

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 February 19, 2013. 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 Spears, Steiner, Norland and Freyberg, Interim City Administrator Fischer, City Clerk Gehrke, and Engineers Malm and Sarff. Absent: Finance Director Thorne and Attorney Kennedy.

Approval of Agenda

Council Member Steiner moved, seconded by Council Member Norland, to approve the agenda as presented. Vote on the motion: Spears, Steiner, Norland, Freyberg 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 February 4, 2013 Council meeting. Vote on the motion: Spears, Steiner, Norland, Freyberg and Dehen aye; no nays. Motion carried.

Correspondence**Xcel Energy Rate Increase Notice**

Mayor Dehen presented a notice from Xcel Energy reporting they are requesting a 10.7 percent rate increase effective January 1, 2013. Public hearings will be held regarding this proposed rate increase with one hearing held on Monday, March 18, 2013 at the Civic Center in Mankato. The Mayor encouraged anyone interested in providing comment to appear at the hearing. The Minnesota Public Utilities Commission (MPUC) will evaluate the request and make its decision on final rates in September 2013.

South Central College President Search

The Mayor presented an invitation for the Council to visit with the finalists for the new President at South Central College. Luncheon forums will be held on February 20, 21, and 22 for the three finalists.

Letter from Minnesota Department of Transportation

Mayor Dehen presented a letter from the Minnesota Department of Transportation (MnDOT) which in part stated Governor Dayton directed MnDOT to include a segment of Highway 14 (Nicollet to North Mankato) in the 20-year plan. The remaining Highway 14 needs are being assessed through the MnDOT Minnesota State Highway Investment Planning process (MnSHIP). Bills are currently being sponsored by Legislators to complete the entire Highway 14 corridor.

Kearney International Center at Minnesota State University, Mankato

The Mayor presented an invitation as an honorary guest and speaker at the 37th annual Mankato Area International Festival themed "Passport to Discovery" which will be held at 11:00 a.m. on Sunday, April 14, 2013 at Minnesota State University, Mankato.

Report on Well-Being of Children and Youth in Mankato/North Mankato – Fulfilling the Five Promises

The Mayor presented the final report on the Well-Being of Children and Youth in Mankato/North Mankato – Fulfilling the Five Promises. The complete report and summary are available on the Mankato YWCA website.

Open the Meeting to the Public for the First Time

Barbara Church, 102 E. Wheeler Avenue

Barbara Church, 102 E. Wheeler Avenue, appeared before the Council and thanked the Taylor organization for their generous donations in the past and the recent donation for the North Mankato Taylor Library Summer Reading Program.

Ms. Church addressed the variances for the Marigold site referencing Minnesota Statute 462.357, Subd. 6 which states in part that variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Ms. Church also referenced City Code Section 146.045 which states the purpose of the Central Business District is to establish a district for the purpose of providing a high density shopping environment with special emphasis on pedestrian traffic. In summary, Ms. Church urged the Council to deny the variances for this project.

Tom Marks, 428 Wheeler Avenue

Tom Marks, 428 Wheeler Avenue, appeared before the Council, and stated he agrees with Ms. Church's comments. He stated he categorically opposes the proposed Marigold project stating he believes it is out of character with the Central Business District (CBD). He appreciates the new Brunton Architect building which is consistent with the other buildings in the CBD. He stated a comprehensive plan should include input from citizens. Mr. Marks stated the City Code is put in place to protect the citizens and it is the duty of the Council to find out what the citizens want.

John Todtleben, 522 Lyndale Street

John Todtleben, 522 Lyndale Street, appeared before the Council and stated he is in favor of the Marigold project stating he believes housing is the only use for this property. He said a lot of thought has been put into this project, buildings are going to change and he would like to see the project go forward.

Eric Harriman, 408-1/2 Wheeler Avenue

Eric Harriman, 408-1/2 Wheeler Avenue, and member of City Center Partnership, appeared before the Council and spoke of the dual focus of serving neighborhoods and downtowns stating monolithic districts do not work but that downtowns are revitalized by the population they serve. He reported the City Center Partnership supports the Marigold Project and believes it is in keeping with the E2020 Strategic Plan which supports increasing mass and finding ways to look forward to support the vibrancy of the downtown area.

