

COUNCIL MEETING
JULY 8, 2008
7:00 P.M.
PAGE 1 OF 8

CITY OF DAYTON, MINNESOTA
12260 S. DIAMOND LAKE ROAD
HENNEPIN/WRIGHT COUNTIES

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

ABSENT: none

ALSO PRESENT: Administrator Samantha Orduno, City Clerk Sandra Borders, Assistant to Administrator Erin Stwora, Public Works Director Rick Hass, Fire Chief Dennis Young, Police Chief Richard Pietrzak, City Engineer Mark Hanson, City Attorney George Hoff

CALL TO ORDER - 7:00 p.m.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

At Administrator Orduno's request, the Council added to the Agenda Resolution 37-2008: Resolution vacating drainage and utility easements and right-of-way for 133rd Avenue North on the Reed Property the rescinding of Resolution 52-2007 and the easement and right of way vacation for the Reeds Addition.

MOTION: Motion made by Forseth seconded by K. Anderson to approve the Agenda of the July 8, 2008 regular Council Meeting as amended.

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

Nays: none

MOTION DECLARED PASSED.

CONSENT AGENDA:

- A. Approval of Council Meeting minutes of June 24, 2008
- B. Payment of Claims – July 8, 2008
- C. Consideration and Approval Changing Council Meeting Dates:
 - 1. Canceling July 22 and August 26th Council meeting
 - 2. Change September 9th meeting (Primary Election) to Monday September 8th.
- D. Consideration of Senior Deferral of Special Assessments of the NE Area 1-6 Sewer / Water Project for Kenneth & Ramona Butau
- E. Dayton Fire Department Meeting minutes of May 15, 2008
- F. DNR Grant Agreement
- G. Resolution 37-2008: Resolution vacating drainage and utility easements and right of way for 133rd Avenue North, Lot 4, Block 3, Dayton Highlands Third Addition: Reed Property

MOTION: Motion made by Forseth, seconded by K. Anderson to approve the consent agenda as

**COUNCIL MEETING
JULY 8, 2008
7:00 P.M.
PAGE 2 OF 8**

**CITY OF DAYTON, MINNESOTA
12260 S. DIAMOND LAKE ROAD
HENNEPIN/WRIGHT COUNTIES**

amended.

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

Nays: none

OPEN FORUM:

Diane Dennstedt, 15850 So. Diamond Lake Road was present on behalf of the Dayton Park Commission. She was present to discuss the addition of an *Adopt-A- Park* program. Ms. Dennstedt would like to have volunteers adopt a park and give them the opportunity to maintain the beauty in the park system. She thought that the city should provide the garbage bags, for the disposal of the litter, brush, etc., and post the recognition of the organization or group.

She suggested that each group would volunteer for minimum of two years. She provided some information for pamphlets that could be distributed to the public. There would be no council decision this evening, and would be brought back to the council at another meeting.

**ITEM G: CONSIDERATION OF LETTER FOR ABC AUTO AUCTION REGARDING:
USE PERMIT TRANSFER, EASEMENTS, AND VIOLATION HISTORY: S.R. #97-
2008**

Administrator Orduno asked that City Attorney George Hoff explain the request. Mr. Hoff explained the property located at 18720 Territorial Road (property) is owned by Thomas and Barbara Miller ("Miller") and CAR ABC VA L.L.C. ("Cap Auto") and is currently being operated by Auction Broadcasting Company LLC ("ABC"), under leases from Miller and Cap Auto, as an auto auction. The City has been approached by Adesa, Inc., regarding its intend to acquire and continue ABC's business operations on the Property and assume ABC's rights under the leases or enter into new leases. The use of the Property as an auto auction is permitted as a conditional use via City Resolution Nos. 44-96, 58-96, and 32-99, and certain administrative conditional use permits ("CUP"). Further, ABC currently holds an Interim Use Permit ("IUP") for the storage of vehicles on property in close proximity to the Property. And unsatisfied condition of the CUP is the granting of certain easements. Adesa, Inc. has asked the City to execute a zoning / estoppel letter regarding the condition of the Property, CUP, IUP, and any other outstanding City issues. The City is under on obligation to provide such a letter. The City and Adesa, Inc. have been negotiating the details of the letter. Adesa, Inc. has informed the City that the letter is unacceptable due to the fact that they cannot rely on the accuracy of the statements and that they cannot assert the statements as a defense to any City action for violations for the CUP and IUP that occurred before the date of the letter and that they would remain responsible for the actions/ inactions and violations of ABC.

