

**COUNCIL MEETING
MARCH 25, 2008
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 Scott Hoke, J. Kevin Anderson, and Tim McNeil

ABSENT: Council member Phil Forseth

ALSO PRESENT: Administrator Samantha Orduno, City Clerk Sandra Borders, Assistant to Administrator Erin Stwora, Finance Director Richard Hill, Police Chief Richard Pietrzak, Public Works Superintendent Rick Hass, Fire Chief Dennis Young, City Engineer Mark Hanson, Assistant City Attorney Kim Kozar, and Administrative Assistant/minute-taker Debbie Maveus

CALL TO ORDER - 7:00 p.m.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

MOTION: Motion made by McNeil, seconded by K. Anderson, to approve the Agenda of the March 25, 2008 Regular Council Meeting.

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

Nays: none

CONSENT AGENDA:

- A. Approval of Council Meeting minutes of March 11, 2008
- B. Payment of Claims – March 25, 2008
- ~~C. Approval of Excavation License for Meiny's Diggers, Inc.~~
- ~~D. Approval of Excavation License for Kothrade Sewer, Water, & Excavation, Inc.~~

Administrator Orduno removed Items C & D – Excavation Licenses, not to be brought back for Council action.

MOTION: Motion made by McNeil, seconded by K. Anderson, to approve the Consent Agenda of March 25, 2008, as amended.

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

Nays: none
MOTION DECLARED PASSED.

PRESENTATION:

PLAQUE PRESENTATION TO DAYTON FIREFIGHTER DAN ZIEBELL FOR HEROIC EFFORTS IN SAVING THE LIFE OF A MONTICELLO TEEN

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Mayor Anderson presented Dayton Firefighter Dan Ziebell a plaque from the City Council, for his lifesaving efforts towards a Monticello teen and he accepted on behalf of all the EMT's, Paramedics, Firefighters, and Police, for all their hard work and making a difference in sometimes saving somebody.

OPEN FORUM

No one was present for Open Forum.

COUNCIL BUSINESS

ITEM E – HILMER HARTMAN/GUARDIAN ANGELS REZONING & SUBDIVISION

S.R.#41-2008

Assistant Planner Mike Elhard reported that Hilmer Hartman, in conjunction with Guardian Angels of Elk River, Inc., have submitted an application for an Administrative Subdivision to split the 48.50 acre parcel into one 29.34 and one 20.58 acre parcel (non-buildable/new parcel). The size of the lots, once subdivided, will be too small to meet Zoning requirements for A-1, Agricultural, but if rezoned to A-2, Special Homestead Agricultural, the lot sizes will meet requirements. This zoning is intended for agricultural use in areas that are not served by public sewer and water. He introduced Mr. Hartman and the representative from Guardian Angels, and reviewed some of the requirements that would take place.

Both lots meet ordinance requirements, subject to the conditions listed in the planning report. A subdivision agreement was prepared and executed and was attached to the resolution. After their March 6th meeting, and Public Hearing, the Planning Commission and Staff are recommending approval of the administrative subdivision of one lot into two lots and rezoning located South of CSAH 12 between CSAH 13 and Lawndale Lane.

-- ORDINANCE #2008-11: HILMER HARTMAN/GUARDIAN ANGELS REZONING

MOTION: Motion made by McNeil, seconded by Hoke, to waive the reading and adopt Ordinance #2008-11, as presented, rezoning property located south of CSAH 12 between CSAH 13 and Lawndale Lane from A-1 (Agricultural) to A-2 (Special Homestead Agricultural).

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

Nays: none

-- RESOLUTION#15-2008: HILMER HARTMAN/GUARDIAN ANGELS SUBDIVISION

MOTION: Motion made by McNeil, seconded by K. Anderson, to waive the reading and adopt

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Resolution #15-2008, as presented, approving the application of Hilmer Hartman for an Administrative Subdivision of one lot into two lots located south of CSAH 12 between CSAH 13 and Lawndale Lane.