Bob Knutson, 987 Belvista Drive

Bob Knutson, 987 Belvista Drive, and President of the North Mankato Port Authority, appeared before the Council and spoke in favor of the Marigold project reporting the Central Business District (CBD) is currently not vibrant and needs density of population to support the downtown. He stated that adding retail is not the solution.

Jim Whitlock, 332 Belgrade Avenue

Jim Whitlock, 332 Belgrade Avenue, and President of Business on Belgrade, appeared before the Council and reported that when Business on Belgrade was formed eight years ago, three issues were identified as concerns for the Central Business District: 1) Density of population, 2) Increased parking, and 3) Reduction of traffic speeds on Belgrade. He recapped the loss in population in this

area from the 1965 flood and stated it is time to add population growth by allowing this project to go forward.

Vanyo Moody, 200 Belgrade Avenue

Vanyo Moody, 200 Belgrade Avenue, and developer for the Marigold project, appeared before the Council and recapped the variance requests for 400 Wall Street stating the Planning Commission recommended approval of the variance requests. He reported that since the first phase of Marigold was constructed some businesses have reported a 30 percent increase on Belgrade Avenue. He also stated that general parking is allowed nights and weekends on the 200 Belgrade property. Mr. Moody requested the Council approve the variances for the second phase of the Marigold project.

Jim Hughes, 247 W. Wheeler Avenue

Jim Hughes, 247 W. Wheeler Avenue, appeared before the Council and stated the development agreement for this project is null and void, and asked for a moratorium on variances. Mr. Hughes also stated his concern about ponding of water and building in a flood plain. City Engineer Malm reported the project site is not located in a flood plain, the Minnesota Department of Transportation (MnDOT) has been involved in the planning and the drainage on this site is contained.

Bess Tsaouse, 136 Mary Circle

Bess Tsaouse, 136 Mary Circle, appeared before the Council and stated the statutory criteria are not being met and the Planning Commission ignored the Minnesota Statutes for variances and did not attempt to explain their rationale for doing so in the Planning Commission minutes.

Phil Henry, 1300 Noretta Drive

Phil Henry, 1300 Noretta Drive, appeared before the Council and spoke about the cost of the Marigold project and stated that Mankato did not use Tax Increment Financing for the apartment complex recently constructed.

Nicollet County Board Actions

Mayor Dehen reported staff members from Nicollet County and North Mankato are reviewing the chip spreader models and will be making recommendations for which model to purchase in the next month.

Consent Agenda

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

- A. Audio and Large Group Permit for American Legion Fall Blast, Wheeler Park, Saturday, August 24, 2013 from 11 a.m. to 10:30 p.m.
- B. Audio and Large Group Permit for 5K Run and Easter Egg Scramble, Benson Park, Saturday, March 30, 2013 from 9-11 a.m.
- C. Parade Permit for 5K Run and Easter Egg Scramble, Benson Park, Saturday, March 30, 2013 from 9-11 a.m.
- D. Resolution No. 17-13 Approving Donations/Contributions.

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

Staff Reports**City Planner****Minutes of February 14, 2013 Planning Commission Meeting**

The Council accepted the minutes of the February 14, 2013 Planning Commission Meeting.

Preliminary and Final Plat of Raker Addition

Planner Fischer presented a request from Matthew Raker to replat Lots 22 and 23, Block 1, J.B. Nelsen's Addition. He reported the applicant's house is located on Lot 22 and he has recently purchased Lot 23 which is a vacant lot. In order to accommodate a future addition to the applicant's existing home, it is necessary to replat the two lots as one described as Lot 1, Block 1, Raker Addition. The Planning Commission reviewed the preliminary and final plat of Raker Addition and recommended approval. **Council Member Steiner moved, seconded by Council Member Norland, to approve the preliminary and final plat of Raker Addition. Vote on the motion: Freyberg, Spears, Steiner, Norland and Dehen, aye; no nays. Motion carried.**

V-1-13, Variance Requests for Lot Area, Lot Width, Setback and Lot Coverage at 400 Wall Street

Planner Fischer reported that in December 2012 both the Planning Commission and City Council denied variances to accommodate the development of a 6-story, 106-unit apartment complex on the balance of the Marigold property. The co-applicant, Vanyo Moody has revised the project consisting of a 4-level, 58-unit complex with different setbacks from the original variance request. Council Member Freyberg read the following into the record:

"The following is a list of facts concerning Marigold:

