

**COUNCIL MEETING**  
**JULY 24, 2007**  
**7:00 P.M.**  
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**CITY OF DAYTON, MINNESOTA**  
**12260 S. DIAMOND LAKE ROAD**  
**HENNEPIN/WRIGHT COUNTIES**

**PRESENT:** Mayor Doug Anderson; and Council members Phil Forseth, Scott Hoke, J. Kevin Anderson, and Tim McNeil

**ABSENT:** none

**ALSO PRESENT:** Administrator Samantha Orduno, City Clerk Sandra Borders, City Planner/Zoning Administrator Erin Stwora, Police Chief Richard Pietrzak, City Finance Director Richard Hill, Fire Chief Jim Nordmeyer, City Engineer Mark Hanson, and Administrative Assistant/minute-taker Debbie Maveus

**CALL TO ORDER** - 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF AGENDA**

The Council added Item J, Disability Deferment of the Special Assessments for Ronald Emerson, 13321 Balsam Lane N., which was provided by Clerk Borders, to the Council Agenda.

**MOTION:** Motion made by Forseth, seconded by Hoke, to approve the Agenda of the July 24, 2007 Regular Council Meeting, as amended.

Ayes: D. Anderson, Forseth, Hoke, K. Anderson, McNeil

Nays: none

*MOTION DECLARED PASSED.*

**CONSENT AGENDA:**

- A. Approval of Council Meeting Minutes of July 10, 2007
- B. Council Work Session minutes of July 10, 2007
- C. Payment of Claims – July 24, 2007
- D. Park Commission Meeting minutes – June 5, 2007

**MOTION:** Motion made by K. Anderson, seconded by McNeil, to approve the Consent Agenda of July 24, 2007.

Ayes: D. Anderson, Forseth, Hoke, K. Anderson, McNeil

Nays: none

*MOTION DECLARED PASSED.*

**PRESENTATIONS:**

The Slogan and Logo Contest winners, Will Van DeCrommert and Tim Porath, were present to accept their checks from Mayor Anderson. Will provided the slogan “Two Rivers, One Community”, and Tim the logo design including the wording “City of Dayton – All the seasons of

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life”.

**OPEN FORUM**

No one was present for Open Forum.

**COUNCIL BUSINESS**

**ITEM E – REQUEST FOR REIMBURSEMENT FROM JIM MINNICH, 13201 JONQUIL LANE, FOR SEPTIC TANK REPLACEMENT & RELATED COSTS S.R.#102-2007**

Engineer Hanson reviewed that the Council awarded the contract to LaTour Construction, Inc. which included the dewatering impacting the Jim Minnich property at 13201 Jonquil Lane, on April 24th. He reported that Mr. Jim Minnich, who was present, has requested the City reimburse him for costs associated with his septic tank replacement, which was done due to impacts with dewatering needed to construct the NE Dayton Project. Because the septic tanks were not watertight, they took on water and failed. To remedy that, they replaced their tanks (constructed in about 1990) with updated/watertight tanks and re-graded the area so the ground elevation was improved. The claims submitted were \$15,795.94, not including the \$3,500 claim for Northern Dewatering, Inc. to install dewatering, needed to construct the new septic tanks, totaling \$19,295.94. Mr. Minnich was present and provided a letter to the Council from Sewerman, dated July 18<sup>th</sup>.

Engineer Hanson reviewed with the Council the discussions with Mr. Minnich to review the dewatering and impact to his property and the water elevation beginning to encroach the top of the ground over his septic tank and with Three Rivers Park Department, contractors, and the City to review the dewatering and the option to reroute the discharge into Elm Creek Park. A temporary encroachment permit was approved and by June 29th it was done.

