

**COUNCIL MEETING**  
**May 12, 2009**  
**7:00 P.M.**  
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**CITY OF DAYTON, MINNESOTA**  
**12260 SO. 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, Finance Director Julie Linnihan, Fire Chief Dennis Young, Police Chief Richard Pietrzak, Public Works Director Rick Hass, City Engineer Mark Hanson

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

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF AGENDA**

**MOTION:** Motion made by Forseth, seconded by McNeil to approve the agenda as presented.

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

Nays: none

**MOTION DECLARED PASSED.**

**CONSENT AGENDA:**

- A. Approval of Council Meeting minutes of April 28, 2009
- B. Payment of Claims – May 12, 2009
- C. Approval of Purchase Agreement for Historic Village Property **S.R.#75-2009**
- D. Assessment Settlement Agreement Resolutions: **S.R.#76-2009**
  - Resolution #19-2009: Wicht Industrial Park/SW Dayton Phase 1A Settlement Agreement Assessments
  - Resolution #21-2009: Dayton River Commercial Park Settlement Agreement Assessments
  - Resolution #22-2009: Fitzer Settlement Agreement Assessments
  - Resolution #23-2009: Nikolova Settlement Agreement Assessments
- E. Consideration of Resolution #20-2009: Administration of the Wetland Conservation Act (WCA) **S.R.#77-2009**

**MOTION:** Motion made by McNeil, seconded by K. Anderson to approve the Consent Agenda as presented.

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

Nays: none

**MOTION DECLARED PASSED.**

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Council member Forseth inquired about the payment to Hennepin County regarding prisoner booking charges. There was discussion if this expense could be reimbursed by the prisoners. Chief Pietrzak will have the prosecuting attorney investigate the item.

**PRESENTATIONS:**

**1) Jim Grube -- Hennepin County**

Jim Grube, Hennepin County's Public Works Director, was present to give the City Council and update regarding Hennepin County. Mr. Grube addressed the following:

- Item I – the Supplemental Agreement No. 8; Goose Lake Road Improvements. The cost estimate is \$773,000 to cleanup the site where the dumping has occurred. Hennepin County Environmental Services has awarded a grant of up to \$700,000 for the cleanup. If the remainder of the cost would be needed, the costs would be split between Hennepin County, Three Rivers Park, and the cities of Champlin, and Dayton. The estimated cost to Dayton would be approximately \$6,100.
- How much does Hennepin County spend in the City of Dayton? Mr. Grube explained the money the County has spent in Dayton over the past 5 years. He outlined the road maintenance, snow plowing, and overlays cost. The total investment in a five year period amounts to \$3,354,207 in operational money. This money is predominantly from the gas tax money. The County receives money from the Highway User Distribution Funds for about 40% of the Hennepin County maintenance budget. The Transportation Department receives about 2% of the property taxes.
- Projects: Goose Lake Road project, and Cloquet Island Overlook Park. Cloquet Island Overlook Park costs were about \$650,000 dollars. The County deeded the property to the City which joined the City park. Mr. Grube explained that Elm Creek Road improvements were installing millings on the road and replacement of the bridge. The upgrade to Elm Creek Road was about 4 million dollars. The upgrade to Goose Lake Road is about 1.1 million.

Council member Hoke asked about replacement of the stop light at CR 81 and 113<sup>th</sup> Avenue that was damaged during a traffic accident. Mr. Grube noted that the replacement won't be completed until the middle of June, because of availability of parts.

Council member Hoke asked about Dayton River Road (CR12), stating that the road is not in good condition. Council member McNeil asked what the County has planned for CR 12 between Dayton and Champlin. Council member McNeil asked about the realignment of CR 12 and the future of the road. Mr. Grube stated that Hennepin County has asked for Federal Funding for the past few years. Mr. Grube noted that perhaps the City's Comp. Plan could stipulate the City's alignment preference.

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Hennepin County is open to either the realignment of the road or maintain the current alignment of the road. Mr. Grube has been asked by the County Board to cut back on the County's CIP for bonding issues. Council member McNeil discussed planning to have the correct road for the future. He was concerned about the volume and safety on the road 15 -20 years from now. Mr. Grube mentioned that the destiny of the road would be a 45 mile per hour (mph) road, and the County views the roads as 50-year projects. Mr. Grube suggested looking at the City ordinances with regards to roads and the classification of future roads. Mr. Grube stated that there are 2,000 lane miles of road in Hennepin County to maintain.

