

**MINUTES OF THE REGULAR MEETING
OF THE ZIMMERMAN CITY COUNCIL
MONDAY, AUGUST 5, 2013**

CALL TO ORDER

The regular meeting of the Zimmerman City Council was called to order at 7:00 p.m. at City Hall by Mayor Earenfight, followed by the Pledge of Allegiance.

ROLL CALL

Present: Mayor Earenfight, Council Members Brisbin, Clough, Laney and Mathison. Also present were Administrator Piasecki, Clerk/Treasurer Tillmann and Public Works Director Horvath.

AGENDA APPROVAL

Brisbin/Mathison unanimous to approve the agenda with the following change:

- **Postpone Fire Department Report until August 19, 2013**

APPROVAL OF MINUTES

Laney/Mathison unanimous to approve the minutes of the July 15, 2013 Regular Meeting of the City Council as presented

CONSENT AGENDA

Brisbin/Clough unanimous to approve the consent agenda as follows:

- a. Approve the payment of claims (check #35335 - #35385) in the amount of \$53,392.04 and electronic payments (e-check #917 - #921) in the amount of \$28,018.80 as presented.
- b. Accept the February, 2013 City Investment Funds Report and February 2013 Budget Report as presented by the Clerk/Treasurer.
- c. Accept the March, 2013 City Investment Funds Report and March 2013 Budget Report as presented by the Clerk/Treasurer.
- d. Accept the April, 2013 City Investment Funds Report and April 2013 Budget Report as presented by the Clerk/Treasurer.
- e. Approve a tobacco license application for E-Cig Healthy Living, 26207 Fremont Drive, for the period of August 6, 2013 – June 30, 2014, pending receipt and acceptance of all application materials, as recommended by staff.
- f. Approve the fireworks display permit as requested by the Zimmerman Quarterback Club for fireworks/pyrotechnic special effects display by Curt Serbus to be located at the Zimmerman High School/Middle School Football Field, 25900 – 4th Street West, on August 19, September 6 & 13, and October 4, 16, and 22, 2013.
- g. Approve the semi-annual payment to the Minnesota Public Facilities Authority (ck #35390) in the amount of \$484,987.12 for scheduled principal and interest payments on GO Revenue Bonds as follows and as recommended by staff:
 - 2000 WWTP – Principal: \$227,000; Interest: \$19,910.40
 - 2007 4th Ave – Principal: \$92,000; Interest: \$19,177.20
 - 2010 WWTP – Principal: \$102,000; Interest: \$24,899.52
- h. Accept Invoice #158285 authorizing payment to Bolton & Menk in the amount of \$11,956.00 (ck #35386) for Project Management Services related to the 2013 Street Improvement Project, for the month of June, 2013, as recommended by staff
- i. Accept Invoice #1528284 authorizing payment to Bolton & Menk in the amount of \$1,813.50 (ck #35386) for Project Management Services related to the TH 169 Water Main Crossing, for the month of May, 2013, as recommended by staff.
- j. Accept Invoice #2 approving payment to Sports Technology, Inc., in the amount of \$11,080.00 (ck #35389) as final payment for the design of a new lighting layout and installation of 14 Musco Light Poles related to the

Ballfield Lighting Project, as recommended by the Public Works Director, utilizing funds from the Park Fund (Fund 226).

- k. Approve Workorder #13-5284 and authorize payment to Connexus Energy in the amount of \$9,478.77(ck #35387) for installation of electrical service at 25850 Main Street, related to the Ballfield Lighting Project, as recommended by the Public Works Director, utilizing funds from the Park Fund (Fund 226).
- l. Approve payment to Ess Brothers & Sons, Inc., in the amount of \$6,230.81 (ck #35388) for utility sealant, with funds to be taken from the Street Department budget (101-43100-228), as recommended by the Public Works Director.

OPEN FORUM

Tom Wilkinson, 26545 Lake Avenue, Zimmerman, was present on behalf of the Zimmerman American Legion Post No. 560 to express gratitude to the Council for donations made towards the 2013 Wild West Days Fireworks Display.

PLANNING REPORT – Presented by Administrator Piasecki

Mayor Earenfight closed the regular meeting at 7:04 p.m. and opened a Public Hearing to consider a request by the Sherburne County Housing and Redevelopment Authority to establish a Redevelopment District within City boundaries.