1. Van Moody on 2/14/2013 stated that this is the 72nd month that he has been working on this project and that he did not previously know about the need for variances.
2. On January 10th, 2013, my first Planning meeting, I asked if the commission uses the code book. They stated "no" because they can get it on-line. At this meeting I also asked how the Marigold was able to get this far, (72 months) without the knowledge of variances. No reply.
3. At the same meeting I asked things relating to the role of the planning commission and the attorney forwarded his response. Item 4 in his response states "The Planning Commission may recommend a variance from the provisions of this chapter when" However, the rest of this sentence is important and it reads in entirety City Code 155.10 "The Planning Commission may recommend a variance from the provisions of this chapter when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the commission shall prescribe only conditions that it deems necessary to or desirable for the public interest." It does not state for the developer's interest.
4. City Code 156.085 (A) Planning Commission. The planning commission shall have the power and duty of hearing and recommending to the council as herein provided, appeals or requests in the following cases. (B) Variances. No variance shall be granted unless adequate evidence is produced showing: (1) Extraordinary circumstances. That there are exceptional or extraordinary circumstances of conditions applying to the land, building, or uses in the same classification. (2) Necessity. That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner. (3) Not detrimental. That the granting of such application will not, under the circumstances of the particular case, materially adversely affect the health or safety of persons residing or working in the neighborhood of the property of the applicant, and will not, under the circumstances of the particular case be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood. In granting a variance, the board and council may impose conditions to insure compliance and to protect adjacent properties.

5. On 2/14/2013 Knutson stated that the code is “out of date”. Code is established by comprehensive land use management or in the absence of a plan, zoning is used instead. Code relative to land management does not get out of date. Land use and zoning can be changed requiring the alternative codes to be in place. Consistency of code is what people building or buying homes and businesses rely on.
6. On 2/14/2013 the statutory “three practical difficulties” were read. However, one line of the actual statute was omitted. This is that line: 2012 Minnesota Statute 462.357 Subdivision 6. Appeals and adjustments. “Economic considerations alone do not constitute practical difficulties.” On 2/14/2013 the variances being requested were deemed necessary for Mr. Moody’s project to be financially or economically feasible.
7. On 2/14/2013 the planning commission suggested that a soil correction is a reason to pass one of the difficulties tests. According to the developers agreement the Port Authority will be paying for the soils corrections, so this no longer is a difficulty to Mr. Moody.
8. On 2/14/2013 Tom Hagen, who was co-chair of Envision 2020 stated that the Marigold project does not meet the criteria of Envision 2020.
9. On 2/14/2013 the planning commission concluded with the following findings from the minutes: Mr. Smith stated the project would act as a buffer between commercial and residential uses. Mr. Brunton stated Density and Diversity is healthy in downtowns and the project is a transitional use between existing commercial and residential uses. Mr. Meyer stated the uniqueness of the variance requests would prevent further precedent for granting variances. Mr. Bode said he supports the project but abstained due to a conflict of interest. Chair person Stoffel questioned if the statutory criteria for granting variances, had been met and subsequently voted no on all requests. These conclusions are opinions as to the project, not facts that substantiate factual reasons that satisfy “practical difficulties.”
10. Handbook For Minnesota Cities by the League of Minnesota Cities Chapter 14 Section 3 Making a Record and Judicial Review (updated 9/18/2012) states; A decision making body cannot use vague and speculative opinions as a basis for a decision. This also applies to unsubstantiated concerns from citizens. However, expert testimony supporting the citizens’ point of view may not be necessary if there is a factual basis for the opposition. Citizen Barb Church’s testimony is factual direct quotes from Code and Statutes as well as those from Bess Tsaouse. Tom Hagen’s factual comments come from his experience as a co-chair with Envision 2020.
11. On 12/13/2012 the planning commission voted unanimously (Weinstein abstained) to deny the variances ...”due to the failure to meet the three-factor practical difficulties test...”
12. On 12/17/2012 the council, by a majority, voted against all of the requested variances stating it didn’t meet the statutory three-factor difficulties test.
13. On 2/14/2013 Mr. Moody presented the Planning commission a letter from US Bank stating they are “pleased to consider your request to provide financing for the proposed Marigold Apartments multi-family development currently in process of being developed.” However, the second to the last paragraph states as follows ... “To that end, this letter is an expression of interest only, and it is not a contract, commitment nor intent to be bound ...”
14. Previously, the council has delayed action on the grounds that it has not received the financials nor the proforma that it has requested. The bank letter states that they, the bank, have received them, but not the council.
15. The significance of this is found in the granting of TIF which is the request that will be made following the passing of the variance requests. 2012 Minnesota Statutes section 469.175 Subd 3. Municipality approval paragraph 2 states “that, in the opinion of the municipality: (i) the proposed development or redevelopment would not reasonably be expected to occur solely through private investment within the

