

**COUNCIL MEETING  
JANUARY 13, 2009  
7:00 P.M.  
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**CITY OF DAYTON, MINNESOTA  
12260 S. DIAMOND LAKE ROAD  
HENNEPIN/WRIGHT COUNTIES**

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

**ABSENT:** none

**ALSO PRESENT:** Administrator Samantha Orduno, Police Chief Richard Pietrzak, City Clerk Sandra Borders, Assistant to the Administrator Erin Stwora, Public Works Director Rick Hass, Finance Director Julie Linnihan, City Engineer Mark Hanson; Fire Chief Denny Young

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

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF AGENDA**

Council member Hoke asked the Council to Amend agenda to allow for the following additional item: under the consent agenda the additions of consideration of fire fighters -- Dan Dehn and Joe Lang

Remove from the Payment of Claims: Consideration of the Hayden Hill payment and add it for discussion.

Council member Forseth ask to have the December 9<sup>th</sup> minutes removed from Consent.

**MOTION:** Motion made by McNeil, seconded by Hoke to approve the agenda of January 13, 2009 as amended.

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

Nays: none

**MOTION DECLARED PASSED**

Adm. Orduno introduced Julie Linnihan as the new Finance Director.

**CONSENT AGENDA:**

- A. ~~Approval of Council Meeting minutes of December 9, 2008~~
- B. Approval of Special Council Meeting minutes of November 18, 2008
- C. Payment of Claims – January 13, 2009
- D. Approval of 2009 Cigarette Licenses and Mechanical Amusement Devise License
- E. Resolution 01-2009: Official Depository and Official Newspaper
- F. Consideration of Liquor License for Dayton Lions for Grand Gala Dinner on February 12, 2009 at Dehn’s Country Manor
- G. Approval of Fire Department Slate of Officers for 2009 **S.R. #01-2009**
- H. Fire Department Meeting Minutes from November 20, 2008
- I. Set 2009 Board of Review for Monday, April 6, 2009 at 7:00 p.m.

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- J. Resolution #03-2009: Resolution rescinding Resolution 75-2008 adopting legal description for Granstrom Property (Water tower site). **S.R. #02-2009**
- K. Acceptance of Gambling Funds from Champlin Dayton Athletic Association for football User Fees in the amount of \$2100.00 and for Soccer User Fees in the amount of \$4,136.25.
- L. Consideration of adding Julie Linnihan as signer on 21<sup>st</sup> Century Bank Account **S.R.#03-2009**
- M. Consideration of Extension of EPDB Conditional Use License Agreement with Hennepin County through December 31, 2009. **S.R.#04-2009**
- M.1.: Approval of fire Fighters – Dan Dehn and Joe Lang

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

Council member Forseth asked if the meeting minutes from December 9<sup>th</sup> be removed from the Consent Agenda.

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

Nays: none

Page 5 of the Minutes: Correct the voting record to add Council member Hoke

**Item A: Approval of the Meeting Minutes of December 9, 2008.**

**MOTION:** Motion made by McNeil, seconded by K. Anderson to approve the meeting minutes of December 9, 2008 as amended.

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

Nays: none

**OPEN FORUM:**

Joan Molenaar addressed the Council regarding the Together for Kids event. Together for Kids encourages our communities' awareness that youth need opportunities to make a difference in our communities. They are seeking nominations of youth and adults to be recognized.

No one else present

**PUBLIC HEARING**

**ITEM N: Dayton Highlands 4<sup>th</sup> Addition – Approval of Preliminary/Final Plat, Easement**

**Vacation, & Rezoning:**

Mayor Anderson opened the Public Hearing.

Asst. to Adm. Stwora gave an over view of the project. The subject property is located south of So. Diamond Lake Road between Hemlock Lane, 134<sup>th</sup> Avenue and 134 ½ Avenue, and property identification number is 14-120-22-43-0035, Dayton Highlands 3<sup>rd</sup> Addition, Lot 3, Block 2, Dayton, Minnesota. The Property is proposed to be divided into 6 lots, and rezoned from R-2 Residential District to R-1 Residential District. The addition would be known as Dayton Highlands 4<sup>th</sup> Addition.