Mr. Hoff explained that the City has no legal obligation to issue a zoning letter. The City is obligated to provide information that is in the files, regarding permits or other information. The

**COUNCIL MEETING
JULY 8, 2008
7:00 P.M.
PAGE 3 OF 8**

**CITY OF DAYTON, MINNESOTA
12260 S. DIAMOND LAKE ROAD
HENNEPIN/WRIGHT COUNTIES**

Council was presented a letter from the City to Adesa, Inc. to be signed by Assistant to the Administrator Erin Stwora.

In the original plat there were easements and it was noted that they had not been recorded. Additional easements for the 113th Avenue improvement project are and needed and are be complied by City Attorney George Hoff.

Hoff recommended that the representatives, an attorney and operations manager Chuck Eck, be allowed to speak to the council.

The issues that they brought are the perspective of Adesa that is in the business of operating auto auctions through out the country. Mr. Eck would continue to be operations manager for the auction. Adesa is requesting a letter from the city regarding the state of affairs of the auto auction business. Adesa is the purchaser from out of state and they were inquiring how the ABC has handled the land use within the city. They are not asking for any land use decisions, but a letter of acknowledgment by the city as to what the business is doing. Mr. Eck stated that he had been with the Auction since it started in Dayton.

Council Member Hoke didn't want to let the buyer off the hook that they should have or did have knowledge of items. Hoke that it is a buyers due diligence issue, of whether or not the business is in compliance.

The property change owners in 2005 to Cap Auto. Council Member McNeil mentioned that council and staff change hands and that no one can see into the future, further stating that the city could possibly not know all of the details of the business.

MOTION: Motion was made by Forseth, seconded by McNeil to affirm the staff decision regarding the letter that is in the packet for July 8th as presented, upon conditions that the easements are granted and recorded. .

Ayes: D. Anderson, Forseth, Hoke, K. Anderson, and McNeil Nays: none
MOTION DECLARED PASSED.

ITEM H: FINAL ASSESSMENT ROLL FOR HEMLOCK LANE STREET AND UTILITY IMPROVEMENT PROJECT: ***S.R. # 98-2008***

Engineer Hanson explained that the Council Meeting on June 24th the Public Hearing on Assessments was held for the project. The City Council closed the Public Hearing after public input. City staff was directed to review development potential for the properties at 13511, 13541, 13520, and 13570 Hemlock Lane. Mr. Hanson explained a grading plan that shows how the drainage, utility easements, and the grading could be reconfigured to provide proper storm water

**COUNCIL MEETING
JULY 8, 2008
7:00 P.M.
PAGE 4 OF 8**

**CITY OF DAYTON, MINNESOTA
12260 S. DIAMOND LAKE ROAD
HENNEPIN/WRIGHT COUNTIES**

storage and allow for the properties to be subdivided. The information was reviewed with the property owners at a meeting on July 2nd.

Lot 1 & 2 on Block 1 and Lot 1 & 2 Block 3 and contain easements within the properties. The property could be developed with an exchange of the easement on the west lot. There is some drainage coming from the school and the property owners would need to work with the school regarding the easements. Vacation of easements, drainage issues, and grading issues would be needed to be addressed before any property division was brought forward to the city.

The property owners were comfortable with the information provided to them by Engineer Hanson.

MOTION: Motion made by McNeil, seconded Forseth to approve Resolution 36-2008 Adopting the assessments against benefited lands for the Hemlock Lane / 134th Avenue Utility and Street Improvement project, and move forward with the project.

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

Nays: none

ITEM I – CONTRACT AWARD FOR HEMLOCK LANE STREET AND UTILITY IMPROVEMENT PROJECT TO LATOUR CONSTRUCTION: **S.R. # 99-2008**

Engineer Hanson reported that bids for the project were received on May 20, 2008 for the Hemlock Lane / 134th Avenue Street and Utility Improvement project. The low bidder of the nine bids received was LaTour Construction, Inc. for the total base bid amount of \$462,774.51. Staff recommended that Alternate No. 2 and the extension of the sanitary sewer along Evergreen Lane be change ordered into the project provided the three property owners backing onto Evergreen Lane sign an assessment waiver.