reasonably foreseeable future. Therefore, the council needs this information recorded in their findings, to demonstrate the “but for”. We can only determine the need by seeing the numbers.

16. Practical Difficulties Test; My findings

- A. Property owner proposes to use the property in a reasonable manner. No. The applicant wants to place 58 units on a parcel designed for 12. This is not reasonable and is requested for economic reasons which is clearly discouraged as previously stated in #6 above.
- B. The land owner’s situation is due to circumstances unique to the property not caused by the owner. No. The applicant claims soils correction is needed to make the project work. However, the Port Authority has indicated in the developer’s agreement that the Port would pay for the soils correction, so this does not encumber the developer and removes the uniqueness factor.
- C. The variance, if granted, will not alter the essential character of the locality. No. A four-story building with a substantial parking lot and modern exterior, as per testifying neighbors, will alter the character of the locality and not resemble Belgrade businesses per public testimony.

17. Lastly, the council is put in a very difficult situation. The developer has threatened to sue the city if it does not grant the variances. The neighborhood would like to sue if we grant the variances.”

Council Member Freyberg moved, seconded by Council Member Spears, to table V-1-13, the request for lot area, lot width, and setback and lot coverage variances at 400 Wall Street awaiting legal advice from the City Attorney. Council Members Steiner and Spears stated the Council does need legal advice on this matter. Council Member Norland stated very reluctantly she would go along but this is all smoke screen. Mayor Dehen stated the new City Administrator would soon be on board and it would be good to have an unbiased set of eyes look at the project. **Vote on the motion: Spears, Steiner, Freyberg and Dehen, aye; Norland abstained; no nays. Motion carried.**

Interim City Administrator

Res. No. 18-13 Approving Plans and Specifications and Ordering Request for Quotes for Relocation of Municipal Utilities

Interim Administrator Fischer reported that contingent on the approval of the variances for the Phase 2 Marigold Project, it is necessary to approve plans and specifications and order request for quotes for the relocation of municipal utilities on this site. He noted the estimated project cost is under \$100,000 and therefore quotes may be taken in lieu of bids. Sales tax dollars could be used for funding for relocation of the utilities. **Council Member Norland moved, seconded by Council Member Steiner, to adopt Resolution No. 18-13 Approving Plans and Specifications and Ordering Request for Quotes for Relocation of Municipal Utilities. Vote on the Resolution: Spears, Steiner, Norland, Freyberg and Dehen, aye; no nays. Motion carried.**

Set Board of Appeal and Equalization

Interim Administrator Fischer reported that it is necessary for the Council to formally set the date of the Board of Appeal and Equalization. This is the time for residents who are concerned about the assessed market value of their property to appear before the Board of Appeal and Equalization. Mayor Dehen thanked the members for serving on this Board. **Council Member Norland moved, seconded by Council Member Steiner, to set the Board of Appeal and Equalization for 9 a.m. on Thursday, April 25, 2013 at the Police Annex Community Room. Vote on the motion: Spears, Steiner, Norland, Freyberg and Dehen, aye; no nays. Motion carried.**

Set Water Main Flushing for April 22 to May 3, 2013

Council Member Norland moved, seconded by Council Member Steiner, to set water main flushing for April 22 to May 3, 2013. Vote on the motion: Spears, Steiner, Norland, Freyberg and Dehen, aye; no nays. Motion carried.

Set Spring Cleanup for Valley April 29-May 3 and for Hilltop May 6-10, 2013

Interim Administrator Fischer reported that as discussed during the Budget process, the Spring Cleanup will be a pick-up and the Fall Cleanup will be a drop-off. Council Member Norland moved, seconded by Council Member Steiner, to set Spring Cleanup for the Valley April 29-May 3 and for the Hilltop May 6-10, 2013. Vote on the motion: Spears, Steiner, Norland, Freyberg and Dehen, aye; no nays. Motion carried.