Dayton Staff reviewed with Mr. Minnich the option of the City being responsible for 100% of the costs associated with the inconvenience of the septic tank failure/installation and 50% of the cost for the new septic tank installation (estimate \$11,117.34), suggesting he assume the cost for the remaining 50% (estimate \$9,367.34), based on protection around the existing tanks not being adequate, the existing septic tanks are at about 50% of their usable life, and the new updated watertight septic tanks providing greater value. Mr. Minnich, on the other hand, is requesting the City be responsible for 100% of the cost. The costs for reimbursement are proposed to be financed from the funds designated for easement acquisition. The next step is for Council to determine the appropriate amount of reimbursement and have Staff process the payment as soon as possible.

Mr. Minnich came forward and explained the events that led up to the problems, including his family’s inconvenience and loss of landscaping/bushes that were not planned/budgeted for, that were his reasons for the increased request for compensation. The Council discussed the high water levels

and the possibility of the tanks not being installed correctly, or not to code, asking for clarifications and suggesting the City cover the full dewatering cost of \$1,750.00 for a reimbursement for damages of \$12,867.34. Mr. Minnich stated he did not agree and the process for disagreement was reviewed. He mentioned their seeding, instead of putting in sod. A 75%/25% split was requested by Mr. Minnich, or a minimum of 67%/33% for the inconvenience - \$15,053.00 for the City and \$4,243.00 for them.

The Council wanted clarification that this would close the issue and that there would be nothing else at a later date. Mr. Minnich wanted a condition added regarding long term impact for the woods that surround their pond, in case there are problems next Spring that would lessen the value to their property. The DNR wetland issue there was mentioned. It was agreed that the septic system and restoration work deal would be finalized with this payment. The Council questioned whether an agreement should be drawn up by the City Attorney, but it was agreed it should not be needed.

**MOTION:** Motion made by Hoke, seconded by K. Anderson, to proceed approving for a final reimbursement/payment in the amount of \$15,053.00 to Jim Minnich, to be paid as soon as Staff can process.

Ayes: D. Anderson, Forseth, Hoke, K. Anderson, McNeil  
*MOTION DECLARED PASSED.*

Nays: none

**ITEM F – ORDINANCE #2007-12 TO AMEND THE DAYTON CITY CODE BY AMENDING SECTION 205 REGARDING PLANNING COMMISSION, SECTION 206 REGARDING PARK COMMISSION & SECTION 210 REGARDING PUBLIC SAFETY COMMISSION /ORDINANCE #2007-13 SUMMARY S.R.#103-2007**

Planner Stwora reviewed that the Council directed Staff to review the City Ordinances as part of their 2007 Goal Setting process. The first ones to be reviewed were the Planning, Park, and Public Safety Commission Ordinances and she provided an ordinance revising them in the City Code, which the City Attorney has reviewed. She asked the Council to review and discuss, and if they so chose, to adopt them with the summary.

Council member McNeil noted that there was a change of the chair person on each commission being elected by the Commission members to an appointment by the Council. It was relayed that the Commission members can still give the recommendations to the Council. Administrator Orduno informed that Commission appointments expire the end of June, so this would be a good time to put this in place. Mayor Anderson suggested the salary be increased from \$15 to \$25 per meeting, since it has not changed for years. Staff responded that many cities do not have any salary, and it was suggested that discussion take place at the budget meeting, and the language in the Ordinance be changed to include that “*all members shall be paid a salary, per meeting, as set by resolution*”,

which Staff recommended be done the first of the year. Staff informed that the Commissions' next payment would be the end of the year.

The Council then discussed the Planning Commission and seminar payment changes to the ordinance, which Staff explained. It was noted that the budget sets what will be paid for, so the inclusion was not needed, but Administrator Orduno clarified the intent that if the City requires training, the City would fund it. The Council agreed to leave that language as it was, since it is covered.

**MOTION:** Motion made by Forseth, seconded by K. Anderson, to adopt Ordinance #2007-12, as amended, amending the Dayton City Code Sections 205, 206, & 210 regarding City Commissions.