Public Hearing – Sherburne County Redevelopment District 2013 - 1

Sherburne County intends to enter into a purchase agreement to sell 2 lots in the Public Safety Addition to UMA Precision Machining, Inc. In order to sell property and enter into agreements within City boundaries, the County Housing and Redevelopment Authority (HRA) must receive City approval. The approval must occur after a Public Hearing at which the request is presented, heard, and discussed, and after the Planning Commission has reviewed and made recommendation on the request. The County Redevelopment District No. 2013-1 is comprised of Lots 1 & 2, Block 2, Sherburne County Public Safety Addition, and the Project Plan is specific to UMA's intention to acquire and develop at 25,000 square foot building on the property.

Jim Casserly, the City's Financial Consultant has reviewed the County documents and found them to be acceptable for establishing the Redevelopment District and conveying property, noting that the documents do not establish any financial assistance or subsidy, and if UMA wishes to pursue assistance from the City or County, it would be by separate application. The Planning Commission also reviewed the County HRA request at the July 24th meeting and found the request to be consistent with the city's goals of increased commercial development and diversity of the local tax base.

The following comments were heard regarding the request:

Kathleen Heaney, Sherburne County Attorney, 13880 Highway 10, Elk River, stated that the County is asking for Council consideration of the proposed County HRA Redevelopment District. She understood that the City Planning Commission reviewed the application and affirmatively acted on the matter. She continued that the HRA does have the authority to sell land. In July, the County Board identified the terms of the sale to the HRA. The HRA will hold their public hearing on Tuesday, August 6. The Council and Planning Commission comments will all be taken into consideration before the HRA acts on the proposed agreement.

Wendy Kowalski – 26412 Lake Avenue, Zimmerman, stated that she has concerns about the pending sale and Council action on the request. She continued that she reviewed the statute cited by Consultant Casserly in the documentation provided. MS 469.002, subd. 5 defines the "governing body" and she read aloud the definition as provided in statute. She stated that the current County HRA is comprised only of county commissioners and her interpretation of the statute indicates they need to have 5 members that are persons other than themselves, and

they can have 2 others on the HRA that are themselves and equal to the number of commissioners. MS 469.006 describes the appointment qualifications and tenure of commissioners which she also read verbatim. In subd. 3 of the statute, it states that certificates of appointment are required and certified copies of the certificates shall be filed with the Commissioner of the State Department of Employment and Economic Development (DEED). She has requested copies of said certificates from Sherburne County and as of yet, has not received said copies.

Kowalski's second concern relates to her interpretation of subd. 4, and the continuation of the active city authority in this matter. She interprets "active city authority" to mean an authority that has been legally formulated by a resolution filed with the Commissioner of MN DEED and an active HRA program. She claims we don't have an active HRA or proof of an application for a public housing program. In regards to our participation with the HRA, she believes this a permanent problem and the other problem is fixable. She feels that the Planning Commission should reconsider the request, taking into consideration the information she just presented to Council. She added that she objects to this project moving forward.

Kowalski continued that if the Council can overcome these issues, the business would be good for the City. She feels that the abatement request is unfair, as all business in the City have not been offered the same opportunity as UMA. This should have been offered to all businesses and in her estimation, it doesn't look right, especially since the County owns the property and they are providing the information. She said to avoid all this, the business owner should buy the property and then apply for the abatement.

Heaney responded to Kowalski's comments, stating that Kowalski is not licensed to practice law in the state of Minnesota, and adding that Kowalski's interpretation of the statute she cited is not correct. The County HRA was established in 1990, based on a legal opinion from the MN Attorney General's Office. Appropriate documentation was filed with the MN Department of Trade and Economic Development, which is now DEED. The HRA was established this way in order for the County Board to be accountable to their constituents. County Board policy has not changed since the HRA was created. Heaney also added that Kowalski cited 469.05, subd. 4, which addresses activity in the City. The County Board is asking for authority to conduct business within City limits. They are in compliance with the law. Heaney concluded that she disagrees with Kowalski's interpretation of cited statutes in totality.

Chuck Nagle, Baldwin Township, stated that he didn't have any comments relative to the substance of the matter currently being addressed by the Council but believes that whether or not Ms. Kowalski is an attorney, the law has to be followed and the Council should contact the City Attorney and get his opinion on the matter since different attorneys can have different opinions on the same issues.

Elaine Philippi – 31647 – 127th Street, Princeton, MN 55371, stated that she is a "Conservative to the max" and disagrees that if taxpayers have to give away tax money that this business owner will not have to pay. She lives in Sherburne County and believes that "double dipping" is an issue. She questioned if the business owner was being given a break on his taxes by the City.

Mayor Earenfight responded that a request has been made by the business owner but it has not been approved at this point.