Set Opening for Compost Site for April 1, 2013

Council Member Norland moved, seconded by Council Member Steiner, to set the opening of the compost site for April 1, 2013. Vote on the motion: Spears, Steiner, Norland, Freyberg and Dehen, aye; no nays. Motion carried.

Schools and Conferences

Council Member Steiner moved, seconded by Council Member Norland, to approve actual and necessary expenses for the following school and conference:

1. Midwestern Electrical Seminar, Mankato, March 15, 2013 for Electrician.
2. DMT-G Recertification (Intoxilyzer), Rochester, April 1-5 for Police Chief, Police Detective and 3 Patrol Officers.

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

City Clerk

Results of 2013 Special General Election

Clerk Gehrke reviewed the results of the 2013 Special General Election reporting an 18.94 percent voter turnout. Of the 38 precincts for State Representative District 19A, Independence candidate Tim Gieseke received 10.24 percent of the votes, Republican candidate Allen Quist received 36.08 percent of the votes and Democratic candidate Clark Johnson received 53.69 percent of the votes.

City Engineer

Res. No. 19-13 Accepting Feasibility Report and Calling for Public Hearing on Project No. 13-01ABCDEF, Cliff Court Reconstruction

Engineer Sarff gave a PowerPoint presentation of the Cliff Court Reconstruction. He reported the project location is Cliff Court from Cliff Drive to the cul-de-sac. He reported the proposed improvements include bituminous street, curb and gutter, concrete driveway aprons, sidewalk on one side of the street and restoring all disturbed residential turf area as needed. The proposed storm sewer improvements include construction of new inlets on Cliff Court, new storm sewer pipes and manholes, reconnect existing storm sewer from Allen Avenue, extend storm sewer system to Cliff Drive, replacing existing storm sewer inlets and provide outlets for sump pumps in front yard area. Improvements to the sanitary sewer system include replacement of existing clay sewers with new pipe with watertight joints, replace manholes with new precast concrete manholes, replace existing services

from sewer main to right-of-way with new pipe (insulated pipe in shallow areas). Property owners will be notified if existing service lines from the right-of-way to their house is deficient which would be the property owner's responsibility. The proposed watermain improvements include replacement of the existing case iron watermain pipe with new PVC watermain pipe, increasing the size from 6 inch to 8 inch, providing new hydrants, valves and fittings, replace existing service lines within street right-of-way with 1-inch diameter copper piping and notifying property owners if existing service lines from right-of-way to house are deficient, which is the property owner's responsibility. Engineer Sarff reported the estimated project costs total \$520,800. He reviewed the assessment policy established in 2008 for the Pierce Avenue and Bennett Street Project which capped the assessment at \$6,000 plus the driveway assessment. He reported the assessment rates based on Cliff Court project costs range from \$6,400 to \$44,000. Engineer Sarff noted the Council could consider adjusting the assessment cap based on ENR Construction Cost Index from 2008 to 2013 or a 16 percent increase. This formula would adjust the cap to \$7,000 or approximately 15 percent of the total project cost. He also reported that in order to meet Chapter 429 of Minnesota State Statutes for a conventional G.O. Bond, the assessment cap would need to be increased to over \$9,000 plus the driveway assessment to meet the 20 percent requirement. Street Reconstruction G.O. Bonds, Chapter 475 of Minnesota State Statutes would allow for a lower assessment cap but would require a unanimous vote of the City Council for authorizing bond sale and the obligations issued are subject to the City's debt limit. The Council directed the Finance Director to meet with the City's bond counsel to review the bonding options for this project. Engineer Malm reported a preliminary assessment roll would be prepared prior to the improvement hearing. In conclusion, Engineer Sarff reported the existing street and underground utilities on Cliff Court are deteriorated and in need of repair. From an engineering standpoint, proposed improvements are feasible, cost effective and necessary and the recommendation is for the Council to accept the preliminary feasibility report and call for a public hearing on the proposed improvements. Engineer Sarff also recommended a neighborhood meeting be set prior to the improvement hearing. **Council Member Steiner moved, seconded by Council Member Norland, to adopt Resolution No. 19-13 Accepting Feasibility Report and Calling for Public Hearing on Project No. 13-01ABCDEF, Cliff Court Reconstruction and setting an informational meeting for 7 p.m. on Thursday, February 28, 2013. Vote on the Resolution: Spears, Steiner, Norland, Freyberg and Dehen, aye; no nays. Motion carried.**

