimously.**

**Consideration of 2014 Sealcoat Bids** – City Engineer Olson advised the City received two quotes for the 2014 Seal Coat Project. The request for quotes was sent to Allied Blacktop and Pearson Brothers. Astech Corporation was also contacted to supply a quote but they did not have time to complete the work this year. The quotes are attached and listed below.

Pearson Brothers Inc.....	\$65,265
Allied Blacktop Company.....	\$61,085

1  
2 The budget for 2014 is \$60,000. A copy of the 2014 Seal Coat Project plan and contract is attached.  
3 Roadways included in the seal coat bids are listed below.

- 4
- 5 • Dellwood Road Lane, south of Hwy 96
- 6 • Dellwood Road Court, north of Hwy 96
- 7 • Joliet Avenue, south of Hwy 96
- 8 • Justen Trail, Jamaca Avenue to Hwy 96
- 9 • Isleton Avenue/Court, East of Irish Avenue
- 10 • Jasmine Avenue, north of 60<sup>th</sup> Street
- 11

12 In addition to the planned seal coat quotes, contractors were asked if they would also provide a cost  
13 for crack filling prior to seal coating. Allied Blacktop Company was the only contractor who is able  
14 to complete this work without subcontractors. Allied Blacktop provided a cost of \$6720.00 to seal  
15 coat all roads except Dellwood Road Court. A separate motion has been provided if Council would  
16 like to complete crack filling prior to seal coating.

17  
18 All work is scheduled to be completed prior to September 15, 2014.

19  
20 **Council Member Huber moved to award 2014 Seal Coat Project to low bidder Allied Blacktop**  
21 **with Crack Filling, as presented. Council Member Bohnen seconded the motion. Motion**  
22 **carried unanimously.**

23  
24 **2014 Road Referendum** – City Engineer Olson advised there will not be a road referendum this year.  
25 The current road policy needs to be reviewed and a plan in place with a funding source prior to a road  
26 referendum.

27  
28 Council Member Bohnen added that until the road policy is revised, the City can not ask for more  
29 money from taxpayers. A plan needs to be put in place.

30  
31 **City Planner, Jennifer Haskamp (No action items)**

32  
33 **City Attorney, Nick Vivian**

34  
35 **Consideration of Jasmine Meadows Development Agreement** – City Attorney Vivian explained  
36 the process relating to the development agreement in terms of the final plat approval. The draft  
37 development agreement provided in the packets will be brought back with more detail based on  
38 discussions with the City Engineer and City Planner. He asked that if the Council has any comments  
39 on the agreement please forward directly to him. A final development agreement will be brought  
40 back to the Council for approval. The final agreement does get recorded with the County and does  
41 bind the developer.

42  
43 **2014 CUP Review Overview** – City Attorney Vivian advised at the May 2013 City Council Meeting,  
44 staff presented an option for annual CUP review that outlined a systematic approach that includes the  
45 review of all CUP's. The Council approved the approach based on a four year cycle.

1  
2 In 2014, twenty CUP's were reviewed by staff. The CUP's were grouped by addresses. All the CUP  
3 documents were administratively reviewed and those with large land use in relation to health, safety  
4 and welfare were issued an on-site review.

5  
6 Sixteen of the CUP's were reviewed per aerial photography in detail and found to be in compliance  
7 per the outlined conditions.

8  
9 Four of the twenty CUP's resulted in a site visit. Two of the four CUP's were found in compliance  
10 with conditions outlined in the CUP.

11  
12 Two of the CUP's are in active and should be eliminated from the City records. In order to vacate the  
13 CUP's, a public hearing must be ordered, published and the property owners notified.

14  
15 Staff will note that some of the recorded CUP's have on-going reviews in terms of annual  
16 requirements that must be submitted to the City.

17  
18 The CUP for the School District required soil tests and traffic studies this past year. Both of those  
19 requirements have been met and the documentation has been submitted to the City.

20  
21 **Mayor Carr moved to direct staff to schedule a public hearing to vacate the CUP's, as**  
22 **presented. Council Member Huber seconded the motion. Motion carried unanimously.**

23  
24 **Jasmine Avenue Refund** – City Attorney Vivian advised City Treasurer has asked the Council to  
25 consider issuing refunds associated with the Jasmine Avenue Paving Project. The Project has been  
26 completed for a substantial period of time and the bond issued by the City to fund the Project has  
27 been repaid in full out of the City's General Fund. As a result, the City Treasurer is requesting 1.) a  
28 refund to those who have paid in full (for which payments exceeded actual projected costs) and 2.) a  
29 credit for those who have not yet paid their assessment in full reflecting the actual amount due and  
30 owing.