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

Nays: none

ITEM F – ORDINANCE #2008-10: COMCAST AGREEMENT EXTENSION S.R.#42-2008

Assistant Planner Mike Elhard reported that in 2007, the Council identified servicing the Nature's Crossing development in SE Dayton with cable service as a priority. The City holds a franchise agreement with Charter Communications, but their development is not accessible, because of the Park Reserve. Residents in the development have contacted the City regarding access to cable and high speed internet service, so Staff contacted Charter and Comcast. Charter stated they will not be able to service the development, but Comcast serves the City of Champlin and a line could be extended across Goose Lake Road to add the requested service.

Staff has worked with Charter Communications and Comcast and the City Attorney, to draft an ordinance permitting a cable line extension to serve the Nature's Crossing development. The City will collect a cable franchise fee equal to 5% from Comcast bi-annually. The permit will expire December 1, 2008. Administrator Orduno thanked Mr. Elhard for his hard work on this project, and it was clarified that this was not an exclusive contract.

MOTION: Motion made by Hoke, seconded by McNeil, to waive the reading and adopt Ordinance #2008-10, as presented, granting a Line Extension Permit to Comcast of Minnesota/Wisconsin and its affiliates, to construct, operate, and maintain a cable communications system in the City of Dayton.

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

Nays: none

ITEM G – APPROVAL OF BONESTROO TO ASSIST IN COMPLETION OF THE ZONING ORDINANCE UPDATE PROPOSAL S.R.#43-2008

Assistant to the Administrator Stwora reported that as a part of the 2008 Comprehensive Plan Update process, the Council budgeted \$30,000 to complete a Zoning Ordinance Update in 2008. Staff is recommending Bonestroo be hired to assist Staff in completing the update, because of their close work with the Comprehensive Plan Update and knowledge of the ordinances and direction of the Council and Comprehensive Plan Task Force. Staff asked Bonestroo to prepare a scope of work and costs for the Zoning Ordinance Update, which includes doing the work in five groups and providing Planning Commission review after each. Staff will also be working on ordinances in-house to help

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off set the costs, she relayed, and she reviewed some ordinances that would require updating before others. Bonestroo's scope of work is limited to a fee of \$35,000, Assistant to the Administrator Stwora informed. Staff recommends approval of \$30,000 (per 2008 budget) for work in 2008 and \$5,000 to be budgeted for 2009, as it is expected much of the work could occur this year, with only minimal in 2009.

Council member McNeil passed out information from CURA/1000 Friends of MN regarding Community Growth Options and SeacoastNRG.org he received that day, presenting a possible grant option for the proposed process. He suggested the information be reviewed, tabling the item for up to 30 days, to explore it. The Council questioned the timing and that much of the issues Dayton has already done, and Staff suggested they review and bring the item back to the next Council Meeting.

MOTION: Motion made by McNeil, seconded by Hoke, to **TABLE** for 30 days, the approval of the selection of Bonestroo as the consultant to assist Staff in the completion of the 2008 Zoning Ordinance Update.

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

Nays: none

MOTION DECLARED PASSED.

**ITEM H – DRAFT FEASIBILITY REPORT PRESENTATION FOR TERRITORIAL ROAD/
RUSH CREEK ROAD STREET & UTILITY IMPROVEMENTS S.R.#44-2008**

Engineer Hanson reviewed that the Draft Feasibility Report is the result of the developer for Sundance Woods, Mr. Tom Dehn, who was present, requesting to develop his property, requiring public infrastructure improvements. The developable property is located off Rush Creek Road and Territorial Road and contains 133 acres and 189 proposed single family residential lots. Fifteen properties are adjacent to the utility and street improvements proposed along Territorial Road/Rush Creek Road and are included in the Project. The Council reviewed the updated Concept Plan for Sundance Woods at their February 26th meeting.