Adm. Orduno informed the Council that Hennepin County has had their period of review for the Comp. Plan, and the City didn't receive any negatives comment from the County. Mr. Grube noted that the discussion was what was the vision for CR 12, (the Great River Road) the alignment of the road, the specifics of what is the zoning ordinance regarding dedication of right-of-way, and what is the big grand picture on the Comprehensive Plan.

Council member McNeil stated that he would like to have a review of the Transportation Plan. Jim Grube stated that Hennepin County would be willing to come back and discuss the City's transportation plans. Mr. Grube suggested possibly a study session with the Council and the County to discuss the tough questions regarding the roads. It could be a joint meeting with the Planning Commission.

Mr. Grube mentioned other items as follows:

- **Speed Limits:** Mr. Grube informed the Council that the State of Minnesota has the authority to set the speed limits on streets. A map regarding speed studies was distributed to the Council and staff. Mr. Grube explained that if one section of the road had a speed limit of 50 mph and the average speed was 53-55 mph, the speed limits would remain at 50 mph. Mr. Grube explained that if the speed limit captures 85% of the drivers that drive the road, this would be the base for the speed limit.
- **Other items:** Brockton Interchange has the interest and support of Rep. Paulsen and he has identified the interchange as one of his project.
- **I-94 Lane Extension Project:** The I-94 Project has support from MNDOT District 3 with the goal of adding an extra lane from Rogers to Albertville. District 3 funding and the federal government could contribute to the project. Mr. Grube urged the Council to discuss with Representative Paulsen's office the funding for the interchange, design, right of way acquisition, and lane addition. He urged the Council to consider talking to Rep. Paulsen's office and discuss with the office staff what exactly is written in the bill for the funding of the interchange and that there is funding for engineering, design, right-of-way, and construction. All of the items need to be in the bill, not just the interchange.

**OPEN FORUM:**

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Doug Baines, 13000 Overlook Road, Park Commission Chairman, regarding Item G on the agenda; the restrictive parking along So. Diamond Lake Road. He has been working with the DNR for more land and the redesign of the landing on the lake. He is opposed to the no parking proposal. The Park Commission has been rebuilding some of the parks, and Riversbend Park has had an irrigation installed.

Cliff Kirshner, 13740 Balsam Lane, applied for a building permit and expressed concerns regarding the cost of the permit, \$1,066. He had spoken with Metro West and was told that the valuation was of the addition was \$47,000 based on \$92.00 per square foot. He informed the Council that the valuation of his house in 2010 will be \$66.00 per square foot according to the property tax records. His question to the Council was why pay the valuation for something that will not have that valuation when completed? He would be willing to accept the valuation of \$34,000-\$35,000. The square footage for the addition is about 500 square feet. His valuation is based on the current valuation of his home at \$66 per square foot. Asst. to Administrator Stwora stated that Metro West would be willing to lower the valuation to \$42,000. Mr. Kirshner stated that he had spoken with Metro West and Mr. Kirshner wanted the valuation reduced to \$36,000, which he thought was a fair valuation. The Council would be interested in having Metro West attend a Council meeting to discuss how they calculate the value of a building. Metro West uses a valuation book set by the State. Staff will check into the valuation of the addition. Staff was asked to verify the valuation rational with Metro West before proceeding with the \$47,000 value.

Kevin Macho, 12970 Balsam Lane was present to ask the Council if he could cut the cattails on the City property. His neighbor has complained that they don't want the cattails cut. Mr. Macho did some landscaping of the area so the property doesn't flood. The drainage control would get plugged and would flood the neighboring property. He would like to keep the area of the pond on his property clear of cattails. Mark Hanson has had discussions with Mr. Macho. The question is to what extend can Mr. Macho go on city property to clear the pond property? Mark Hanson and Rick Hass will discuss this and come back to the Council at the next Council meeting with a recommendation.

**ITEM F Consideration of Participation in I-94 Corridor Commission & Approval of**  
**Membership Contribution** **S.R.#78-2009**

Cities along the NW I-94 Corridor have been meeting since last year to discuss a collective approach to work with MNDOT in securing funding for lane expansion on I-94 from Maple Grove to Clearwater. The cities formed an organization known as the I-94 Corridor Coalition.

