

Pursuant to due call and notice thereof, a regular meeting of the North Mankato City Council was held in the Municipal Building Council Chambers on December 17, 2012. Mayor Dehen called the meeting to order at 7:00 p.m. asking that everyone join in the Pledge of Allegiance. The following were present for the meeting, Mayor Dehen, Council Members Freyberg, Steiner, Norland and Schindle, Interim Administrator Fischer, City Clerk Gehrke, Finance Director Thorne, Attorney Kennedy and Engineer Malm.

Approval of Agenda

Council Member Norland moved, seconded by Council Member Steiner, to approve the agenda as presented. Vote on the motion: Freyberg, Steiner, Norland, Schindle and Dehen, aye; no nays. Motion carried.

Approval of Minutes

Council Member Freyberg moved, seconded by Council Member Steiner, to approve the minutes of the Council Workshop of December 3, 2012 and the Council meeting of December 3, 2012, with one change to the Council minutes changing foster “parenting” to “grandparenting.” Vote on the motion: Freyberg, Steiner, Norland, Schindle and Dehen, aye; no nays. Motion carried.

Correspondence

The Mayor presented holiday greetings received from the South Central College Foundation.

The Mayor referenced the many emails and letters received regarding the importance of keeping bookmobile services including a petition signed by 14 individuals.

Public Hearing, 7 p.m. – Five-Year Capital Improvement Plan

Mayor Dehen opened the public hearing to consider the Five-Year Capital Improvement Plan 2013-2017. Notice of the public hearing was published on the City’s website. Finance Director Thorne presented a PowerPoint presentation of the Five-Year Capital Improvement Plan 2013-2017 reporting the total estimated cost of the Five-Year Plan is \$20,560,672. She reviewed the large items in the Plan as follows: Financial Computer System \$200,000 in 2013; SCBA Air Packs (30) \$123,795 in 2013; 75’ Ladder Fire Truck \$750,000 in 2015; Well No. 9 \$1,350,000 in 2013; Recoat 500K Water Tower Interior (Carlson Drive) \$324,000 in 2013; Recoat Water Tower Exterior (Carlson Drive) \$300,000 in 2015; Main Lift Station Control Replacement \$400,000 in 2014; the RoeCrest/Noretta/Belgrade Hill sewer in 2013 for \$350,000; North Ridge Ravine Complex \$450,000 in 2015 and 2017, Roe Crest/Noretta/Old Belgrade Hill Ravine Storm Sewer \$800,000 in 2013, and Infrastructure Rehabilitations \$5,250,000 in 2013-2017 including the reconstruction of Cliff Court for \$500,000 in 2013. The Mayor reported that one of the City Administrator candidates noted ADA grant funds were used to bring entry doors and bathrooms into compliance and this may be something we should research. Kim Spears, 916 South Avenue, stated that there is no federal law that mandates the replacement of SCBA equipment and the units are interchangeable. The Mayor reported it was not represented that this was federal mandate but a safety issue and that technology has changed. Tom Rieff, 2059 Sundance Lane, asked if there will be a balanced budget in 2014 considering what has been projected in the Five-Year Capital Improvement Plan. The Finance Director reported that the equipment certificate bonds have been calculated into the budget. Council Member Freyberg reported that a debt service plan will be tied into the strategic plan and will project out 5-10 years. Mr. Rieff also

questioned the sales tax bond revenue and asked the amount of the authorized sales tax bonding. Finance Director Thorne reported the total authorized amount for sales tax bonding is \$6 million. Phil Henry, 1300 Noretta Drive, stated that a high percentage of the payment for the bonds is interest and stated the City should be more frugal. Bess Tsaouse, 136 Mary Circle, asked if the City has received the grant funds for Benson Park. Interim Administrator Fischer reported that grants funds have not yet been received for Benson Park. Lucy Lowry, Director of the North Mankato Taylor Library, presented a memo to the Council regarding reinstatement of bookmobile service reporting 28,000 items are signed out each year and the City currently has a contract through 2013 with Nicollet County for bookmobile services. Ms. Lowry also requested the purchase of a used bookmobile be reinstated to 2013 in the Five-Year Capital Improvement Plan. She reported another bookmobile has been listed for sale in the amount of \$39,500 which is a savings from the previously requested \$70,000. Discussion was held regarding library patrons contacting Blue Earth County and Nicollet County and asking they increase funding for the bookmobile. The Mayor suggested that the new County Administrator and the Nicollet County Board be invited to attend the January 16, 2013 Library Board meeting. With no one else appearing before the Council, the Mayor closed the public hearing.