- Julie Mazzei, 11701 134<sup>th</sup> Ave., was present. She lives across the street from the proposed development. She doesn't feel that it is a good match for the area, since the other lots in the area are 2+ acres. She thought 6 lots was too many and possibly only 4 lots. She would like clarification on who would be building of the homes.
- Tom Dehn, Mega Homes, Developer, addressed the questions that were brought up by Julie. Mega Homes is planning doing the development according to the city ordinances, and not looking to build the "McMansions" in the neighborhood. He also addressed the lot size and the lots either meet or exceed the city qualifications for lot size and frontage. There have been additional water / sewer service stubs put in on other properties on Hemlock Lane that will have future development. The smallest lot is just over the 15,000 sq feet.

No one else Mayor Anderson closed the Public Hearing.

**ITEM O: Consideration of Dayton Highlands 4<sup>th</sup> Addition:**

- 1. Resolution #04-2009 -Preliminary and Final Plat,**
- 2. Resolution #05-2009 – Easement Vacation,**
- 3. Consideration of Ordinance #2009-01 - Rezoning**

**S.R.#05-2009**

Asst. to Adm. Stwora presented the items to the Council. Mega Homes, Inc. has submitted an application for easement vacation, preliminary plat, final plat, and rezoning consisting of six (6) single family lots on approximately 2.34 acres. The site was platted with Dayton Highlands 3<sup>rd</sup> Addition but never built on. The subject site is located in the northeast corner of the City, south of South Diamond Lake Road between Hemlock Lane, 134<sup>th</sup> Avenue North and 134<sup>th</sup> ½ Avenue North. The subject site is currently zoned R-2, Single Family Residential, and the applicant is looking to rezone the property to R-1, Single Family Residential. The applicant is looking to vacate the current easements.

The Planning Commission reviewed the applications of Mega Homes, Inc. for Dayton Highlands 4<sup>th</sup> Addition. The Planning Commission unanimously approved the preliminary and final plat, easement vacation and rezoning at the meeting on December 4, 2008.

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The new subdivision is part of Dayton Highlands 3<sup>rd</sup> Addition which paid eight park dedication credits for nine lots in the subdivision. There is no specification as to why a lot was credited or left unpaid. It is typical that a credit be given for a parent parcel when a subdivision occurs.

City Staff presented to the Planning Commission a scenario to which the developer would be responsible for six (6) park dedication fees, one for each of the lots. It was the Planning Commission's recommendation that a one lot credit would be given for the parent parcel since the lot was part of a previous plat that paid park dedication fees.

Council member Hoke asked about the Park Dedication fees, paragraph 7 of the resolution. Asst. to Adm. Stwora mentioned the park dedication ordinance was how the park dedication was derived at. There was discussion regarding the Park Dedication and the **CONSENSUS** of the Council was to charge for 5 lots and give credit for the parent parcel.

There was discussion regarding # 5 – Restrictive Covenants - on page 2 of the Developers agreement. Asst. to Adm. Stwora mentioned that this is standard language for a development agreement.

Consensus of the Council would be to strike #5 – Restrictive Covenants - on page 2 of the Developers Agreement.

Recommendation from the Planning would be to give one lot credit and park dedication for 5 lots.

**Ordinance 2009-01 – An Ordinance to amended the Dayton Zoning Ordinance by Amending Zoning Districts therein.**

**MOTION:** Motion made by McNeil, seconded by Forseth to approve Ordinance 2009-01 as presented.

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

Nays: none

*MOTION DECLARED PASSED*

**Resolution 05-2009: Resolution vacating drainage and utility easements existing within Lot 3, Block 2, Dayton Highlands 3<sup>rd</sup> Addition, according to the Recorded plat thereof, Hennepin County, Minnesota.**

**MOTION:** Motion made by McNeil, seconded by K. Anderson to approve Resolution 05-2009, Easement Vacation, as presented.