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To better facilitate their efforts, which could, at some point, include support and lobbying efforts for the Brockton interchange, the organization is asking each city in the Coalition to contribute \$.50 per capita to help with the organization's lobby efforts

Representatives of the I-94 West Chamber, Michael Altimari and Leonard Kirscht were present. The Chamber has been working for over a year on the Corridor. Chamber representatives have been lobbying in Washington D.C., and have met with Congressman Paulsen, Senator Klobucher, Representative Bachman, and other members of Congress.

The budget for the year is about \$100,000 and they requested that 30% of the budget be from cities. The Cities of Albertville and Otsego have approved the expenditures. They requested the support of Dayton and a \$.50 cent per capita contribution to help with the organization lobby efforts. The funding to date has been totally funded by the private contributions.

**MOTION:** Motion made by Forseth, seconded by McNeil to approve the expenditure in the amount of \$2,500.

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

Nays: none

**ITEM G Consideration of Resolution #17-2009: Restricting Parking on S. Diamond Lake**  
**Road at Diamond Lake Access** **S.R.#79-2009**

The Public Safety Commission has heard complaints from residents regarding parking at the Diamond Lake access. There were concerns regarding the safety of people parking along the roadway. So. Diamond Lake Road has many curves and is not designed to have cars parked along the roadway. Concerns have been expressed regarding the safety of children and pets. The DNR boat landing site is designed to have 2 car/trailer combinations. The Commission recommended that the area near the boat landing, where cars are able to get completely off the roadway, be the only parking area allowed. The Commission recommended that the City install no-parking signs along the remainder of So. Diamond Lake Road around the lake. The Commission also recommended installing a fishing dock to allow a place for people to fish.

Mayor Anderson expressed concerns about shutting the Lake off to people, in an effort and to keep the road safer. The parking problem is not year round. Doug Baines, Park Commission Chair, stated that the DNR will keep the landing. The vehicles parked at the Lake are on the north side of the road. Council member Forseth thought the City should provide alternatives to be able to provide a safe environment. Council member McNeil would like to have time to formulate a plan, and find a

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solution.

**MOTION:** Motion was made by McNeil, seconded by Hoke, to look at the safety measure, short of no parking, until there a resolution for update of the DNR boat landing and then conduct a review of the parking next year. Also included in the motion is to have the Police Department check the parking and to make sure the cars are parked off of the road.

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

Nays: none

Mr. Baines and will work with staff, DNR and then contact Mr. Engstrom.

**ITEM H Consideration of Resolution #18-2009: Regarding TIF Inter fund Transfers**  
**S.R.#80-2009**

Finance Director Linnihan explained that during the 2008 audit process, discussions were held regarding the compliance with Minnesota State Statute 469.178 Subd. 7, which authorizes the transfer of funds to Tax Increment Funds (TIF) when advances are needed to cover TIF qualified costs.

Resolution 18-2009 would allow the City to comply with the identified State Statute requirements that were considered during the annual audit process. The Resolution would also allow for audit compliance in the reports submitted to the Office of the State Auditor (OSA).

**MOTION:** Motion made by McNeil, seconded by Forseth, to approve Resolution 18-2009; Approval of Inter Fund Loans in connection with Tax Increment Financing Districts.

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

Nays: none

**ITEM I Consideration of Approval of Supplemental Agreement #8 Regarding Goose Lake**  
**Road** **S.R.#81-2009**

Engineer Hanson introduced Item I, the Supplement Agreement No 8; the next step in the cleanup of the dump in /adjacent to Goose Lake Road. A grant in the amount of \$700,000 has been secured for the clean up work and should be adequate to complete the work. Hanson explained that if the grant is not adequate Supplemental Agreement No. 8 was prepared. Supplemental Agreement No. 8 estimates a \$73,000 overage and identifies that the overage cost would be financed by Hennepin County, Three Rivers Park District, Champlin, and Dayton. City of Dayton's cost responsibility is

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\$6,132, if there was overage of \$73,000.