MOTION: Motion made by McNeil seconded by Forseth, to award the contract as presented.
Ayes: D. Anderson, Forseth, Hoke, K. Anderson, and McNeil
MOTION DECLARED PASSED.

Nays: none

ITEM J – PREPARATION OF PRELIMINARY PLAN FOR DAYTON AREA 1-6 STREETScape AND LANDSCAPE IMPROVEMENT: **S.R. # 100-2008**

Engineer Hanson explained that the restoration is included in the existing NE Dayton Areas 1-6 utility contracts and that it is limited to topsoil/seed. There was discussion regarding doing a greater amount of landscaping in the area. Mr. Hanson explained that if greater landscaping is

desired by the City materials and installation can be done independent of the utility contract at a lower cost. The city at the prior meeting has approved a Streetscape and Corridor Vision Plan. There were concerns expressed regarding who would maintain the additional landscaping. A landscape architect and a natural resource specialist could devise a plan for additional plantings in the area that would be in addition to the topsoil, and the seed. Mr. Hanson mentioned the locations would include areas along So. Diamond Lake Road, the pond on So. Diamond Lake Road, French Lake Road (129th Avenue), well house and the water tower site. The areas front of City Hall, the pond in the Donahue Dells Addition, and the pond on So. Diamond Lake Road have the potential for rain gardens. The cost of the plan for a preliminary plan would be about \$7500 to be completed by a landscape architect and a natural resource specialist. The council had discussion would like to utilize the Park Commission and residents within the project to come up with ideas. Council member McNeil has an Eagle Scout looking for a project and will contact the Eagle Scout. Council member Hoke mentioned he would like to see So. Diamond Lake Road pond and road, water tower, well house be done. This is referred back to staff for discussion at a Park Commission Meeting.

ITEM K – 2009-2013 CAPITAL IMPROVEMENT PLAN (CIP): S.R.# 102-2008

Administrator Orduno presented to the Council the 2009-2013 Capital Improvement Plan (CIP). The Council had reviewed a draft of the plan on May 27th. Staff was given direction to develop cost estimates regarding a possible 2008 Equipment Certificate issue. The second draft of the CIP was reviewed on June 10th and staff was directed to detail the equipment recommended to be purchased utilizing the Capital Outlay Fund and remaining balances of prior years Equipment Certificates.

Recommendations from staff would be to accelerate the purchase of the fire truck and minimize the debt service. The available cash is \$189,000 from the previous bond issues and \$351,637 available in the Capital Outlay Fund. Staff outlined that \$100,000 could be used for the down payment on a new fire engine from the Capitol Outlay Fund in 2008, and another \$100,000 from Capitol Outlay fund in 2009, and the remainder of \$170,000 could be part of 2010 Equipment Certificate. This would leave a balance in Capitol Outlay of about \$151,000. There was discussion about delaying the purchase of a sewer jetter truck until 2010 because of the storage problems. The cost for a jetter truck would be about \$90,000. The City could contract out maintenance on the existing sewer lines this year.

All of the proposed equipment purchases would be brought back to the City Council for a decision regarding the purchase. The Debt Service for the city is outside the levy limits, but is factored into the taxes. There was a question about the purchase of the fire truck over a period of years. The time line is about 2 years for the building of the truck.

**COUNCIL MEETING
JULY 8, 2008
7:00 P.M.
PAGE 6 OF 8**

**CITY OF DAYTON, MINNESOTA
12260 S. DIAMOND LAKE ROAD
HENNEPIN/WRIGHT COUNTIES**

MOTION: Motion made by Forseth seconded by McNeil, to approve the Dayton 2009-2013 CIP Plan as presented.

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

Nays: none

ITEM L – TECHNOLOGY AND CELL PHONE POLICIES:

S.R. # 101-2008

Administrator Orduno informed that Council that the use of various forms of communication technology has grown significantly in the past ten years. Dayton City Staff, like many communities across the state, utilizes various forms of technology on a daily basis. Adm. Orduno explained that in order to insure the integrity of the City's communications systems a formal policy on the use of technology is in order. At the 2008 Council / Staff Strategic Planning work session the need for the policies was discussed.

