

### **Oath of Office for Elected Mayor and Council Members**

District Court Judge Bradley C. Walker administered the oath of office to the newly elected Council Member Kim Spears and re-elected Mayor Mark Dehen and Council Member Billy Steiner.

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 January 7, 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 Steiner, Norland, Freyberg and Spears, Interim City Administrator Fischer, Finance Director Thorne, City Clerk Gehrke, Engineer Malm and Attorney Kennedy.

### **Approval of Agenda**

**Council Member Steiner moved, seconded by Council Member Norland, to approve the agenda as presented with the inclusion under Council Member Spears to review the three-minute time limit for those wishing to speak under the open portions of the Council meetings. Vote on the motion: Steiner, Norland, Freyberg, Spears and Dehen, aye; no nays. Motion carried.**

### **Approval of Minutes**

**Council Member Freyberg moved, seconded by Council Member Norland, to approve the minutes of the Regular Council meeting of December 17, 2012, and the Special Council meetings of December 14, 2012, December 19, 2012 and December 20, 2012. Vote on the motion: Steiner, Norland, Freyberg and Dehen, aye; Spears abstained; no nays. Motion carried.**

### **Correspondence**

#### **Letter from Representative Kathy Brynaert**

Mayor Dehen read a letter from Representative Kathy Brynaert thanking the City for their support and stating that she looks forward to working with us.

#### **Programming Line-Up Change Notification from Charter Communications**

Mayor Dehen referenced a notice from Charter Communications regarding channel changes to become effective after Tuesday, January 22, 2013.

#### **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 referenced the notice from Charter Communications regarding the channel changes. She reported that she has Charter as her provider and has not received notice about this change as indicated in their notice.

Ms. Church also requested the Council actively recruit a diverse group of individuals to fill vacancies on the City Boards and Commissions.

### **Consent Agenda**

**Council Member Steiner moved, seconded by Council Member Norland to approve the Consent Agenda as follows:**

1. Audio and Large Group Permit for Arthritis Foundation Walk, Spring Lake Park, Saturday, May 4, 2013, from 7 a.m. to 1 p.m.
2. Parade Permit for Arthritis Foundation Walk, Spring Lake Park, Saturday, May 4, 2013 from 8 a.m. to 12 noon.

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

### **Staff Reports**

#### **Interim City Administrator**

##### **Res. No. 01-13 Designating Official Newspaper**

Interim Administrator Fischer presented Resolution No. 01-13 designating an official newspaper for the City of North Mankato for 2013 legal announcements and publications. Where permitted, announcements and publications will be placed on the City's web site. **Council Member Freyberg moved, seconded by Council Member Norland, to adopt Resolution No. 01-13 Designating *The Mankato Free Press* as the official newspaper for the City of North Mankato. Vote on the Resolution: Steiner, Norland, Freyberg, Spears and Dehen, aye; no nays. Motion carried.**

##### **Res. No. 02-13 Designating Depositories for City of North Mankato**

Interim Administrator Fischer presented Resolution No. 02-13 designating depositories for the City of North Mankato for 2013 and reported the City's checking account is with Frandsen Bank & Trust. **Council Member Steiner moved, seconded by Council Member Norland, to adopt Resolution No. 02-13 designating the following banks as City depositories: Frandsen Bank & Trust, US Bank, Wells Fargo, First National Bank Minnesota, Pioneer Bank, Voyager Bank, Community Bank of Vernon Center, Minnstar Bank NA, TCF Bank FSB, Wells Federal Bank FSB, Northern Star Bank and United Prairie Bank. Vote on the Resolution: Steiner, Norland, Freyberg, Spears and Dehen, aye; no nays. Motion carried.**

##### **Res. 03-13 Setting Fees and Charges**

Interim Administrator Fischer presented Res. No. 03-13 setting fees and charges. He reported staff is recommending that assessment searches submitted within 72 hours of closing incur a rush fee of \$30.00 for a total of \$60.00 and a penalty fee of 10 percent for license fees not submitted by the due date. **Council Member Freyberg moved, seconded by Council Member Steiner, to adopt Resolution No. 03-13 Setting Fees and Charges. Vote on the Resolution: Steiner, Norland, Freyberg, Spears 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 schools and conferences:**

1. Regional State Fire School, North Mankato, March 2-3, for 34 Firefighters.
2. MSFCA Fire Officers School, Alexandria, February 9-10, for 2 Fire Department Officers.
3. Minnesota State Fire Department Association Conference and School, Bemidji, June 19-22, for 6 Firefighters and 1 Relief Association Officer.
4. Minnesota Fire Chiefs Conference and School, Rochester, October 16-19, for 2-3 Fire Officers.