Res. No. 20-13 Approving Minnesota Department of Transportation Agreement No. 02662 between the State of Minnesota Department of Transportation and the City of North Mankato

Engineer Malm presented a proposed cooperative construction agreement for Phase 2 of Highway 14/CSAH 41 interchange construction. The agreement provides for payment to the State of the City's share of the costs of the roadway, lighting, ADA improvements, roundabout and bridge. **Council Member Norland moved, seconded by Council Member Steiner, to adopt Resolution No. 20-13 Approving Minnesota Department of Transportation Agreement No. 02662 between the State of Minnesota Department of Transportation and the City of North Mankato. Vote on the Resolution: Spears, Steiner, Norland, Freyberg and Dehen, aye; no nays. Motion carried.**

**Report from Council Members
Council Member Steiner**

Council Member Steiner reported he received notice from the Library Director that she found a bookmobile for \$30,000 plus the cost of paint, wrap and travel costs for a total cost of \$47,000. Mayor Dehen reported the Council is still waiting for information from the Library Board regarding grant opportunities.

Council Member Norland

Council Member Norland reported she studied the North Mankato and Mankato websites and they are virtually the same as related to Boards and Commissions. She reported no openings were posted on either website. Mayor Dehen reported that postings would occur during the third quarter prior to setting terms for the upcoming year.

**Report from Mayor
Pedal Past Poverty**

Mayor Dehen announced he was still looking for Council/staff volunteers for the Pedal Past Poverty event to be held on March 2, 2013.

TurningPoint Management, Inc. Statement for Services

The Mayor presented a revised Statement for Services from TurningPoint Management, Inc. for the search for the City Administrator. He reported the cost of the search went over the projected amount.

**Open the Meeting to the Public for the Second Time
Bess Tsaouse, 136 Mary Circle**

Bess Tsaouse, 136 Mary Circle, appeared before the Council and thanked the City for changing the name of the Talent Bank form to Boards and Committee Application on the City's website. She also thanked Interim Administrator Fischer for providing her with the list of previous Mayors and the current members of the Boards and Committees and their term dates.

Ms. Tsaouse stated her appreciation for the electronic magazine subscriptions now available through the North Mankato Taylor Library.

Ms. Tsaouse referenced the Marigold Project and stated the need for a strategic plan which should involve citizen input. She also asked when Cliff Court was originally built and the Mayor reported that Cliff Court was built in 1967.

Barbara Church, 102 E. Wheeler Avenue

Barbara Church, 102 E. Wheeler Avenue, appeared before the Council and stated she went to vote a few minutes before 8 p.m. for the Special General Election and the Election Judges were very accommodating.

Ms. Church asked for an update on the fundraising effort to purchase the "Circle of Friends" sculpture for in front of the North Mankato Taylor Library. Council Member Steiner reported some monetary commitments have been made.

Ms. Church asked Council Member Norland to explain her comments regarding the variances for the Marigold Project. Council Member Norland stated that variances are to help codes deal with unique situations and give the City flexibility to do economic development work. She stated she considered talk of litigation dirty pool. Council Member Freyberg reported he asked Planner Fischer in a phone conversation this morning if there was threatened litigation regarding the Marigold Project and Mr. Fischer said "yes." He asked Planner Fischer at the Council meeting if the City in the past discussed a variance where litigation was threatened and Mr. Fischer said "no." Council Member Freyberg reported that since the City Attorney was not in attendance at this meeting, he felt it was necessary to have the Attorney's advice prior to considering the variances for the Marigold Project.

Bills and Appropriations

Council Member Steiner moved, seconded by Council Member Norland, to approve all bills and appropriations in the amount of \$237,732.04. Council Member Spears asked several questions regarding the bills. Vote on the motion: Freyberg, Spears, Steiner, Norland and Dehen, aye; no nays. Motion carried.

There being no further business, the meeting was adjourned at 9:09 p.m. on a motion by Council Member Steiner, seconded by Council Member Norland. Vote on the motion: Spears, Steiner, Norland, Freyberg and Dehen, aye; no nays. Motion carried.

Mayor

City Clerk