

**CITY OF GRANT
MINUTES**

DATE : September 6, 2016
TIME STARTED : 7:02 p.m.
TIME ENDED : 9:14 p.m.
MEMBERS PRESENT : Councilmember Sederstrom, Lobin, Huber,
Lanoux and Mayor Carr
MEMBERS ABSENT : None

Staff members present: City Attorney, Nick Vivian; City Planner, Jennifer Haskamp; City Engineer, Brad Reifsteck; City Treasurer, Sharon Schwarze; and Administrator/Clerk, Kim Points

CALL TO ORDER

Mayor Carr called the meeting to order at 7:02 p.m.

PUBLIC INPUT

(1) Mr. Bob Tufty, Jasmine Avenue, came forward and commented on theft of campaign signs.

PLEDGE OF ALLEGIANCE

SETTING THE AGENDA

Council Member Lanoux moved to remove Expungement and add Sheriff's Request for Volunteers to the agenda. Council Member Sederstrom seconded the motion.

Council Member Huber stated he would like to inquire about the Expungement item on the agenda and stated the request for volunteers can be discussed under Council updates as there is no required Council action.

Motion failed with Council Members Lobin, Huber and Mayor Carr voting nay.

Council Member Huber moved to approve the agenda as presented. Council Member Lobin seconded the motion. Motion carried with Council Member Lanoux and Sederstrom voting nay.

CONSENT AGENDA

August 2, 2016 City Council Meeting Minutes Approved

Bill List, \$53,991.87 Approved

1 Kline Excavating, Road Projects, \$18,390.00 Approved
2
3 Envirotech, 2016 Dust Control,
4 \$38,870.99 Approved
5
6 M.J. Raleigh, 2016 Gravel, \$33,115.63 Approved
7
8 Allied Blacktop Company, 2016 Seal Coat
9 Project, \$35,997.50 Approved
10
11 Washington County Sheriff, Jan-June 2016
12 Police Services, \$55,950.78 Approved
13
14 Brochman Blacktopping, Keats Avenue Overlay
15 Project, \$41,401.00 Approved
16
17 Master Subscriber Agreement and New MGA
18 Request Form Approved
19
20 Contract Extension, Gravel Roadway Maintenance,
21 Kline Bros. Excavating 2017-2019 Approved
22

23 **Council Member Huber moved to approve the consent agenda, as presented. Council**
24 **Member Lobin seconded the motion. Motion carried unanimously.**

25
26 **STAFF AGENDA ITEMS**

27
28 **City Engineer, Brad Reifsteck**

29
30 **Consideration of Resolution No. 2016-23, Accept Bids and Award Project, Keswick Avenue**
31 **– City Engineer Reifsteck Following public hearing, the City Council ordered the public**
32 **improvements included in the project in the project area at the August 2, 2016 regular Council**
33 **Meeting.**

34
35 The following recommendation and bid tabulation summary indicates the recommended low
36 bidder as Valley Paving, Inc. of Shakopee, MN with a grand total bid of \$81,749.75 or
37 approximately 17% below the construction estimate of \$98,000.00.
38

CONTRACTOR	BASE BID
Valley Paving, Inc.	\$81,749.75
Hardrives, Inc.	\$90,225.00
Broachman Blacktopping Co.	\$98,500.00

39
40

1 If awarded by Council, staff's anticipated schedule for the project improvements includes a
2 tentative construction start in mid to late September of 2016 and a specified substantial
3 completion date for all work including cleanup of October 28, 2016.

4
5 The improvements are anticipated to be funded by special assessments to benefitting properties,
6 in accordance with the Assessment Policy, adopted by City Council.

7
8 For projects that will contain special assessments, such as the assessments for roadway
9 reconstruction and street reconstruction improvement projects, as required by Minnesota State
10 Statute, Chapter 429 and consistent with the Assessment Policy, an Assessment Hearing will
11 need to be held to consider the adoption of assessments. This hearing is proposed to be held at
12 the October 4, 2016 City Council meeting.

13
14 Final project cost will be declared once project construction is completed. Final project
15 completion date is scheduled for October 28, 2016. Adopt final assessment amount at regular
16 council meeting on December 6, 2016.

17
18 Council Member Huber stated 75% of the residents are in favor of the project so it can move
19 forward. Those not in favor can appeal at the assessment hearing. The threshold has been met
20 per the City's road policy.