Member Brisbin questioned how long the property has been for sale. Administrator Piasecki responded it has been for sale for 5 years. Heaney added the County is interested in seeing the remaining parcels sold and put back on the tax rolls. This is an opportunity to create employment opportunities and expand both the City and County tax base. She feels it is a "win-win" situation for all parties involved. If the remaining parcels can be sold, the County would like to do so and would welcome interested parties to contact her or the City. Mayor Earenfight clarified that the parcels being sold are located wholly within City limits but are owned wholly by Sherburne County.

Kowalski requested a response from Heaney regarding the certificates of appointment for the County Board to the HRA. Heaney responded that she was not aware that would be a question at this hearing and is not prepared to respond, other than to say that all Board members were sworn in as HRA members and certificates of appointment were completed. She does not know where those certificates were filed but would research that if Council requested.

Philippi stated that she has spoken with Commissioner Rachel Leonard, who represents the Zimmerman area, about the County owned parcels. According to her (Philippi), Leonard is frustrated that the parcels have not been advertised for sale and the public is not even aware they are for sale. Heaney responded that the County and cities in Sherburne County have been working collectively to market commercial properties in Sherburne County for the past four years, including the parcels in the Public Safety Addition. Those properties are currently listed for sale. Kowalski stated that has not seen the properties listed on the MLS, and if they're not listed on the MLS than can't really be considered for sale.

There being no further comment, Mayor Earenfight closed the public hearing at 7:24 p.m. and reopened the regular meeting.

RESOLUTION #13-08-01 Brisbin/Mathison to adopt RESOLUTION #13-08-01, approving the Sherburne County HRA's request to establish Redevelopment District No. 2013-1 and its associated Project Plan, and finding the documents to be in the public interest and providing opportunity for economic development, including increased employment, livable wages, and improved tax base. Roll call on the motion: Brisbin, aye; Clough, aye; Earenfight, aye; Laney, naye; Mathison, aye. Motion carried.

Public Hearing – Vacation of Drainage and Utility Easements

Mayor Earenfight closed the regular meeting at 7:25 p.m. and opened a Public Hearing to consider a request to vacate drainage and utility easements on Lots 1 & 2, Block 2, Sherburne County Public Safety Addition.

UMA Precision Machining intends to purchase Lots 1 & 2, Block 2, Sherburne County Public Safety Addition, from the Sherburne County HRA and construct a 25,000 square foot building on the property. The proposed building will lie over the common property line between the two lots. They are proposing to vacate the easements on Lots 1 and 2, and replace them with new code-required drainage and utility easements in a re-plat of the lots.

There were no comments from public.

Mayor Earenfight closed the public hearing at 7:26 p.m. and reopened the regular meeting.

Administrator Piasecki stated that documentation in the Council packet included a copy of the public hearing notice, the legal description provided by Otto & Associates as retained by Mr. McChesney, and the proposed final plat showing one platted lot with required easements on the property. The intent is to eliminate the shared lot line and since the platted easements lie on either side of the property line. The building would also lie on 2 lots which can cause problems with title and financing, in addition to the building code. Therefore, the easements must be vacated.

UMA proposes to vacate the easements on Lots 1 and 2, and replace them with new code-required drainage and utility easements in a re-plat of the lots. The City Council will see a recommendation from the Planning Commission on the re-plat, to be known as UMA Addition, at the August 19th meeting. The Planning Commission will process the application as a minor subdivision, since there are no dimensional changes to the platted lots, except the elimination of a common property line and the affected easements.

RESOLUTION #13-08-02 Mathison/Brisbin unanimous to adopt RESOLUTION #13-08-02, approving the vacation of all drainage and utility easements on Lots 1 and 2, Block 2, Sherburne County Public Safety Addition, upon approval of a re-platting of the properties as Lot 1, Block 1, UMA Addition.

Planning Commission Report of July 24, 2013

Laney/Brisbin unanimous to accept the July 24, 2013 Planning Commission Report as presented, and appoint Jeremy Nathe to the vacant Commission seat, expiring on December 31, 2015, as recommended by the Planning Commission.

Mayor Earenfight closed the Regular Council Meeting at 7:30 p.m. and opened the Economic Development Authority Meeting. The Regular meeting was re-opened at 7:52 p.m.

PUBLIC WORKS REPORT – presented by Public Works Director Horvath

2013 Improvement Project

The 2013 Street Improvement Project is moving forward. Tree removal has been completed for the most part and grading work is ongoing. No action taken.