Administrator Orduno broadened the proposed policy to include the city council members. The Policy would outline the use of city use cell phone. There hasn't been a problem with the use of city owned cell phones for personal use. The policy should be broadened to include the council because of the emergency situations. The plan outlined that 50% of the plan amount would be paid by the City to a max of \$50.00 per month for reimbursement of usage of a personal cell phone.

Attorney Hoff stated that he didn't have any problems with the policies.

MOTION: Motion made by Hoke seconded by McNeil to adopt the Technology and Cell Phone Policies as amended to include the City Council.

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

Nays: none

ITEM M – ADDITIONAL FUNDING FOR SENIOR TRANSPORTATION PROGRAM:

S.R. # 103-2008

City Clerk Sandra Borders explained that the Senior Transportation program provides rides for seniors and handicap persons within the areas of member cities. Member cities consist of Brooklyn Park, Maple Grove, Champlin, Osseo, Rogers, and Dayton. The program is facing an \$11,724 deficit for 2008. The deficit could increase depending upon fuel costs and fare revenues. The Metropolitan Council contributes \$114,648 to the program which is about 51% of the annual costs. The program has reduced the service hours in order to conserve funds. The

**COUNCIL MEETING
JULY 8, 2008
7:00 P.M.
PAGE 7 OF 8**

**CITY OF DAYTON, MINNESOTA
12260 S. DIAMOND LAKE ROAD
HENNEPIN/WRIGHT COUNTIES**

program also has a bus that at the present time is not be utilized. The Board has plans to sell the bus to help cover some of the increased costs. The City of Dayton portion for 2008 was \$3,457 and with the additional expenses the cost would increase to \$4,110.00. This amount is \$110.00 over what is in the 2008 budget.

MOTION: Motion made by McNeil seconded by Forseth, to approve the additional expenditure for the Senior Transportation Program in the amount of \$654.00.

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

Nays: none

ITEM N – APPOINTMENT OF CITY VOTING MEMBER FOR GRANT EVALUATION AND RANKING SYSTEM (GEARS) COMMITTEE:

The City has received a letter from Metro Cities, an Association of Metropolitan Municipalities with preliminary information on an election process to fill positions on the Grant Evaluation and Ranking System Committee for cities in Anoka, Dakota, Hennepin, Ramsey, and Washington Counties. Each city will be allowed one vote, and each city must designate its delegate.

MOTION: Motion made by Hoke, seconded by Forseth, to appoint Council Member McNeil as the City of Dayton's representative to the Metro Cities Association of Metropolitan Municipalities

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

Nays: none

REPORT OF OFFICERS

COUNCIL UPDATES

Council member Forseth reported that Golfing for Kids committee gave about \$5,000 to each of the two organizations for computer equipment.

ADMINISTRATOR:

Administrator Orduno informed the Council that the levy limits are on and we will not find out what the levy limit is until the last week of August. Increase for the Police Department would be outside the levy limits. Her recommendation would be levy the max, certify that amount to the County and work backwards from there.

Council member McNeil asked about 2 year budgets. The city would need to adopt each year's budget.

**COUNCIL MEETING
JULY 8, 2008
7:00 P.M.
PAGE 8 OF 8**

**CITY OF DAYTON, MINNESOTA
12260 S. DIAMOND LAKE ROAD
HENNEPIN/WRIGHT COUNTIES**

POLICE CHIEF:

Police Chief Pietrzak reported that PDQ Food Stores will be giving the City a 3% discount on fuel. He will be looking at alternatives to help cut the cost of fuel for the department.

FIRE CHIEF:

Chief Denny Young reported that the Fire Department will be challenging the City Council members to a Water Ball demonstration on Heritage Day.

PUBLIC WORKS:

Public Works Director Rick Hass reported that the Goose Lake Road project is going slow, and some of the issues are being worked on.

CITY ENGINEER

Engineer Hanson reported an update on the West French Lake Road improvements. They are working on getting a schedule to PCA (Pollution Control Association) and then back to the City Council in August.

ADJOURNMENT

MOTION: Motion made by Forseth, seconded by McNeil to adjourn

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

Nays: none

MOTION DECLARED PASSED.

APPROVED: August 12, 2008 ATTEST: _____