Open the Meeting to the Public for the First Time

Barb Church, 102 E. Wheeler Avenue

Barb Church, 102 E. Wheeler Avenue, appeared before the Council and requested the variances for the Marigold Project be denied citing the definition of the CBD, that any development should be in proportion to existing buildings and that any previous monetary investment by the developer should not be a reason to approve the variances.

Bess Tsaouse, 136 Mary Circle

Bess Tsaouse, 136 Mary Circle, appeared before the Council and stated she listened to Attorney Kennedy's explanation of 2011 Legislative changes regarding variances citing the key questions regarding practical difficulties: the property owner proposes to use the property in a reasonable manner; the landowner's problem is due to circumstances unique to the property not caused by the landowner; the variance, if granted, will not alter the essential character of the locality; the variance shall only be permitted when in harmony with the general purpose and intent of the ordinance and when the terms of the variance are consistent with the comprehensive plan. She stated the City has no comprehensive plan and asked the Council to deny the variance request and start immediately on preparation of a strategic plan.

Sharon Schaller, 241 Belgrade Avenue

Sharon Schaller, 241 Belgrade Avenue, appeared before the Council and stated the project does not belong in the Central Business District (CBD), referenced problems associated with existing apartments in the CBD and stated there are drainage problems on Belgrade Avenue and problems with placement of the dumpsters behind her store.

Tom Hagen, 927 Lake Street

Tom Hagen, 927 Lake Street, appeared before the Council and referenced the 2010 Legislature which heard a case and threw out all variances; that in May of 2011 new rules on variances were adopted by the State which in part stated that variances will not alter the essential character of the locality. Mr. Hagen stated that North Mankato's greatest asset is its livability.

Jim Whitlock, 332 Belgrade Avenue

Jim Whitlock, 332 Belgrade Avenue, appeared before the Council and reported he is in favor of the Marigold Project, that it brings high density of population to the area, referenced this is a vacant lot that was previously residential and will be residential again if the variances are approved. He stated that five people out of a population of 13,500 residents oppose this project, and requested the Council approve the variances stating it will be good for the CBD businesses.

Kim Spears, 916 South Avenue

Kim Spears, 916 South Avenue, appeared before the Council and asked what the intent of the ordinance regarding the conditional use permit for the Marigold Project. He stated that if the zoning ordinance is our City plan, the Marigold project is not in compliance with the plan. Mr. Spears requested the Council not move on the variances.

Jim Hughes, 247 W. Wheeler Avenue

Jim Hughes, 247 W. Wheeler Avenue, appeared before the Council and stated he is opposed to the Marigold project. He also thanked Council Member Schindle for his years of service on the Council.

Van Moody, 200 Belgrade Avenue

Van Moody, 200 Belgrade Avenue, appeared before the Council and thanked them for their work on this project. He reported this area has been a dirt parking lot for many years and he has worked 5 years and 10 months on this project. Mr. Moody reported that any future delay will hurt the viability of the project. He also stated that property taxes in the amount of \$245,000 generated from this project will help relieve the property tax burden of all residents. He noted this project has the support of the E2020 and the City Center Partnership and will help the businesses in the CBD.

Tom Rieff, 2059 Sundance Lane

Tom Rieff, 2059 Sundance Lane, appeared before the Council and stated he is in favor of the City of North Mankato participating in the Joint Economic Development Services Agreement regarding the Greater Mankato Regional Marketplace.

Kevin Briggs, 222 Wheeler Avenue

Kevin Briggs, 222 Wheeler Avenue, appeared before the Council and reported that snow is plowed onto his boulevard and stated that building codes and normal setbacks are created to keep us safe. He asked the Council to consider normal setbacks for the Marigold Project.

Consent Agenda

Council Member Steiner moved, seconded by Council Member Freyberg, to approve the Consent Agenda which includes:

1. Res. No. 73-12 Approving Donations/Contributions.

Vote on the motion: Freyberg, Steiner, Norland, Schindle and Dehen, aye; no nays. Motion carried.

Staff Reports**City Planner****Minutes of the December 13, 2012 Planning Commission Meeting**

The Council accepted the minutes of the December 13, 2012 Planning Commission meeting.