Engineer Hanson passed out a PowerPoint presentation – Feasibility Report, Territorial Road/Rush Creek Road Street and Utility Improvements, March 25, 2008, including Project Limits, Sanitary Sewer and Water Main, Sanitary Sewer Service Area, Storm Sewer and Street Improvements, Street Improvements to Rush Creek Road, Territorial Road & Rush Creek Road Typical Sections. The Project Costs estimated at \$3,215,200 and Assessment Rate of \$11,780 per Lot Equivalent, was reported, and the Assessment Limits. The Revenue was reviewed and the deficit of \$880,859 was noted, mostly from the sewer. The project will be financed by Sundance Woods, Sundance Golf Course, and assessments/future assessments to the benefiting properties in the area, and the Financing by Revenue Sources was covered. The Schedule was also mentioned, including a Public Meeting and Hearing for May/June 2008, Receive Bids January/February 2009, Assessment Hearing

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March 2009, Substantial Completion November 2009, with First Payment Due with Taxes Spring 2010.

The Council will need to review the options available to them to finance the project on an interim basis, if the project moves forward. The deficit item was discussed and Engineer Hanson's recommendation was for the 189 proposed lots @ \$4,740/Lot = \$888,300. The Council wondered if Mr. Dehn had informed the residents of the proposal, and were in approval, which he responded had been done. The Council mentioned concern of the deficit and wondered if postponement of the upgrade to the road was an option, to which Hanson explained the minimal upgrades being proposed. He mentioned discussions with Maple Grove needing to be done, and he relayed that the City could go through State Aid process, as both roads are State Aid roads, instead of bonding for financing. It was relayed that this portion of road was not in good shape. The Council mentioned all the deficits on the numerous projects and asked for information on the total deficits of the City currently, affecting the need for buildout. Another option is to assess the parcels or developer more of the cost, Engineer Hanson responded. The Council mentioned concerns of great variation of lot size/possible change of approach for assessment rates and not pushing residents into utilities.

The Council asked Mr. Dehn about the proposed timeline, and he agreed next Spring would be good for starting, but if the market declines more, pushing it off might be needed. There was questions of the Council's responsibility and timing, which would be 2010, and number of new rooftops needed for the deficit to be covered. They suggested the Engineer start discussions with Maple Grove to allow the City to be prepared when building picks up, and proceed with getting more details. There was discussion of action if Maple Grove declines. Staff's direction was to move forward and work with the developer, as well, and before meeting with property owners, report back to the Council.

ITEM 1 – DRAFT FEASIBILITY REPORT PRESENTATION FOR N.W. DAYTON UTILITY EXTENSIONS & BROCKTON LANE TURN LANE IMPROVEMENTS

S.R.#45-2008

Engineer Hanson reviewed the Draft Feasibility Report for Northwest Dayton Utility Extensions/Brockton Lane Turn Lane Improvements, and a handout of the PowerPoint, dated March 25, 2008, was reviewed. He explained that this is the result of three property owners requesting to develop their properties in Northwest Dayton, requiring public infrastructure improvements -- Crow Rivers Bluff (25 acres), Hartman Land (211 acres), and Rolling Green (109 acres). A concept report was presented to the Council at their February 3, 2007, meeting and the Crow Rivers Bluff development received preliminary plat approval on November 27th. The other two properties/developments are currently in the concept stage. A meeting was held December 19th with the developers to review the project status and a phasing plan was presented. In December a proposal to prepare the Feasibility Report was presented to them and the cost to prepare the report was divided between the three developable properties.

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Engineer Hanson reviewed the PowerPoint of the Feasibility Report which included Existing and Proposed Land Use, Proposed Future Road Classifications, NW Dayton 2005-2007 Service Area, Trunk Water Main/Water Supply/Storage/Treatment, Phase 1 2008-2009 Utilities & Brockton Lane, and Phase 2 2009-2010 Utilities & Brockton Lane, Phase 3 2009-2013 Well/Water/Tower 1.0MG/Trunk Water Main, Benefiting Parcels, Project Costs of \$3,794,400 for Phase 1 2008-2010, \$2,259,100 for Phase 2 2009-2010, and \$11,421,000 for Phase 3 2008-2010. Hanson reviewed the Cost Responsibility Rates for each item and phase, informing that Phase 1 Cedarcrest School would like to open their doors Fall of 2009. He reviewed the Revenue, Future Revenue, and Project Schedule for each phase – between May 2008 and November 2010 for Phases 1 & 2, and 2009-2013 for Phase 3.