31  
32 In 2010, prior to the payoff of the bond we requested an opinion from bond counsel, Mary Frances  
33 Skala, as to whether refunds could be issued at that time. Attorney Skala provided an opinion  
34 whereby she indicated the only authority for a refund is Minnesota Statutes, Section 435.203 which  
35 states that any money remaining created by a municipality for making a local improvement, after such  
36 improvement has been completed and all claims against and obligations of said fund have been  
37 satisfied, shall be transferred to the general fund of the municipality; provided that the Council may in  
38 its discretion authorize and direct the municipal treasurer to refund all or part of such moneys to the  
39 persons who paid the assessments of the improvement or improvements. Such a refund can only be  
40 made after the bond is paid in full. However, there is no obligation on the City's part to issue any  
41 refund.

42  
43 The Council should be clear that the Project has not yet been fully paid for by the assessments  
44 adopted by the Council. Rather, the Council opted to pay off the bond early out of general fund  
45 moneys. Many of the assessed property owners paid their assessments in cash and opted not to pay

1 over the extended ten year schedule adopted by the Council. While we anticipate the collection of all  
2 remaining assessments, collection is not an absolute certainty until all of the required assessments  
3 have been paid.

4  
5 That being the case, it has been determined that those who paid early contributed more than their  
6 actual pro rata share of the actual project cost. Accordingly, the City Treasurer believes a refund is  
7 appropriate at this time.

8  
9 Minnesota law does not prevent the City Council from issuing a refund. If the Council is comfortable  
10 with the collectability of the remaining assessments, it may issue a refund. If it desires to take a more  
11 conservative approach, it should not issue a refund until all assessments have been paid by the  
12 affected property owners.

13  
14 As a final note, if the City Council approves moving ahead with the proposed refund, State law  
15 defines a particular process for notifying residents. Residents are required to claim their refund in  
16 order to be paid. Should the Council approve the refund, I will work with the City Administrator /  
17 Clerk and the City Treasurer to facilitate this process.

18  
19 Council Member Huber stated the City paid the bond off to save the cost on interest. Residents still  
20 ow 21% of the bond costs. He stated he does not think it is fair to take taxpayers money to pay a  
21 refund and have them assume the risk if the assessments are not paid in full.

22  
23 Mayor Carr clarified that the refund would not come out of the general fund or affect the levy in any  
24 way.

25  
26 City Treasurer Schwarze stated the previous Road Commissioner had told residents they would get a  
27 refund. She noted she is not making a recommendation but did provide options for the Council to  
28 make a decision.

29  
30 Mayor Carr expressed concern regarding setting a precedense. The City did pay off the bond to save  
31 the City money and that benefits everyone.

32  
33 Council Member Bohnen stated the refund should be paid now to everyone or wait until the  
34 obigations is fully paid.

35  
36 Council Member Tronrud stated he believes it would be more prudent ot wait until the obligation is  
37 paid.

38  
39 **Council Member Huber moved to deny Jasmine refund at this time and not consider again until**  
40 **the assessments are paid off. Council Member Tronrud seconded the motion. Motion carried**  
41 **with Council Member Bohnen voting nay.**

42  
43 **Consideration of Resolution No. 2014-22, Charter Commission Discharge Petition – City**  
44 **Attorney Vivian advised On August 1, 2014, the City Administrator/Clerk provided a copy of a**

1 Petition requesting a referendum to discharge the Charter Commission in the City of Grant, pursuant  
2 to Minn. Stat. § 410.05 Subd. 5(a)(2).

3  
4 Minn. Stat. § 410.05 Subd. 5(a)(2) provides as follows:

5  
6 **Subd. 5 Discharge (a)** A Charter Commission in a statutory city may be  
7 discharged as follows: (1) if the Charter Commission of a statutory city  
8 determines that a charter is not necessary or desirable, the commission may be  
9 discharged by a vote of three-fourths (3/4) of its members; or (2) if a petition  
10 signed by registered voters equal in number to at least five percent (5%) of the  
11 registered voters in the City requesting a referendum to discharge the Charter  
12 Commission is filed with the City Clerk, an election must be held on the issue  
13 at a general election or a special election pursuant to Section 205.10. If a  
14 majority of the votes cast support the referendum the Charter Commission shall  
15 be discharged. **(b)** Another commission may not be formed sooner than one (1)  
16 year from the date of discharge.

17  
18 Minn. Stat. § 410.05 Subd. 5(a)(2) creates a mandatory obligation on the part of the City to hold an  
19 election upon the receipt of a petition signed by registered voters equal in number to at least five  
20 percent (5%) of the registered voters in the City requesting a referendum to discharge the Charter  
21 Commission. As received, the Petition filed with the City contains approximately 210 signatures.  
22 The City Administrator/Clerk, upon receiving the registered voter roll from the County, will compare  
23 the signatures and will make a determination as to whether the petition contains the signatures of  
24 registered voters equal in number to at least five percent (5%) of the registered voters in the City.