The cost participation for Three Rivers Park District has been negotiated by Hennepin County. The cost breakdowns stated in the supplemental agreement for the \$73,000 overage are as follows:

|                                       |          |
|---------------------------------------|----------|
| Total Estimated Overage               | \$73,000 |
| Hennepin County/Dayton/Champlin (70%) | \$51,100 |
| Three Rivers Park District (30%)      | \$21,900 |

|                                       |                |
|---------------------------------------|----------------|
| Total Hennepin County/Dayton/Champlin | \$51,100       |
| Hennepin County (80%)                 | \$40,880       |
| <b>Dayton (12%)</b>                   | <b>\$6,132</b> |
| Champlin (8%)                         | \$4,088        |

Supplemental Agreement No. 8 will also need to be approved by Hennepin County, Three Rivers Park District, and Champlin before the clean up work will begin.

**MOTION:** Motion made by McNeil, seconded by K. Anderson to approve Supplemental Agreement No.8 in the amount up to \$6,123 if necessary for the cleanup.

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

Nays: none

*MOTION DECLARED PASSED.*

Council member Forseth wanted it noted that the land was used for the park, and now the residents of Dayton now need to help pay for the cleanup.

**ITEM J Consideration of Approval of Purchase Agreement for Easements on the Reamer Property for West French Lake Utility Improvements, Subject to Final Review & Approval of the City Attorney** **S.R.#82-2009**

Adm. Orduno presented the item. The West French Lake Utility Improvement project provides for the need to acquire a drainage and utility easement over Parcel 30-120-22-34-0001 which is owned by Lavonne Reamer. The negotiated payment for the easement is \$27,500.00. The City needs to acquire the easement over the Reamer Parcel to construct the West French Lake Utility Improvement Project in accordance with the contract award.

Adm. Orduno noted that Ms Reamer would like protection in the agreement that the Reamers would not be charged any fees related to the project. The City included in the agreement that in the future when the property is developed and connected to sewer / water, Reamers would pay all related fees.

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**MOTION:** Motion made by Forseth, seconded by McNeil to approve the agreement for easements on the Reamer property for the West French Lake Utility Improvement and approve payment in the amount of \$27,500.

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

Nays: none

*MOTION DECLARED PASSED.*

**ITEM K Discussion of Weapons Ordinance Update**

**S.R.#83-2009**

Chief Pietrzak introduced the item to the Council. The Public Safety Commission and the Police Department have received complaints from residents about unlawful discharge of weapons in the City of Dayton during hunting season. Chief Pietrzak mentioned that the current weapons ordinance is outdated, and several cities have utilized hunting permits to track the hunters within the city limits. Currently, if a hunting violation complaint is received there is no way of tracking the suspect. With an Ordinance in place, the officers could inform the hunters, at the time of the permit, of the City's hunting regulations, and if a complaint was received they would know who was hunting in the City. The Ordinance is not intended to prohibit hunting in the City of Dayton.

State law prohibits hunting within 500 feet of a dwelling. The more houses on the lake would eliminate the hunting on Diamond Lake. Chief Pietrzak brought it to Council for review and discussion with a decision at a later date.

Section 505.02, subd. 2, item C: the distance was changed to 300 feet instead of 1,000 feet.

The City attorney has reviewed the proposed ordinance.

Adm. Orduno mentioned a few changes that need to be made:

1. An ordinance number needs to be assigned
2. Section 1, Amendment: change personal pronouns to non-personal
3. A summary ordinance to be assigned and to have the ordinance published in summary form.

**MOTION:** Motion was made by Hoke, seconded by Forseth, to table until June 23<sup>rd</sup> meeting have staff review, conduct a public hearing on June 23, 2009,, and have the document in proper ordinance form.

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

Nays: none

*MOTION DECLARED PASSED.*

**REPORT OF OFFICERS**

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**Council update:**

- Council member Forseth will be absent at the next meeting.
- Mayor Anderson thanked everyone for Clean-up Day participation.

**Financial Report:** Julie Linnihan

- Ms. Linnihan reported that the level of activity appeared to be less, but the revenues appear to be very close to the prior year.

**Fire Department :** Chief Denny Young

- The Department will be looking at ISO rating this month.
- Burning restrictions have been removed
- The new Fire Truck has been ordered

**ADJOURNMENT**

**MOTION:** Motion made by Forseth, seconded by McNeil to adjourn to closed session to discuss arbitration with AFSCME Union.

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

Nays: none

*MOTION DECLARED PASSED.*

APPROVED:           May 26, 2009           ATTEST: \_\_\_\_\_