V-4-12, Request for Site Specific Variances at 400 Wall Street

Planner Fischer presented variance requests from Vanyo Moody to accommodate the development of a 108-unit 6-story apartment complex as part of the redevelopment of the Marigold property. He indicated that while the project is located within the Central Business District (CBD), residential uses are regulated by the R-3 section of the City Code. Variances requested pertain to lot coverage, number of units, lot width and depth, setbacks and lot coverage. The City Attorney reviewed the materials provided by the League of Minnesota Cities regarding variances and relayed to the Council the standards to be used for granting or denying a variance. He explained the standards are described as practical difficulties which is a three-prong test. The first factor is that the property owner proposes to use the property in a reasonable manner; the second factor is that the landowner's problem is due to circumstances unique to the property not caused by the landowner; and the third factor is that the variance, if granted, will not alter the essential character of the locality. He also indicated that because of historical precedence and his interpretation of the City Code, residential buildings are allowed in the Central Business District (CBD). He continued to say that although residential buildings are allowed in the CBD they are subject to the standards established for residential buildings in an R-3 district. The City Attorney recommended that any decision by the Council be in conformance with the Minnesota Statutes. Planner Fischer reported the Planning Commission reviewed the variance requests at their meeting of December 13, 2012 and recommended denial of the requests due to the failure to meet the three-factor practical difficulties test as stated in Minnesota State Statutes pertaining to the granting of variances. Council Member Schindle stated the City Council has never granted variances to new construction. Council Member Freyberg stated that he cannot support the variances and stated if the Council approved these variances what could it deny in the future. Council Member Norland stated that if the structure was a hotel or commercial building it would not require the requested variances and referenced the structures built in the Central Business District of Mankato. Council Member Steiner noted that this is an urban village concept as outlined by E2020 and he would rather have the apartment building than a Holiday Inn located on this property. Council Member Schindle stated the City needs a strategic plan in place. The Mayor reported he was unaware of the Supreme Court decision of 2010 regarding variances and he does not think these variances meet the practical tests. He further stated that if this was a mixed-use building it may meet the practical tests. **Council Member Norland moved, seconded by Council Member Steiner, to approve the variances as presented for the Marigold Project at 400 Wall Street. Vote on the motion: Steiner and Norland, aye; Freyberg, Schindle and Dehen, nay. Motion failed.**

Z-3-12, Request to Rezone 116 Tyler Avenue from R-1, One-Family Dwelling to R-2, One- and Two-Family Dwelling

Planner Fischer presented a request from Anthony Anderson to rezone a duplex addressed as 116/116-1/2 Tyler Avenue from R-1 to R-2. He indicated the property was affected by the City-wide down zoning in 2005 and the owner is experiencing difficulty in attempts to refinance the property as it is considered a non-conforming use. The owner has indicated the

home has been used as a duplex since the 1960s. The Planning Commission reviewed and recommended approval of this rezoning request.

Ord. No. 47, Fourth Series, Rezoning 116/116-1/2 Tyler Avenue from R-1, One-Family Dwelling to R-2, One- and Two-Family Dwelling

Council Member Steiner moved, seconded by Council Member Norland, to adopt Ord. No. 47, Fourth Series rezoning 116/116-1/2 Tyler Avenue from R-1, One-Family Dwelling to R-2, One- and Two-Family Dwelling. Vote on the Ordinance: Freyberg, Steiner, Norland, Schindle and Dehen, aye; no nays. Motion carried.

Rezoning Policy

Planner Fischer presented a Policy for Rezoning of Residential Property Affected by the 2005 City-Wide Down Zoning as a result of continued rezoning requests for non-conforming uses. Attorney Kennedy stated that as proposed, the rezoning approval would be granted by the City if the owner can demonstrate the following:

1. The dwelling was originally permitted and constructed as a multiple-family dwelling.
2. The dwelling was originally located in a zoning district which allowed such use.
3. The dwelling has been continually used and licensed as a multiple-family dwelling.

Planner Fischer reported that as part of the policy, the rezoning application fee would be waived, but the fee for the required neighborhood notification would apply. **Council Member Freyberg moved, seconded by Council Member Steiner, to approve the Rezoning Policy. Vote on the motion: Freyberg, Steiner, Norland, Schindle and Dehen, aye; no nays. Motion carried.**

Interim City Administrator

Approval of Proposed 2013 Budget and Capital Improvement Plan 2013-2017

Interim Administrator Fischer presented three resolutions for final approval of the 2013 Budget and Five-Year Capital Improvement Plan, 2013-2017.