The Council had questions about Phase 3 and the well and fire protection connections, for the school, as well, which were clarified. Engineer Hanson mentioned the Transportation Charge - \$9,300 per acre and Storm Water Charge of \$5,000/per acre, and reported that the project will ultimately be financed by the three developable properties and future assessments to the benefiting properties in Northwest Dayton. He recommended reviewing the Report with the developers and a meeting with Otsego to review sanitary sewer capacity on April 10th. The Council asked about Otsego's response, and Staff relayed they have plenty of capacity and mentioned how Dayton has already paid for the initial capacity agreed to. The Council approved the Draft Feasibility Report for Northwest Dayton Utility Extension/Brockton Lane Turn Lane Improvements, as presented, for sharing with Guardian Angels and Cedarcrest School, of which representatives were present, continue discussions, and see how things proceed. There was a 10 minute recess at this time – 8:15 p.m.

ITEM J – RESOLUTION #16-2008: APPROVAL OF 2008 COMPENSATION PLAN

S.R.#46-2008

Assistant to the Administrator Stwora reported that the 2007 budget included funds for an independent Compensation Study and the Council directed Staff to enter into an agreement with Springsted, Inc. to conduct a Classification and Compensation Study at their September 11th meeting. The Study represented a comprehensive review of the components that affect an organization's compensation program, which were reviewed. It is recommended a study be conducted every five years and Dayton's last was in 2002.

The process was reviewed by Assistant to the Administrator Stwora, and she reported that on the results – Dayton's minimum salaries about 34% below the market, midpoint salaries 27% below and the maximums 22% below average maximums. Data indicated that all of the positions in the City of Dayton are under-compensated in relation to other comparable organizations. She explained how the recommended pay plan was designed, how Springsted assigned each position, and the individual employee movement between the steps, based on individual employee performance. She noted that Staff is also recommending the Public Works Superintendent title be changed to Public Works Director, because of his job duties/ responsibilities.

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Staff prepared a resolution to accept the 2008 Compensation Study and implement the Compensation Plan, approve the revised job descriptions and title change, as presented to the Council previously. Prior to the completion of the Compensation Study, the Council approved, increases as a part of the 2008 Budget of 3% Cost of Living Adjustment (COLA) and \$50 per month increase to cafeteria plan (health/dental insurance, etc.). Springsted informed that settlements in the labor market are averaging approximately 3.5%, so they proposed increasing the wage by 3.5%, paid retroactive to January 1st. If the Plan is approved as presented, there would be no further wage adjustments for 2008.

In 2007, all full-time employees received \$650/month towards the City's cafeteria plan (medical/dental/AFLAC), but the 2008 additional \$50/month budgeted increase, still is far below the average, so Staff is recommending a \$75/month increase, paid retroactively to January 1, 2008. The total Option 1 cost of implementation of the 2008 compensation plan recommended by Staff, including Administrator Orduno, which was handed out, is \$76,360.06. The 2008 budget includes \$25,000 for implementation of the Compensation Study, but the remaining \$51,360.06 will be transferred to the General Fund fund balance, which is set aside for these types of expenditures. A budget amendment will be done later this year, Administrator Orduno relayed.

MOTION: Motion made by K. Anderson, seconded by McNeil, to adopt Resolution #16-2008, as presented, accepting the 2008 Compensation Study and implementing the Compensation Plan, revised Job Descriptions, and title change.