21
22 **Council Member Lobin moved to adopt Resolution No. 2016-23, as presented. Council**
23 **Member Huber seconded the motion. Motion carried unanimously.**

24
25 **City Planner, Jennifer Haskamp**

26
27 **Consideration of Resolution No. 2016-22, Application for Conditional Use Permit,**
28 **Commercial Tree Farm, 10000 Lansing Avenue** – City Planner Haskamp advised the Owners
29 and Applicants, Jon and Kirsten Yocum (“Applicant”), are requesting a Conditional Use
30 Permit (“CUP”) to operate a commercial/wholesale Tree Farm and Nursery on a portion of the
31 property located at 10000 Lansing Avenue North. The Applicant recently acquired the property
32 and is currently constructing a new home on the property which will be their principal residence.
33 In addition to living on the subject property the Applicant would like to utilize a portion of their
34 property for the establishment of a Tree Farm and Nursery, which per the City's code requires a
35 CUP.

36
37 City Planner Haskamp noted a duly noticed public hearing was held on July 19th, 2016 at the
38 Planning Commission's regular meeting, and public testimony was taken. The Planning
39 Commission closed the public hearing on July 19th and discussed the Applicant's request. The
40 Commissioners determined that additional information was needed from the Applicant and
41 continued the discussion to the August 16, 2016 regular meeting. After consideration and
42 discussion on August 16th, the Planning Commission made a unanimous recommendation to the
43 City Council to approve the requested CUP with the draft conditions as presented by staff.

1 City Planner Haskamp reviewed the staff report and draft conditions of approval. She added that
2 the property is located within the Brown's Creek Watershed District (BCWD), and the Applicant
3 will be required to obtain any necessary permits or approvals from them prior to beginning
4 operations.

5
6 Council Member Huber referred to conditions of approval and asked for clarification regarding
7 the driveway and proposed bump out.

8
9 City Planner Haskamp referred to the updated site plan and pointed out the east/west access and
10 actual driveway through the commercial area. She noted the bump out locations indicating they
11 are for emergency vehicles. The driveway also limits the number of trips because if the bump
12 outs are not adequate for the traffic conditions, the application will have to come back for an
13 amended CUP. The current plan calls for a nursery on one acre to determine how it goes and
14 includes a potential expansion in the future.

15
16 Council Member Lanoux asked why a CUP is needed on the property as it is already listed at the
17 State and is an agricultural use. He pointed out others in the community including the Kline
18 Bros. and Davids Consulting run businesses and do not have a CUP.

19
20 Council Member Huber stated CUP's are required when businesses intensify their use, such as
21 the proposed tree farm. The applicant brought forward an excellent use and it is intensified from
22 the previous owners. A CUP process also includes due process for neighbors affected by
23 intensified uses.

24
25 Mayor Carr added the ordinances have been in place since 1982. CUP's are for everyone and to
26 protect everyone. The City encourages property owners to make use of their property. The
27 proposed use a very minor good use but requires a CUP. There was some concern relating to
28 additional traffic but the reality is this property could be developed and many homes could go
29 there.

30
31 Council Member Sederstrom stated he does support the CUP but asked where the concern for
32 residents was when the ice arena and wedding barns went in.

33
34 **Council Member Huber moved to adopt Resolution No. 2016-22, as presented. Council**
35 **Member Lobin seconded the motion. Motion carried unanimously.**

36
37 **Consideration of Ordering Environmental Assessment Worksheet** – City Planner Haskamp
38 advised on August 15, 2016 staff received an application from Rinc 2 (Applicant) and ISD 831
39 (Owner) to amend the current conditional use permit (CUP) to allow for construction and
40 operation of an ice arena. The existing CUP addresses the athletic fields and supporting uses,
41 and the proposed amendment seeks approval to construct an ice arena with a single sheet of ice
42 on approximately four (4) acres of the site.

43 In compliance with Minnesota Statutes Section 15.99, staff reviewed the application for
44 completeness, and has determined that all of the materials per the City's checklist were

1 submitted. Included within the application materials were several environmental reports,
2 including a Phase I Environmental Site Assessment.