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

Nays: none

*MOTION DECLARED PASSED*

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**Resolution 04-2009: Resolution granting preliminary plat and final plat approving for Dayton Highlands Fourth Addition:**

**MOTION:** Motion made by McNeil, seconded by K. Anderson to approve Resolution 04-2009, approving preliminary plat and final plat for Dayton Highlands Fourth Addition, as presented.

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

Nays: none

*MOTION DECLARED PASSED*

**MOTION:** Motion made by McNeil, seconded by Forseth to approve the Developers Agreement for Dayton Highlands 4<sup>th</sup> Addition, City of Dayton, County of Hennepin, State of Minnesota, with the deletion of paragraph 5 on page 2, as amended.

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

Nays: none

*MOTION DECLARED PASSED*

**ITEM P: Patrick McNeil Agricultural Preserve Program Request S.R.#06-2009**

Asst. to Adm. Stwora presented the item to the Council. Patrick McNeil was present and had asked to have it brought before the Council before official application. On December 15, 2008, the City of Dayton received from Patrick McNeil a letter to City Staff requesting Agricultural Preserve status for his three parcels, located in the northwest corner of the City near the intersection of Brockton Lane (CSAH 13) and Dayton River Road (CSAH 12), totaling 32 acres. The three parcels contain a homestead and most of the property is actively leased for farming purposes.

The Metropolitan Agricultural Preserve Program was established in the 1980's. Many properties in Dayton have benefited from the program through the years, however now most of the properties who were a part of the Program have now asked to be removed and have expired or will be expiring in the near future. The closest property with an Agricultural Preserve designation was Hilmer Hartman's property directly to the east across Brockton Lane (CSAH 13), which was removed (expired) from the program in 2006 at the property owner's request.

The Program was created to encourage the preservation of long-term agricultural lands with the seven county metro areas. The intent was to provide metropolitan area farmers the assurance that they can make long-term agricultural investments and continue farming in the metro area. The Program provides local governments a method to designate long-term agricultural lands through the local planning process.

The local authority is responsible for implementing the Program's legislative requirements. The local authority maps long term agricultural lands in the Comprehensive Plan. Forty acres is the minimum land area required for eligibility in the program. However, the law provides certain

conditions for less.

George Hoff explained that you would need to go back and amend the Comp Plan and rezone the property to SA (Special Ag.).

Mr. Hoff explained the steps required to change the property zoning.

1. The current Comp. Plan has the property designated as Agricultural, and then go through the requirements; and
2. Land use planning issue is the eligibility ends when the Comp Plan have been amended, so that it is no longer planned for long term Ag. Use.

This would present an issue with the eligibility. Mr. Pat McNeil, property owner, spoke about the Comp Plan and if it has been approved. Mr. Pat McNeil mentioned 20 acres he has cattle on and uses it as pasture. Asst. to Adm. Stwora mentioned that the Comp Plan has been approved in draft form, and is before the Met Council for review. She mentioned that the land is in the same land use as the previous Comp. Plan.

Mr. Pat McNeil mentioned he had spoke with Hennepin County about exceptions to the criteria for Special Ag, and was told by Hennepin County to discuss it with the city.

Council member K. Anderson asked about amount of property that is the flood plain. He also mentioned the restrictions about building on the flood plain. The property is highlighted on the Comp. Plan as a future ag. preserve area.

Council member McNeil mentioned that the property doesn't meet the criteria for the Special Ag zoning exemptions. Tom May from Hennepin County sent an email to Council Member McNeil about the uses of the property. The property to the east does not qualify because it is owned by a corporation, and the land across the river could possibly qualify, but is in a different county.

Asst. to Adm. Stwora explained the property is a legal non –conforming land use at the current time and is currently zoned Ag. The property will remain agricultural unless Mr. Pat McNeil puts in an application to rezone the property.

No action was taken by the City Council regarding this item.