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

Nays: none

ITEM K – APPROVAL OF LABOR UNION CONTRACTS

S.R.#47-2008

Assistant to the Administrator Stwora reviewed that Dayton has two bargaining units representing three individual employee groups -- AFSCME – representing non-management employees, Teamsters 320 – representing essential supervisory employees, and Teamsters 320 – representing law enforcement employees. The existing contract expired December 31, 2007. The City has met with each bargaining unit, keeping each informed of the process of the Classification and Compensation Study. Stwora summarized the contract changes/additions for each of the bargaining units, some of which included a two year contract effective January 1, 2008 through December 31, 2009; the Health Insurance increase of \$75/month for each year; Life Insurance increase to \$50,000; Wage and Classification Rates increase of 3.5% COLA for each year, and the inclusion of new grades, steps and employee placement, consistent with the proposed Compensation Plan, retroactive to January 1, 2008 to all employees.

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Staff relayed that \$700 of costs were not budgeted for in 2008, noting the total yearly cost will be \$2,400. They mentioned the items listed above were included in the total Compensation Plan cost of \$76,360.06, discussed and approved prior to this item on the agenda. The Council questioned the negotiation process and final negotiations, which were included, and an explanation was made by Council member McNeil, who was one of the Council members on the Committee and in attendance during the process, and Administrator Orduno.

-- RESOLUTION #17-2008: AFSCME COUNCIL #5 (AMERICAN FEDERATION OF STATE, COUNTY, & MUNICIPAL EMPLOYEES) UNION CONTRACT APPROVAL

MOTION: Motion made by McNeil, seconded by K. Anderson, to waive the reading and adopt Resolution #17-2008, as presented, approving the Labor Agreement between the City of Dayton and AFSCME.

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

Nays: none

-- RESOLUTION #18-2008: TEAMSTERS LOCAL 320 – LAW ENFORCEMENT OFFICERS UNION CONTRACT APPROVAL

MOTION: Motion made by McNeil, seconded by K. Anderson, to waive the reading and adopt Resolution #18-2008, as presented, approving the Labor Agreement between the City of Dayton and Local Teamsters 320 – Law Enforcement.

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

Nays: none

-- RESOLUTION #19-2008: LOCAL TEAMSTERS 320 - ESSENTIAL SUPERVISORY EMPLOYEES UNION CONTRACT APPROVAL

MOTION: Motion made by McNeil, seconded by K. Anderson, to waive the reading and adopt Resolution #19-2008, as presented, approving the Labor Agreement between the City of Dayton and Local Teamsters 320 – Essential Supervisory Employees.

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

Nays: none

ITEM L – BENEFITS FOR NON-UNION EMPLOYEES

S.R.#48-2008

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City staff has completed a Compensation Study, in conjunction with Springsted, Inc. and has renegotiated union contracts for each of the three unions. Benefits are listed under each of the union contracts, but no specifications for non-union employees, which Administrator Orduno noted, included Department Head Erin Stwora. She relayed that a resolution would not be needed, but a motion only.

MOTION: Motion made by McNeil , seconded by K. Anderson, to waive the reading and approve as presented, regarding non-union employee benefits.

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

Nays: none

ITEM M – RESOLUTION #21-2008: ESTABLISHING A POLICY FOR USE OF EMPLOYER CONTRIBUTION TO CITY’S CAFETERIA BENEFIT PLAN S.R.#49-2008

Administrator Orduno reported that, currently, under the City’s cafeteria benefit plan, employees use the employer contribution amount (\$725 in 2008 and \$800 in 2009, per union contracts) to fund required single employee health insurance and can then use the remaining to pay for dental and AFLAC premiums. Employees now request the addition of two other qualified options - Post Retirement Health Savings Plan and deferred compensation, depending on preference, both consistent with allowable uses under cafeteria benefit plans. The addition of the language at the end of the resolution was noted as “, effective January 1, 2008”.

MOTION: Motion made by McNeil, seconded by K. Anderson, to waive the reading and adopt Resolution #21-2008, as revised, establishing a Policy for use of Employer Contribution to City’s Cafeteria Benefit Plan.