3 After preliminarily reviewing the materials, staff is recommending that the City Council consider
4 ordering an Environmental Assessment Worksheet (EAW) for the proposed project. Chapter 32,
5 Division 7, Section 32-213 (d) Option by City, allows the City Council to require an EAW “on
6 any proposed action to determine if the project has the potential for significant environmental
7 effect...provided any of the following exist: (4) The proposed project is adjacent to or near a
8 public recreation land or facility and alters or increases use...” Preparation of such EAW would
9 be at the cost of the Applicant/Owner which would be funded through an escrow, and if ordered,
10 the City Council would select the consultant to prepare the EAW on the City’s behalf.

11 Staff is recommending that the City Council order an EAW for the Subject project to ensure an
12 independent review of the proposed project. Staff is further recommending that a third-party
13 consultant, specializing in environmental review and analysis, be selected to prepare the EAW.
14

15 City Attorney Vivian stated that as the application was reviewed, staff felt it was appropriate to
16 obtain more information. State law allows the City to require an EAW and is recommending the
17 consultant Bay West be utilized in this process.
18

19 Mayor Carr stated an environmental agency was used for the school. It is not unusual to ask for
20 this.
21

22 Council Member Lanoux stated Braun Intertec worked on the site and he does not want them or
23 Landmark. He requested the applicant go back to the school district and ask for a safe site.
24

25 City Attorney Vivian stated the application itself should not be discussed at this time. The staff
26 request is to order an EAW to proceed with the best information possible.
27

28 Council Member Huber stated a superfund site is a federal designation and this site has never
29 been given that designation. Council Member Lanoux’s family owned the land and there is still a
30 transfer station there. He read a letter from the school district’s attorney relating to previous
31 planning commissioners and site visits. He stated no proof is ever produced in terms of the
32 claims being made. The Council does have an obligation to get all the information when
33 reviewing a CUP application. He stated he had added the testing of the school site and water
34 every six months to the CUP. That testing has been done and nothing has ever been found. He
35 inquired about the timing on an EAW.
36

37 City Planner Haskamp commented on the timing and regulatory guidelines that must be
38 followed. There is so much information on this site and background information would be
39 considered, reviewed and compiled into the EAW.
40

41 Council Member Sederstrom stated he wants to support the EAW but does not want Landmark to
42 participate. He stated the City should be very careful in the selection of who does the EAW.
43

44 **Council Member Lanoux moved to order an EAW, allowing for Council time to research**
45 **Environmental firms. Council Member Sederstrom seconded the motion.**

1
2 City Attorney Vivian stated the City shouldn't wait another 30 days and recommended choosing
3 an environmental firm tonight. He provided information on Bay West and recommended them
4 based on his experience.

5
6 Mayor Carr stated he would not be comfortable picking the firm. It is staff's job to recommend a
7 firm and they have picked one.

8
9 **Motion failed with Council Member Lobin, Huber and Mayor Carr voting nay.**

10
11 **Mayor Carr moved to order an EAW on the proposed ice rink site to be prepared by Bay**
12 **West. Council Member Lobin seconded the motion.**

13
14 Council Member Lanoux provided reasons why the Council should research firms and asked for
15 information as to how Bay West was determined as the recommended firm.

16
17 City Attorney Vivian explained the process was discussed by staff at a staff meeting. Most of the
18 focus was on the process for ordering an EAW. Staff did not want a firm that has worked on the
19 school or site in the past. Bay West was identified as reputable and not associated in any way
20 with the site.

21
22 Council Member Huber confirmed the City Attorney has worked with environmental firms about a
23 dozen times as has the City Planner. He stated staff is who the City pays for their expertise and
24 they have found an independent experienced consultant. Council researching environmental firms
25 would delay the process.

26
27 Council Member Lanoux stated the Council should research firms and bring back a
28 recommendation noting all staff would be gone January 2, 2017 anyway.

29
30 Mayor Carr thanked Council Member Lanoux for making the point of why it should not come
31 back to the Council.

32
33 **Motion carried with Council Member Lanoux voting nay.**

34
35 **City Attorney, Nick Vivian**

36
37 **Consideration of Resolution No. 2016-25, Petition for Detachment and Annexation from**
38 **City of Grant, 6636 Indian Wells Trail** – City Attorney Vivian advised Rose Ann Pohl has
39 filed a Petition for Concurrent Detachment and Annexation (“Petition”) with the Office of
40 Administrative Hearings for the property legally described as Northridge Acres, Lot 5 Block 3.

41
42 Below is a summary of the proceedings that a property owner must conduct to cause
43 simultaneous detachment of its property from one municipality and annexation of its property to
44 another municipality.