Ayes: D. Anderson, Forseth, Hoke, K. Anderson, McNeil

Nays: none

*MOTION DECLARED PASSED.*

**MOTION:** Motion made by Forseth, seconded by McNeil, to adopt Ordinance #2007-13, as presented, approving a Summary for publication to amend the Dayton City Code Sections 205, 206, & 210 regarding Commissions.

Ayes: D. Anderson, Forseth, Hoke, K. Anderson, McNeil

Nays: none

*MOTION DECLARED PASSED.*

**ITEM G – FINANCE CLERK HIRE CONSIDERATION**

**S.R.#104-2007**

Planner Stwora reported that the Finance Clerk position, formerly known as the Clerk III position, was advertised in May and again in June, due to the current staff person's pending retirement, with the first applicant offered the job, declining due to salary. The second time eight applications were received, and Staff interviewed two candidates, with Maria Rosenbaum recommended as the best fit.

Planner Stwora reviewed that the advertised salary range for the full-time Finance Clerk position was \$29,245 to \$41,122 (\$14.06/hr to \$19.77/hr), and is a Grade 3 Position which is part of the AFSCME Union. Staff suggested Ms. Rosenbaum, based on her previous experience, be placed at Step 8 with a salary of \$41,122 (\$19.77/hr). Administrator Orduno informed that she would officially start the following day, July 25<sup>th</sup>. Her application and resume were available for Council review, and there was discussion of increases when starting at the top of the range.

**MOTION:** Motion made by McNeil, seconded by K. Anderson, to approve Maria Rosenbaum to be hired as Finance Clerk, as presented.

Ayes: D. Anderson, Forseth, Hoke, K. Anderson, McNeil

Nays: none

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*MOTION DECLARED PASSED.*

***ITEM H – APPOINTMENT OF STEVE BAKER AS CITY PROSECUTOR S.R.#105-2007***

Clerk Borders' report informed that Mr. Steve Baker has been the City's Prosecuting Attorney for the past several years, first with Hoff, Barry, & Kozar and most recently with the law firm of Grannis and Hauge. Mr. Baker has now left that firm, but would like to continue to represent the City of Dayton in the prosecution cases in court. Administrator Orduno noted that, as of this appointment, the retainer of \$1,700 per month would not change, except for proposing a 3% increase for the next budget.

**MOTION:** Motion made by Forseth, seconded by McNeil, to appoint Steve Baker as Prosecuting Attorney for the City of Dayton, as presented.

Ayes: D. Anderson, Forseth, Hoke, K. Anderson, McNeil

Nays: none

*MOTION DECLARED PASSED.*

***ITEM I – CHANGE ORDER NO. 2 FOR CONTRACT 1, N.E. DAYTON, LATOUR CONSTRUCTION, INC. S.R.#106-2007***

Engineer Hanson reported that Staff has been reviewing the storm water improvements, because of the recent dewatering operation needed to construct NE Dayton Contract 1. Change Order No. 2 is the result of that review and is broken down as follows: Part 1. *Add Galloway Park Storm Sewer Outfall* (\$21,817.50) - Dayton Staff has been reviewing the dewatering and storm sewer outfall through Galloway Park with Champlin staff and the contractor since June. They are acceptable with the plan, but want the permanent pipe constructed instead of a temporary dewatering pipe. Memos dated June 11th and July 17th have been sent to Champlin documenting the storm sewer improvements, and they have feel Dayton should be responsible for 100% of the cost, which based on drainage areas, Dayton Staff is supportive. Engineer Hanson handed out a letter, dated July 23<sup>rd</sup>, from the City of Champlin; Part 2. *Add Donahue Dells Pond Outlet to French Lake Road* (\$43,056.50) and Part 3. *Deduct Donahue Dells Pond Lift Station/Force main* (-\$172,827.50) - Dayton Staff has had conversations with Three Rivers Park District (TRPD) staff whether they would consider a gravity storm sewer outlet along the dewatering alignment in Elm Creek Park from the Donahue Dells Pond. They have stated they would, but their board and the Metropolitan Council would have to approve, and Hanson provided Policy XII – Diversion of Adjacent Land Use/Interior Uses/Divestment – that would need to be followed. In addition, the exchange of lands may also be considered in approving the Diversion.