**ITEM Q: West French Lake Road Project**

- |   |                            |
|---|----------------------------|
| <b><u>1. Review Options to Proceed</u></b>      | <b><u>S.R.#07-2009</u></b> |
| <b><u>2. Consider Final Assessment Roll</u></b> | <b><u>S.R.#08-2009</u></b> |
| <b><u>3. Consider Rejection of Bids</u></b>     | <b><u>S.R.#09-2009</u></b> |

Engineer Mark Hanson presented the options for the City Council to consider. He explained that at the City Council Meeting on November 25, 2008, the Public Hearing for Assessments was held for the West French Lake Utility Improvement Project. The City received one appeal from the property

owned by Adesa. The City Council closed the Public Hearing for Assessments and directed staff to further review the appeal that was received from Adesa. Staff met with Adesa on December 18, 2008 and reviewed the project and the basis for their appeal. The general consensus at the meeting is that Adesa stated the assessment for utility was fair; however, the assessment for the street was felt to be excessive based on the fact Territorial Road, abutting the Adesa property, was reconstructed in 1996, the roadway is in acceptable condition, and the roadway reconstruction in 1996 was completely financed by the property owners. The items noted below were then discussed at the meeting with Adesa regarding how to proceed with the project.

- Review backloading the annual assessment to reduce the payment amount in the earlier years.
- Review credit options for street improvements in Territorial Road based on previous work done in 1996.
- Territorial Road is a designated a State Aid Road in Dayton, therefore consider preparation of plans to State Aid standards to encumber future state aid funds in 2010/2011.
- Consider reducing the scope of work such as the street/utility work in Territorial Road or not including Territorial Road/Adesa property and other abutting properties in Territorial abutting the project.

Engineer Hanson reviewed the reduced scope of work. The reduced scope would be to remove Part 1 (Territorial Road), and add CSAH 81 lift station/force main. The estimated project cost would be \$3,109,400 and the revenue from the assessments would be \$2,824,960 leaving a deficit of \$284,440 for the project.

Engineer Hanson explained that a follow up meeting is scheduled to further review the options with Adesa on January 21<sup>st</sup> at 10:00 am. Staff provided an update for the City Council regarding the meeting with the above information to allow the City Council to consider the options to proceed or not proceed with the project. City Council can then provide direction to staff to prepare for the January 21<sup>st</sup> meeting with Adesa.

Council members McNeil, Forseth, and K. Anderson would be inclined to vote for the project if Adesa would be in agreement with the assessment. The council is not showing any interest in using State Aid funds for the improvement of Territorial Road.

Engineer Hanson summarized the discussion and direction; Meet with Adesa on January 21<sup>st</sup>, and review the options, and the council didn't show any interest in using State Aid funds for the projects.

## **2. Consider Final Assessment Roll**

**S.R.#08-2009**

At the Council Meeting on November 25, 2008, the Public Hearing on Assessments was held for

the project. The City Council closed the Public Hearing after public input. However the City Council did not adopt the Final Assessment Roll.

The City Council considered one of the following actions at the Council Meeting:

1. Adopt the Final Assessment Roll as presented
2. Adopt an Amended Assessment Roll based on changes presented at the meeting or continue consideration based on the need for more information.
3. Cancel the project.

The City Council shall establish the interest rate based on input from the City's financial consultant based on the fact the bonds have not been sold for this project.

**MOTION:** Motion made by Hoke, seconded K. Anderson to **TABLE** the consideration of the Assessment Roll until January 27<sup>th</sup> Council meeting.

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

Nays: none

*MOTION DECLARED PASSED.*

**Consider Rejection of Bids**

**S.R.#09-2009**

The City Council approved plans for bidding West French Lake Utility Improvements project at the September 8, 2008 meeting. Bids for the project were opened on October 7, 2008.

The attached table shows the results of the 17 bids received. Dayton is currently retaining the Bid Bonds from the following three lowest bids received:

Low	Northwest Asphalt, Inc.	\$3,549,191.97
#2	S.R. Weidema, Inc.	\$3,595,628.40
#3	LaTour Construction, Inc.	\$3,676,754.48

Based on continual meetings with property owners included in the project, staff is recommending moving forward with a modified version for Parts 3 & 4 which serves the existing land use with utilities (Dayton Park Properties and International Computer Alliance Corp. (ICA)). The change in alignment is significant enough to warrant rebidding the project.