Res. No. 74-12 Approving the General Fund Budget and Auxiliary Fund Budget for Fiscal Year 2013

Interim Administrator Fischer noted the Council held several budget workshops and a public hearing was held for the 2013 Budget on December 3, 2012. He presented a resolution approving the General Fund Budget in the amount of \$5,828,063 and the Auxiliary Fund Budget in the amount of \$16,183,368 for a total budget of all funds in the amount of \$23,011,431.

Council Member Norland moved, seconded by Council Member Steiner, to adopt Resolution No. 74-12 Approving the General Fund Budget and Auxiliary Fund Budget for Fiscal Year 2013 adding the \$4,000 back into the 2013 Budget for funding of the bookmobile for the entire year. Vote on the Resolution: Freyberg, Steiner, Norland, Schindle and Dehen, aye; no nays. Motion carried.

Res. No. 75-12 Approving 2012 Tax Levy, Collectible in 2013

Interim Administrator Fischer presented Resolution No. 75-12 approving the 2012 tax levy, collectible in 2013 reflecting an increase of 4.50 percent over the prior year with the reinstatement of the \$4,000 for maintenance of the bookmobile for a total budgeted levy of \$5,383,784. Council Member Norland reported that if averaged over a five-year period, the

average increase to the tax levy is 3.2 percent. **Council Member Norland moved, seconded by Council Member Steiner, to adopt Resolution No. 75-12 Approving 2012 Tax Levy, Collectible in 2013. Vote on the Resolution: Freyberg, Steiner, Norland, Schindle and Dehen, aye; no nays. Motion carried.**

Res. No. 76-12 Approving the Five-Year Capital Improvement Plan, 2013-2017

Interim Administrator Fischer presented a resolution for approval of the Five-Year Capital Improvement Plan, 2013-2017. In response to a question about moving the used bookmobile from 2014 to 2013, the Mayor stated this will be an item of discussion at the January 16, 2013 Library Board meeting. **Council Member Steiner moved, seconded by Council Member Norland, to adopt Resolution No. 76-12 Approving the Capital Improvement Plan, 2013-2017. Vote on the Resolution: Freyberg, Steiner, Norland, Schindle and Dehen, aye; no nays. Motion carried.**

Joint Economic Development Services Agreement Regarding the Greater Mankato Regional Marketplace

Interim Administrator Fischer presented the Joint Economic Development Services Agreement Regarding the Greater Mankato Regional Marketplace. **Council Member Steiner moved, seconded by Council Member Norland to table this item until the new Council and City Administrator are in place.** Mayor Dehen reported the GIS system this agreement provides is an integral part of the comprehensive plan and he strongly supports this agreement. Council Member Norland reported this agreement goes beyond the GIS. Council Member Schindle stated the City of North Mankato should be marketed outside the area since there are many companies that do not even know about what North Mankato has to offer. Council Member Freyberg voiced his support for the agreement stating it is a valuable tool for the development of North Mankato. It was noted this agreement calls for a three-year contract with a 90-day out option. **Vote on the motion: Steiner, Norland, and Schindle, aye; Freyberg and Dehen, nay. Motion carried. The Joint Economic Development Agreement Regarding the Greater Mankato Regional Marketplace was tabled until the new Council and City Administrator are in place.**

Request to Purchase Used Equipment – Sander

Interim Administrator Fischer presented a memo from the Street Superintendent outlining the need for an additional sander for plowing the North Mankato hilltop area. He reported that during snow events it has been problematic to stabilize roads in a timely manner with only one sander. He reported a used stainless steel sander with a brine application system is available for purchase. The Interim Administrator reported this system new would cost over \$40,000 but with items that have been sold and items that would be traded in, the purchase price of the used stainless steel sander would be approximately \$7,300. The Council thanked staff for the great job of finding quality used equipment to save money. **Council Member Schindle moved, seconded by Council Member Freyberg, to authorize the purchase of the used sander with brine application system. Vote on the motion: Freyberg, Steiner, Norland, Schindle and Dehen, aye; no nays. Motion carried.**

Schools and Conferences

Council Member Steiner moved, seconded by Council Member Freyberg, to authorize actual and necessary expenditures for the following schools and conferences:

- a. 57th Annual Institute of Building Officials, St. Paul, January 14, 15 and 18, for Building Inspector.
- b. 2013 ICC Upper Great Plains Region III Educational Institute, Chaska, February 4-8, for Building Official and Building Inspector.