The recent vacation of the Goose Lake Road Right-of-Way north of Elm Creek Road (about 0.9 acres) is about equal to a 20' wide easement over the proposed gravity storm sewer pipe in Elm Creek Park, Engineer Hanson reported. The present dewatering in Elm Creek Park is working well,

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with greater flow than the gravity storm water flow expected from the pond in Donahue Dells. The long term maintenance costs associated with the lift station/force main presently planned for the pond is also significantly greater than for a gravity storm sewer pipe. If the agencies approve the gravity pipe option, a future change order would be brought back to the City Council for approval, estimated at approximately \$70,000 (1,900 LF pipe). The deduct for Change Order No. 2 is included in the bond sale for NE Dayton Project.

**MOTION:** Motion made by Forseth, seconded by McNeil, to approve Change Order No. 2 NE Dayton Contract 1 for LaTour Construction, Inc., as presented, in the amount of approximately a deduction of \$107,953.10, and directing Staff to finalize with the contractor.

Ayes: D. Anderson, Forseth, Hoke, K. Anderson, McNeil  
*MOTION DECLARED PASSED.*

Nays: none

**ITEM J – DISABILITY DEFERMENT OF THE SPECIAL ASSESSMENTS FOR RONALD EMERSON, 13321 BALSAM LANE N.** **S.R.#107-2007**

Ronald Emerson, 13321 Balsam Lane N., was unable to be present because of his health, but a Staff Report from Clerk Borders was handed out with his request for consideration of the Deferment of the Special Assessments, because of his Social Security Disability. He relayed he had applied some time ago, but just received confirmation on July 18, 2007. Social Security has determined he met qualifications as of December 31, 2006, but he was unable to apply for deferment at the Public Hearing, because of the unknown status. A fax from Mr. Emerson and documentation from Social Security were provided. Administrator Orduno stated that he clearly meets all the requirements.

**MOTION:** Motion made by Hoke, seconded by McNeil, to accept the Deferment of the Special Assessments for Ron Emerson, 13321 Balsam Lane N., as presented.

Ayes: D. Anderson, Forseth, Hoke, K. Anderson, McNeil  
*MOTION DECLARED PASSED.*

Nays: none

**REPORT OF OFFICERS**

***COUNCIL UPDATES***

Council member McNeil reported that he met with Administrator Orduno and *St. John the Baptist Church* representatives about the excess dirt because of the projects in Dayton. As a member of that church and Park Commission liaison, he was wondering if they could use some of it to fill in some property they own to create a *joint parking lot*. It was discussed that it would cost the church about \$5,000 for what the City would require, and he relayed that would not be feasible. Orduno informed that no letter had been received. Secondly, McNeil mentioned that at the last Park Commission

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meeting, they requested more *formalized communication on park issues*, by listing them on an agenda. The Council discussed the proper time to update the Park Commission on developments was after the redraft/new plans, just an update prior to that time. It was noted that items for Park will come from the Council as a whole.

Next, Council member Anderson informed that a resident had asked him about *the status on Zanzibar Lane*, and it was reviewed that, with regards to *MSA funds*, it was budgeted for next year that a Pavement Management Plan be done, and Zanzibar would probably be the first one to go from gravel to pavement. It was relayed that chloride is made available to residents, with a charge, to be applied each Spring. Secondly, Anderson reported that in talking with Superintendent Hass and Chief Pietrzak about *Historic Village pedestrian crossing* by the Post Office, they noticed that one of the property owner's trees is obstructing the crossing, so Staff suggested a letter be sent. He informed they talked about adding a rubber based pedestrian sign in the middle of the road. Chief Pietrzak handed out a response letter from Eric Dragger of Hennepin County Traffic, informing that there needs to be an official City request with their permission, the City would buy it at a cost of about \$450 and the City would maintain it and remove it in the winter. Council member Anderson suggested it was a minimal cost for the safety. The Council discussed sending to the Public Safety Commission for their review, but agreed that time was essential to avoid the risk of an accident.