**MOTION:** Motion made by Forseth, seconded McNeil to reject the bids received at the September 8, 2008 Council meeting for the West French Lake Project.

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

Nays: none

*MOTION DECLARED PASSED.*

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**ITEM R: Consideration of Resolution #02-2009: Setting Designations and Appointments for 2009**

The Council designated the following positions:

Planning Commission Liaison: Council member Hoke  
Park Commission Liaison: Council member McNeil  
Public Safety Commission Liaison: Council member Forseth  
Elm Creek Watershed: Doug Baines /Alternate: Tim McNeil  
League Of Minnesota Cities: Doug Anderson  
Metro Cities Committee: Doug Anderson  
North Metro Mayors: Doug Anderson /Alternate: Hoke  
N/W Hennepin League Of Municipalities: McNeil / Alternate: Forseth  
Th 10 / 169 Corridor Commission: K. Anderson /Alternate: Orduno  
I-94 Corridor Commission: K. Anderson /Alternate: Orduno  
I-94 Chamber: D. Anderson /Alternate: McNeil  
Anoka Chamber of Commerce: D. Anderson /Alternate: Orduno

**MOTION:** Motion made by Forseth, seconded McNeil to approve Resolution #02-2009 as amended.

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

Nays: none

*MOTION DECLARED PASSED.*

**Item: S: Consideration of Ordinance #2009-02 /Summary Ordinance #2009-03: Amending Fee Schedule S.R.#10-2009**

There was discussion regarding the park charges for the fee ordinance update. The Park Commission did not want to change any of the existing charges, and add the charge for Cloquet Overlook Park fee

Senior Center rental rates were clarified. The rates are per day and per hour rates, and not per rental.

**MOTION:** Motion made by McNeil, seconded K. Anderson to adopt Ordinance 2009-02, waive the reading.

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

Nays: none

*MOTION DECLARED PASSED*

**MOTION:** Motion made by McNeil, seconded K. Anderson to adopt Ordinance 2009-03 Summary of Ordinance 2009-02, waive the reading.

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

Nays: none

*MOTION DECLARED PASSED*

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**ITEM T: Consideration of Rejection of Fire Department Pumper Truck Bids /  
Resubmission of Bids**

**S.R. #11-2009**

Fire Chief Denny Young explained that the bids for the new pumper had to be rejected due to lack of proper advertising the bid in the local paper, Champlin / Dayton Press. The City received one bid from General Fire Safety. The bid amount was \$390,695.00 (Three Hundred Ninety Thousand Six Hundred Ninety Five Dollars and 00/100.) No other bids were received. Specifications were reviewed by the city attorney, and they were generic enough to allow for competitive bidding. The Council approved the specification to be released for bidding on the fire pumper truck.

**MOTION:** Motion made by McNeil, seconded by K. Anderson to reject the bids on the Fire Department pumper truck, and to re-advertise for bids.

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

Nays: none

**ITEM Q: Consideration of Sale of Public Works Trucks – 1999 Ford and 1997 Ford**  
**S.R.#12-2009**

Staff is asking permission from the Council regarding the sale of 97 Ford F250 pick up truck with snow plow and 99 Ford F450 1 ton pick up with sander and snow plow attachments, by advertising in the League of Minnesota Cities bulletin, Craig's list and putting the vehicle for sale outside the Public Works Building. The two pickups have seen heavy usage with the Public Works Department and are no longer reliable for their purpose. The City has taken delivery of a replacement for the F450 and placed an order for a replacement for the F250.

The asking price for the 1999 Ford F450 would be \$20,000 or best offer and the 1997 F250 will be sold to the best offer. Staff suggested that offers will be received for consideration through January 30th 2009 at 12:00 p.m. It was suggested that the proceeds of sales to go to the Capital Outlay Fund.