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

Nays: none

ITEM N – ORDINANCE#2008-12: AMEND SECTIONS 409 & 410 OF THE DAYTON CITY CODE REGARDING AVAILABILITY CHARGE FOR SERVICE STUBS S.R.#50-2008

Administrator Orduno relayed that the proposed ordinance was prepared by the City Attorney for Council approval, in response to the need to provide policy action regarding additional utility service stubs. The Council discussed the issue of non-payment of requested stubs at their March 11th meeting and directed Staff to develop an amendment to the City Code. It was relayed it was consistent with the City’s policy of availability charges for water and sewer utility improvements, as well as interest on past due accounts.

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The ordinance provides that utility service stubs not paid for by the property owner can be certified to property taxes, Administrator Orduno informed, and a provision for interest and monthly charge is included. The specific charge would be determined by the Council, per resolution, at an upcoming meeting. She reported that four property owners in the NE Dayton Utility Project have still not paid for their additional utility service stubs. Orduno mentioned the changes of the revised ordinance, so it would be relevant not only for this situation, but others in the future. Assistant Attorney Kim Kozar was in attendance, and it was noted that to do so, the revised ordinance included the removing of the word "additional" in Subd. 6 & 5, to make it as broad as possible.

MOTION: Motion made by McNeil, seconded by K. Anderson, to waive the reading and adopt Ordinance #2008-12, as revised, amending Sections 409 & 410 of the Dayton City Code regarding Availability Charge for property provided with additional service stubs.

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

Nays: none

REPORT OF OFFICERS

MAYOR UPDATES

Mayor Anderson reported on the *League of Cities Congressional Conference in Washington D.C.*, where had opportunity to meet with delegate and request assistance. He mentioned insight on the next Transportation Bill, of which Dayton will hopefully to be a part.

COUNCIL UPDATES

Council member Anderson thanked all of Staff and stated his appreciation of them. He then mentioned the *street light issue* the City is responsible for, wondering if there had been inventory done of them. He suggested if there was a way to save money on lighting, it would helpful, and Council member Hoke mentioned a possibility he heard about. There was some discussion of Dayton's 153 years and the *State of Minnesota 150th anniversary*. There was a suggestion of a notable state speaker for Heritage Day, possibly.

Council member McNeil thanked Staff and their hard work on the *Comprehensive Plan Update* major project, since he had been concerned about it and that was part of the reason he ran for office.

CITY ADMINISTRATOR

Administrator Orduno reviewed dates of the upcoming *Board of Review* on Monday, April 7th, and *Cleanup Day* on Saturday, May 3rd.

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CITY CLERK

City Clerk Borders reported that the middle of April the Spring *Dayton Communicator newsletter* would be sent out, so she would need articles by next Monday or Tuesday.

PUBLIC WORKS SUPERINTENDENT

Superintendent Hass reported that continued *construction of Goose Lake Road* would be put off until April 7th, because of weather, with the road needing to be re-closed. For the next Council Meeting, he informed he would have *crack filling and street sweeping quotes*. He mentioned that County Road #13 was not planned for repairs for about 5 years, he thought.

FIRE CHIEF

Fire Chief Young suggested the Council consider *increasing the Dayton Fire Department* from 30 to 35 in the next 2-3 years, with the retirements in the near future. The Council asked that he prepare a report for a future meeting.

POLICE CHIEF

Police Chief Pietrzak reported that he would be revising the *Emergency Management Manual*, relaying the Council would get a copy next month, for their review.

FINANCE DIRECTOR

Finance Director Hill informed that his department was in the middle of the *audit for this year*, with some challenge with the reduction of Staff and transition of new software.

ASSISTANT TO ADMINISTRATOR

Assistant to the Administrator Stwora reported that the Comprehensive Plan Updates would be sent out to other cities/agencies next Monday.

ADJOURNMENT

MOTION: Motion made by Hoke, seconded by McNeil, to adjourn to a Closed Session for the purpose of discussion of litigation matters involving Wicht Industrial Park, Dayton Holding, VF-13 Group, and Dayton River Commercial.

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

Nays: none

MOTION DECLARED PASSED.

APPROVED: April 8, 2008

ATTEST: _____