**MOTION:** Motion made by Forseth, seconded by K. Anderson, to direct Staff to make the application for a pedestrian sign for the middle of the road in the Historic Village by the Post Office.

Ayes: D. Anderson, Forseth, Hoke, K. Anderson, McNeil

Nays: none

**MOTION DECLARED PASSED.**

### ***CITY ADMINISTRATOR***

Administrator Orduno reported that 5,013 was the *official reported Dayton population*, up four residents from the last report.

### ***POLICE CHIEF***

Chief Pietrzak mentioned his *Police Department Statistics* from January 1, 2007 – June 30, 2007, included in the Council's Communications.

### ***CITY ENGINEER***

Engineer Hanson brought up the *stop sign request for County Road 12 and Pineview Lane*, and his response from Eric Dragger at Hennepin County. His review is that a stop sign is not recommended, and the enforcement issue was mentioned. Council member Forseth stated he was willing to take the complaints for the removal of the sign once the construction is completed, since the issue is the

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Hennepin County trucks speeding. Chief Pietrzak recommended a temporary sign. Other Council members mentioned concerns of stopping traffic on County Road 12 and the traffic change, causing false security. It was suggested the County be informed of Dayton's disagreement with Mr. Dragger's recommendation, requesting communication to his supervisor. There was discussion that the temporary sign be in place about 6 months, with talk of possibly the Fall and Spring. It was mentioned that once South Diamond Lake Road is back open, the problem could be resolved. The Council recommended Staff talks with the County about the speed problems with their trucks, informing that they would be tagged. There was *CONSENSUS* to pursue the stop sign.

Secondly, Engineer Hanson reported on a *letter from Kevin and Jill Macho, 12970 Balsam Lane N.*, included in Council Communication, informing his office has been in contact with them, but needs to find out the condition of the existing storm sewer, if the City is going to honor their request of alleviating the firewood storage obstructing their view of the pond or recontouring the depth of the wetland to allow more open water near their property line.

Thirdly, Engineer Hanson provided a PowerPoint on *Bond Sales Summary for NE Dayton Areas 1-6 Wicht Industrial Park, dated July 2007*. The Estimate Easement Tabulation showed a total of \$163,147 of \$300,000 budget, noting the need for Golf Course additional expenses. The NE Dayton Construction Cost Summary sheet revealed to date costs of \$18,302,207 of \$18,500,000 and the Value Completed to Date, at \$2,502,961.02 - 15% completed. The Council suggested an updated construction schedule and put on the Website, mentioning concerns from residents. Hanson reported that most or all of the construction should be done this year, which was not expected/necessary. He mentioned issues causing delays. He reviewed a map of Sanitary Service Changes for the NE Dayton Areas 1-6 Utility and Street Improvements, and mentioned the request to add Hemlock Lane to serve one home. Hanson also asked the Council's recommendation on some property near the pond and putting two sewer and water services off that street to the south, to which the Council agreed. With regards to Berkshire Lane, he asked about adding a service stub to the south, even though most are beyond 2020 MUSA and 10 acre lots. It was agreed it would make sense since the additional cost to extend it would be minimal at \$5,000 - \$7,000 and it was noted that the residents there may be willing to service themselves. There was *CONSENSUS* to work towards Berkshire and look at the services to those properties, coming back with an update for the Council.

**ADJOURNMENT**

**MOTION:** Motion made by Hoke, seconded by Forseth, to adjourn.

Ayes: D. Anderson, Forseth, Hoke, K. Anderson, McNeil

Nays: none

**MOTION DECLARED PASSED.**

APPROVED: August 14, 2007 ATTEST: \_\_\_\_\_