Vote on the motion: Freyberg, Steiner, Norland, Schindle and Dehen, aye; no nays. Motion carried.

City Clerk

Res. No. 77-12 Setting Council Meeting Dates for Year 2013

Clerk Gehrke presented a resolution with the recommended Council meeting dates to accommodate the necessary changes due to federal holidays. The Clerk noted changes from the regular Monday meeting dates to Tuesday, January 22, 2013; Tuesday, February 19, 2013; and Tuesday, September 3, 2013. The balance of the meetings will remain on the regularly scheduled first and third Mondays of the month. **Council Member Schindle moved, seconded by Council Member Norland, to adopt Resolution No. 77-12 Setting Council Meeting Dates for Year 2013. Vote on the Resolution: Freyberg, Steiner, Norland, Schindle and Dehen, aye; no nays. Motion carried.**

Finance Director

Res. No. 78-12 Declaring the Official Intent of the City of North Mankato to Reimburse Certain Expenditures from the Proceeds of Bonds to be Issued by the City

Finance Director Thorne presented Resolution No. 78-12 declaring official intent of the City to reimburse the following expenditures from the proceeds of equipment certificate bonds to be issued by the City. The expenditures include a 2008 Toro Groundskeeper mower in the amount of \$17,000 and a 1996 Cushman Truckster 3-Wheel ATV field groomer in the amount of \$2,598. **Council Member Norland moved, seconded by Council Member Steiner, to adopt Res. No. 78-12 Declaring the Official Intent of the City of North Mankato to Reimburse Certain Expenditures from the Proceeds of Bonds to be Issued by the City. Vote on the Resolution: Freyberg, Steiner, Norland, Schindle and Dehen, aye; no nays. Motion carried.**

Library and Bookmobile Revenues

Finance Director Thorne presented the information requested by the Mayor on the funding reductions to the library and bookmobile funds in the past three years. She reported the City has two purchase of service contracts with Nicollet County; one for the Library in the amount of \$44,594 in 2013 and one for the Bookmobile in the amount of \$10,000 in 2013. She presented a spreadsheet outlining the budget for 2010 through 2013 which reflected a decrease in funding from Blue Earth County for the bookmobile from \$35,000 in 2010 to \$0.00 in 2013. The Mayor requested this information be presented at the January 16, 2013 Library Board meeting.

Resolution No. 79-12 Authorizing Transfer of Funds

Finance Director Thorne presented Resolution No. 79-12 Authorizing Transfer of Funds in the amount of \$101,336 from the General Fund to the Capital Facilities Fund for the removal and replacement of the Municipal Building HVAC unit. **Council Member Norland moved, seconded by Council Member Steiner, to adopt Resolution No. 79-12 Authorizing Transfer of Funds. Vote on the Resolution: Freyberg, Steiner, Norland, Schindle and Dehen, aye; no nays. Motion carried.**

Report from Council Members

Council Member Schindle

Council Member Schindle wished everyone a Merry Christmas. He also stated that after growing up in North Mankato it was good to serve the citizens of North Mankato.

Report from Mayor

Mayor Dehen presented Council Member Schindle with a Certificate of Recognition for serving 20 years on the City Council and thanked him for his service.

The Mayor wished everyone a Merry Christmas.

Open the Meeting to the Public for the Second Time

Bess Tsaouse, 136 Mary Circle

Bess Tsaouse, 136 Mary Circle, thanked Council Member Schindle for his years of service, thanked the Council for their decision of supporting the library and bookmobile and thanked the Council for denying the variances for the Marigold Project. She also stated she was happy the Council is looking at a strategic plan and that a project such as the 108-unit apartment building would be a good fit on Commerce Drive.

Barb Church, 102 E. Wheeler Avenue

Barb Church, 102 E. Wheeler Avenue, thanked the Council for denying the variance requests for the Marigold Project. She stated the need for citizen involvement in the preparation of the Comprehensive Plan.

Bills and Appropriations

Council Member Steiner moved, seconded by Council Member Norland, to pay all bills and appropriations in the amount of \$147,051.85. Vote on the motion: Freyberg, Steiner, Norland, Schindle and Dehen, aye; no nays. Motion carried.

Council Member Steiner moved, seconded by Council Member Norland to adjourn the meeting. Vote on the motion: Freyberg, Steiner, Norland, Schindle and Dehen, aye; no nays. The meeting was adjourned at 9:17 p.m.

Mayor

City Clerk