1 *Minnesota Statute Section 414.061, Subdivision 5* provides as follows:

2
3 Property owners may initiate proceedings for the concurrent detachment of their property from
4 one municipality and its annexation to an adjacent municipality by a petition signed by all of
5 them that they submit to the [Office of Administrative Hearings – Municipal Boundary
6 Adjustment Unit] accompanied by a resolution of the city council of at least one of the affected
7 municipalities.

8
9 (the Office of Administrative Hearings – Municipal Boundary Adjustment Unit is hereafter
10 referred to as the “OAH”).

11
12 If the City opposes the motion, it is not necessary to file any affirmative filing/pleading in
13 response to the property owner’s request or adopt an affirmative resolution opposing it. If the
14 other municipality adopts a resolution approving the detachment/annexation, the OAH will,
15 within 30-60 days, schedule a hearing to consider the request, and must mail the city notice of the
16 hearing. *Minn. Stat. § 414.09, Subd. 1.*

17
18 There are no statutory formalities that require (or even contemplate) the City to take affirmative
19 measures to approve or oppose the detachment/annexation, but it is prudent for the City to take a
20 formal position prior to the hearing, and adopt a resolution approving or opposing the
21 detachment/annexation. Furthermore, it is prudent to submit a written letter making the case for
22 such support/opposition. In making its final decision, the OAH must consider the following
23 (*Minn. Stat. § 414.02, Subd. 3*):

- 24
25 (1) present population and number of households, past population and projected population
26 growth for the subject area;
- 27 (2) quantity of land within the subject area; the natural terrain including recognizable physical
28 features, general topography, major watersheds, soil conditions and such natural features as
29 rivers, lakes and major bluffs;
- 30 (3) present pattern of physical development, planning, and intended land uses in the subject area
31 including residential, industrial, commercial, agricultural, and institutional land uses and the
32 impact of the proposed action on those uses;
- 33 (4) the present transportation network and potential transportation issues, including proposed
34 highway development;
- 35 (5) land use controls and planning presently being utilized in the subject area, including
36 comprehensive plans, policies of the Metropolitan Council; and whether there are inconsistencies
37 between proposed development and existing land use controls;
- 38 (6) existing levels of governmental services being provided to the subject area, including water
39 and sewer service, fire rating and protection, law enforcement, street improvements and
40 maintenance, administrative services, and recreational facilities and the impact of the proposed
41 action on the delivery of the services;
- 42 (7) existing or potential environmental problems and whether the proposed action is likely to
43 improve or resolve these problems;
- 44 (8) fiscal impact on the subject area and adjacent units of local government, including present
45 bonded indebtedness; local tax rates of the county, school district, and other governmental units,

- 1 including, where applicable, the net tax capacity of platted and unplatted lands and the division
2 of homestead and nonhomestead property; and other tax and governmental aid issues;
3 (9) relationship and effect of the proposed action on affected and adjacent school districts and
4 communities;
5 (10) whether delivery of services to the subject area can be adequately and economically
6 delivered by the existing government;
7 (11) analysis of whether necessary governmental services can best be provided through the
8 proposed action or another type of boundary adjustment;
9 (12) degree of contiguity of the boundaries of the subject area and adjacent units of local
10 government; and
11 (13) analysis of the applicability of the State Building Code.

12
13 After the hearing, the OAH may issue its order within one year of the hearing. *Minn. Stat. §*
14 *414.07*. The order may be appealed within 30 days of the date it is issued. *Id. at Subd. 2(c)*.

15
16 City Attorney Vivian recommended the City adopt a resolution opposing the Petition with a
17 written submission formally notifying the Office of Administrative Hearings of its opposition.

18
19 Council Member Lanoux asked for a legal opinion relating to Mayor Carr and Council Member
20 Huber voting on this item because they benefit as realtors. If the property is detached there
21 would be another 60 acre parcel to sell and the Mayor could benefit from that.

22
23 Council Member Huber stated neither he or the Mayor are under contract with the buyer or seller
24 so there is no conflict of interest. The idea is ridiculous and they both talk to many people every
25 day about property. Council Member Lanoux's relations to the property owner and Shannon
26 Bryant who is a mayoral candidate is evident. He stated scare tactics should not work as he has
27 been on the City Council for eight years and has not tried to develop and does not want to
28 develop. The application is for detachment which he does not support as that is why the City
29 became a City.