Ballfield Lighting Project

Horvath reported that the City has met all the lighting requirements for field lighting for all the sports that will be using the fields. The cost to date totals \$122,922.71, which has been paid from the Park Fund and does not include any staff time. There may be more expense coming as we took a scoreboard from the site, which will need to be rehabbed before being hung. No action taken.

FINANCE REPORT – presented by Clerk/Treasurer Tillmann

Reinvestment of City Funds

On August 5, 2013, a Certificate of Deposit managed by ICD Securities (State Bank of India) valued at \$250,000 matured. The City also has two other CD's totaling \$230,967.00 that will mature by August 12. After checking rates from regularly used financial institutions, it was determined that the City can earn a higher rate of return by separating the proceeds into several smaller investments. Staff would like to re-invest the proceeds with Multi-Bank Securities and ICD Securities, for various terms.

Mathison/Clough unanimous to approve the re-investment of \$250,000 with ICD Securities for a period of 3 years at a rate of 1.15% with the State Bank of India, IL, authorizing the current bank signers and the Clerk/Treasurer to be signers on the investment account and authorizing a wire transfer from the City's checking account in the amount of \$250,000 to complete the transaction if needed; and approve the investment of \$230,000 with Multi-Bank Securities, Inc., for a period of 5 years at a rate of 2.00% with Union Bank of CA, authorizing a wire transfer from the City's checking account in the amount of \$230,000 before August 16, 2013 to complete the transaction, as recommended by staff.

2014 Budget Process

The 2013 Legislature has made several changes affecting the 2014 budget process. A one-year levy limit for cities over 2,500 in population has been enacted, which covers levies approved this fall for collection in 2014. In mid-July, the City was required to provide the MN Department of Revenue with information on previous year's levies in order for them to calculate our 2014 levy limit, which will be certified to the City by September 1st. This limit does not include any current or new special levies for debt service or projects that the City intends adopt or approve.

The Legislature also enacted a new sales tax exemption for local governments, including cities, towns, and counties under MS 297A.70, subdivision 2. This exemption allows the City to purchase taxable tangible personal property and services without paying the state 6.875% sales tax, with exceptions of course. The sales tax exemption is effective for sales and purchases made on or after January 1, 2014.

Until staff is notified by the Department of Revenue with what the levy can be, it is hard to complete the General Fund Budget to the level of detail that has been provided Council in previous years. Usually by this time, Council has seen at least one preliminary run of revenues and expenditures and staff has a projected maximum levy amount. It is difficult to project 2014 revenues without knowing what the state will set as our maximum levy limit. Regardless of the levy amount, Council will still have the same options to decrease the levy before final certification that you have had in the past, including reductions to expenses, increases in revenues, or the use of uncommitted cash reserves as a budget balancing tool, instead of a levy increase.

At this point in time, we do know that expenses will increase, due to a scheduled increase in the Sheriff's Department contract in 2014. Also built into the expenditure budget are increases in membership dues for the League of Minnesota Cities, slight increases to Property, Worker's Compensation and health insurance and wage increases for employees.

The preliminary budget and levy must be certified to Sherburne County by September 15, 2013. Council will have ample opportunity to review the budget in greater detail before final review and certification at the September 9th Council meeting. Once the preliminary is approved, staff will work to refine the budget prior to final certification in December, 2013.

Comments were heard from **Wendy Kowalski, 26412 Lake Avenue, Zimmerman**, who questioned the elimination of the Truth-In-Taxation Meeting requirement. Tillmann stated that several years ago, the Legislature eliminated the need for published notices and the Truth-In-Taxation hearing. However, Council must still hold a public comment meeting that allows for public input on the city budget and levy prior to final adoption and certification in December. The county auditor will send the notice of proposed property taxes to each taxpayer in the county. While the City is no longer required to hold a Truth in Taxation hearing, we cannot adopt our final budget and levy until after November 24, and must adopt the final 2014 budget and certify the final tax levy to Sherburne County by December 28, 2013.

ADMINISTRATOR'S REPORT – presented by Administrator Piasecki

Community Shred Event

Piasecki reported that the vendor used for last year's event is not available on September 7. Staff will solicit availability of alternate vendors for consideration by the Council at the August 19th meeting.

MAYOR/COUNCIL ITEMS

Council agreed by unanimous consensus to cancel the COW meeting for August 12 due to a lack of agenda items, and consider a Budget Workshop on August 26 instead.

Before adjourning, Mayor Earenfight asked for a moment of silence in honor of US military personnel.

Brisbin/clough unanimous to adjourn the meeting at 8:16 p.m. Motion carried.

Approved this 19th day of August, 2013.

s/s Kary Tillmann, Clerk/Treasurer