**MOTION:** Motion made by McNeil, seconded Forseth to advertise for sale the 1999 and 1997 Ford trucks.

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

Nays: none

**ITEM V: Consideration of Cleaning Company – Contract for City Hall and Senior Center**  
**S.R.#13-2009**

Dayton City Hall/Fire Department and the Senior Center are typically cleaned once per week by our current contractor, Gail Barritt, who has performed the services for several years. Her current rate is \$600 per month.

This fall, we received two promotional mailings for professional cleaning companies that clean several businesses and City Halls in the area. City Staff scheduled test cleans for the two additional companies. Staff was very impressed with ROC Commercial Cleaning and their thorough cleaning of the bathrooms, kitchen and office areas. The City requested proposals from each of the companies, in addition to a proposal from the current contract for the next three years. The costs are as follows:

	<b>2009</b>	<b>2010</b>	<b>2011</b>
Gail Barritt	\$800/mo	\$800/mo	\$1000/mo
ROC Cleaning	\$650/mo	\$670/mo	\$690/mo
Cielo Cleaning	\$360/mo	\$360/mo	\$360/mo

City Staff recommends (pending fingerprint and formal background checks) **ROC Commercial Cleaning** based on their price, the work they will perform each week and the satisfaction with their test clean.

**MOTION:** Motion made by Hoke, seconded by K. Anderson to approve ROC Cleaning Service pending background checks.

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

Nays: none

**ITEM W: Hayden Hills Golf expenses removed from Payment of Claims**

The Council asked for clarification regarding items on the invoice.  
Items included the following:

1. Dave' s Custom Digging, septic tank pumping -- \$ 3,690.00
  2. Diamond Fence, fence replacement -- 250.00
  3. MTI Distributing, Inc., irrigation parts -- 2,020.22
  4. **Hayden Hills, marked line for seeded areas -- 375.00**
  5. John Kessler Construction, irrigation repair -- 3,600.00
  6. **Hayden Hills, loss of business -- 2,500.00**
  7. **Hayden Hills, irrigation parts -- 402.50**
- Total invoice -- \$12,837.72

The Council asked for Clarification on Items 4, 6, and 7.

The invoice to be paid would be \$9,560.72 and the remainder would be brought back to the Council at another meeting.

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**MOTION:** Motion was made by McNeil, seconded by K. Anderson to approve items 1,2,3,5 of the itemized listing for Hayden Hill in the amount of \$9,560.22.

Council Member Hoke asked about the items and if they were additional to the items already paid for. The City had agreed to do the replacement, but not to the amount. There was questions about the lost of business claim.

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

Nays: none

### **REPORT OF OFFICERS**

1. **MAYOR UPDATE:** Mayor Anderson asked the question on how do we want to approach asking for the dollars for the stimulus package. There was discussion that the City needs to be on MNDOT list to have any consideration. The communities need to be working together.
2. **ADMINISTRATOR ORDUNO:** Administrator Orduno mentioned the Strategic Planning Work session to be held on January 20<sup>th</sup> from 5-9 pm.
3. **ASSISTANT TO THE ADMINISTRATOR STWORA:** The City Comp plan has been denied by the Met Council, mainly because of the NW density item.
4. **POLICE DEPARTMENT:** Chief Pietrzak informed the Council that a Neighborhood Watch Program has been started in Natures Crossing.
5. **Fire Department:** Chief Denny Young mentioned that the bids on the truck will be received and will be opened on will be Jan 27<sup>th</sup>. The Department is working on getting the fire classification changed for the city
6. **Engineer:** Engineer Hanson informed the Council that the railroad gates do not have an interconnect to the Hennepin County system. Letters will be sent to the business in the area regarding this item.

### **ADJOURNMENT**

**MOTION:** Motion made by McNeil, seconded by K. Anderson to adjourn to a closed session regarding Litigation of Nikolova / Fitzer, and would not be reopened to general session.

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

Nays: none

APPROVED: January 27, 2009 ATTEST: \_\_\_\_\_