30
31 Council Member Sederstrom inquired about the City's ordinance relating to this issue.

32
33 City Attorney Vivian explained that this application is exactly why Grant did become a City to
34 avoid being annexed by neighboring community. He recommended the Council deny the request
35 unless they find a compelling reason. There is a process for this type of request and there is no
36 conflict of interest as there is no financial interest or gain in potential detachment.

37
38 **Council Member Huber moved to adopt Resolution No. 2016-25, as presented. Council**
39 **Member Lobin seconded the motion.**

40
41 Council Member Lanoux made an amendment to the motion to adopt Resolution No. 2016-25,
42 striking the statement regarding the City of Dellwood approving the petition and staff having
43 authorization and being directed to formally oppose the Petition.

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45 **Council Member Huber rejected the friendly amendment. Motion carried unanimously.**

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NEW BUSINESS

Consideration of Resolution No. 2016-24, Summary Publication of Ordinance No. 2016-47 –
Resolution No. 2016-24 authorizes a summary publication of Ordinance No. 2016-47.

Council Member Huber moved to adopt Resolution No. 2016-24, as presented. Council Member Lobin seconded the motion. Motion carried unanimously.

Consideration of Resolution No. 2016-20, 2017 Preliminary Budget, Treasurer Schwarze – City Treasurer Schwarze advised the small city funding did not go through this year. Budget meeting have been held and preliminary budgets were discussed with and without the funding. She presented options for the preliminary budget.

Council Member Huber pointed out the City has approximately 4,000 residents and one employee. There are no LGA funds or gas tax provided to the City of Grant.

Council Member Lanoux asked about the \$60,000 that was set aside for local roads stating he has not seen those dollars spent.

Council Member Huber stated the entire Council gets detailed financial statements every month.

City Treasurer Schwarze noted there was detailed discussion on roads and dollars at the budget meeting.

Mayor Carr moved to adopt Resolution No. 2016-20, with a preliminary budget amount of \$1,461,493.00. Council Member Lobin seconded the motion. Motion carried with Council Member Lanoux and Sederstrom voting nay.

Consideration of Resolution No. 2016-21, 2017 Prelinary Levy Certification, Treasurer Schwarze – City Treasurer Schwarze presented the numbers for the preliminary levy certification based on the approved preliminary budget.

Council Member Huber moved to adopt Resolution No. 2016-21, with a preliminary levy amount of \$1,140,730.00. Council Member Lobin seconded the motion. Motion carried with Council Member Lanoux and Sederstrom voting nay.

UNFINISHED BUSINESS

There was no unfinished business.

DISCUSSION ITEMS

City Council Reports:

1 **Expungement, Loren Sederstrom** – Council Member Sederstrom indicated he would not like to
2 discuss this at this time.

3
4 Council Member Lanoux stated an email was sent out regarding Washington County asking for
5 volunteers for search teams.

6
7 **Staff Updates:**

8
9 **Data Security, League of Minnesota Cities** – A memo was provided outlining a basic Data Security
10 survey conducted by the League noting the City is in compliance and there were no recommendations.

11
12 **MS4 Audit** – A memo was provided regarding an audit of the City’s Stormwater Pollution
13 Prevention Program noting there were not any compliant findings.

14
15 **Minnesota Certified Municipal Clerk** – A letter from the Municipal Clerks and Finance Officers
16 Association was providing noting the Clerk has earned the designation of Minnesota Certified
17 Municipal Clerk

18
19 **COMMUNITY CALENDAR SEPTEMBER 7 THROUGH SEPTEMBER 30, 2016:**

20 **Mahtomedi Public Schools Board Meeting, Thursday, September 8th and 22nd, Mahtomedi**
21 **District Education Center, 7:00 p.m.**

22 **Stillwater Public Schools Board Meeting, Thursday, September 22nd, Stillwater City Hall, 7:00**
23 **p.m.**

24 **Washington County Commissioners Meeting, Tuesdays, Government Center, 9:00 a.m.**
25

26 **ADJOURN**

27
28 **Council Member Huber moved to adjourn at 9:14 p.m. Council Member lobin seconded the**
29 **motion. Motion carried unanimously.**

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32 These minutes were considered and approved at the regular Council Meeting October 4, 2016.
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36
37 _____
38 Kim Points, Administrator/Clerk

36
37 _____
38 Tom Carr, Mayor