25  
26 If the Petition contains the necessary number of signatures, a resolution will be presented to the City  
27 Council for the acceptance of the petition and the scheduling of an election. At this point, that  
28 election will likely take place in conjunction with the November general election.

29  
30 City Attorney Vivian stated a question has to be submitted to the election authority by August 22,  
31 2014. A motion should be made to accept the petition based upon verification of the signatures. A  
32 copy of the petition will be provided to the Council. If the petition is deemed valid and has the  
33 required number of signatures, the City has to put the question on the next general election or call a  
34 special election. It is a mandatory process and the Council does not have discretion. The petition, if  
35 valid, does mandate the City draft a question that reflects the intent of the petition.

36  
37 **Mayor Carr moved to adopt Resolution No. 2014-22, based on verification of legal validity of**  
38 **petition. Council Member Tronrud seconded the motion. Motion carried with Council**  
39 **Member Bohnen voting nay.**

40  
41 **NEW BUSINESS**

42  
43 **July 1, 2014 City Council Meeting Minutes (Council Member Huber abstain) – Council**  
44 **Member Bohnen moved to approve July 1, 2014 City Council Meeting Minutes, as presented.**

1 Council Member Tronrud seconded the motion. Motion carried with Council Member Huber  
2 abstaining.

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4 **UNFINISHED BUSINESS**

5  
6 There was no unfinished business.

7  
8 **DISCUSSION ITEMS**

9  
10 **City Council Reports:**

11  
12 Mayor Carr stated he was wrong at the last meeting regarding the need for a CUP at the proposed ice  
13 arena property. Technically, a CUP is required as there are conditions due to the size of any building.  
14 The City may want to look at the ordinance at some point in the future.

15  
16 Council Member Bohnen stated there are three failed culverts on Hadley. FEMA assistance has been  
17 requested but that is a very long process. There are some dollars in the culvert budget and he  
18 recommended the City move forward with approximately \$15,000 for Hadley, \$4,000 for Jamaca and  
19 \$4,000 for Jocelyn Road culverts. The Watershed District is waiving the permit fee and gave the City  
20 the go ahead on the project.

21  
22 It was the consensus of the Council to move forward with the projects.

23  
24 Council Member Bohnen made a statement to the citizens of Grant noting that this is the time to file  
25 for the City Council seats and encouraged residents to get involved in file. He stated he enjoyed his  
26 time serving on the City Council but would not be running again.

27  
28 Council Member Bohnen stated the annual Tractor Parade is coming up and hopes that the City will  
29 acknowledge the event so the insurance is in place.

30  
31 **Staff Updates:**

32  
33 There were no staff updates.

34  
35 **COMMUNITY CALENDAR AUGUST 6 THROUGH AUGUST 31, 2014:**

36  
37 **Primary Election, Tuesday, August 12, 2014, Woodbury Lutheran Church Oak Hill Campus**

38 **Mahtomedi Public Schools Board Meeting, Thursday, August 14th, 2014, Mahtomedi District**  
39 **Education Center, 7:00 p.m.**

40 **Stillwater Public Schools Board Meeting, Thursday, August 14<sup>th</sup> and 28<sup>th</sup>, 2014, Stillwater City**  
41 **Hall, 7:00 p.m.**

42 **Charter Commission Meeting, Thursday, August 21st, 2014, Mahtomedi City Hall, 7:00 p.m.**

43 **Washington County Commissioners Meeting, Tuesdays, Government Center, 9:00 a.m.**

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Mayor Carr called for a five minute recess prior to public comment at 8:55 p.m.

The City Council adjourned to a work session to take public comment. No Council action was taken.

**CLOSED SESSION FOR THE PURPOSE OF CONFERRING WITH LEGAL COUSEL AS PERMITTED BY THE ATTORNEY-CLIENT PRIVILEGE PURSUANT TO MINN. STAT. 13D.05 SUBD.3 (d) ON THE FOLLOWING LEGAL MATTERS:**

**Sederstrom v. Carr, Huber and Lobin in their capacity as City Council Members**

**Council Member Huber moved to adjourn to a closed session at 9:10 p.m. Council Member Tronrud seconded the motion. Motion carried unanimously.**

The City Council went back into open session at 10:03 p.m. City Attorney Vivian advised a discussion was held regarding litigation strategy and no formal decision or action was taken.

**ADJOURN**

**There being no further business, Council Member Bohnen moved adjourn at 10:05 p.m. Council Member Tronrud seconded the motion. Motion carried unanimously.**

These minutes were considered and approved at the regular Council Meeting September 2, 2014.

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Kim Points, Administrator/Clerk

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Tom Carr, Mayor