5. Governor's Homeland Security and Emergency Management Conference, Brooklyn Center, February 12-14, for Emergency Management Director and 1 Police Reserve Officer.
6. DOT Commercial Vehicles Inspection Recertification, North Mankato, January 8, for Mechanic Foreman.
7. L.O.C.K.U.P. – The Bulletproof Mind, St. Paul, March 19, for Police Detective.

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

### **Finance Director**

#### **Property/Casualty Insurance Dividend**

Finance Director Thorne reported the League of Minnesota Cities Insurance Trust notified the City of a property/casualty insurance dividend in the amount of \$56,762 from a total 2012 premium of \$139,939. The Finance Director reported this is a larger dividend than normal due to the success cities have had in reducing the cost of claims related to land use litigation and police liability.

#### **Res. No. 04-13 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 a resolution declaring official intent of the City to reimburse expenditures from the proceeds of equipment certificate bonds to be issued by the City. She reported that on January 7, 2013, the City will be purchasing 20 radios for the amount of \$4,851.20 for street and park employees in conjunction with the Civil Defense siren upgrade approved by the City Council in the Five-Year Capital Improvement Plan for the year 2013.

**Council Member Steiner moved, seconded by Council Member Norland, to adopt Resolution No. 04-13 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: Steiner, Norland, Freyberg, Spears and Dehen, aye; no nays. Motion carried.**

### **Report from Council Members**

#### **Council Member Norland**

Council Member Norland asked that the Council set a time to discuss allowing the planting of prairie grasses in North Mankato yards. She reported that in light of the recent droughts, the City may need to consider limiting the use of water for outdoor watering.

#### **Council Member Spears**

Council Member Spears read the following statement regarding the three-minute time limit imposed on persons wishing to speak during the open portions of the meeting: "Because it is a prima facie violation of the First Amendment of the Constitution of the United States; Because the Mayor, as chairman of the Council meetings has the authority to end comment at the point where it becomes unproductive; Because the limit makes the presumption that typical public comment is only worthy of three minutes; Because the restriction makes it more threatening for members of the public to come forward when just speaking before the Council is a scary prospect, therefore presenting another hurdle to public participation; Because the limit can discount the effort and preparation a citizen has invested in their presentation; and Because the restriction is an arbitrary application of power and can make the citizen feel belittled."

**Council Member Spears moved, seconded by Council Member Freyberg, to revoke the three-minute time limit for those persons wishing to speak during the open portions of the meeting.** Council Member Freyberg stated the three-minute limit is a useful tool so that people are prepared to speak. Attorney Kennedy noted the City of North Mankato is doing more than most cities by having two opportunities for citizens to address the Council. The Mayor stated several instances in the past two years where citizens have used the open portion of the meeting as a bully pulpit and he is lenient if someone is not done speaking and goes over their three-minute limit. He also stated that written comments may be provided to the Council. Council Member Spears rebutted that the three-minute limit does not give the impression the City of North Mankato is a kind and gentle City and is an imposition on those people who honestly have issues to speak about and referenced an article from the *Municipal Research and Services Center of Washington* which addressed Council meeting conduct and citizen rights under the First Amendment. In summary, the article related “that a speaker may not be stopped from speaking because the moderator disagrees with the speaker’s viewpoint.” The article further states that “consistent enforcement of the Council rule of procedure will serve well in the face of challenges to the exercise of those rules and that a consistent management of the rules (such as adhering to the three-minute limitation) will provide a city or county with a foundation for demonstrating that its conduct is not discriminatory and non-content based in the face of a claim of First Amendment violations.” **Vote on the motion: Spears aye; Steiner, Norland, Freyberg and Dehen, nay. The motion failed.**

### **Report from Mayor**

#### **Appointments to Boards and Commissions**

Mayor Dehen presented the list of appointments to boards, committees and commissions for the year 2013 as follows: Billy Steiner as Acting Mayor; Nick Meyer and Mark Weinstein to the Planning Commission for a four-year term through 2016; Bryan Bode to the Planning Commission for a two-year term through 2014; Steven Mork and Leon Bembenek to the Housing and Redevelopment Authority for five-year terms through 2017; Bill Borchardt to the Traffic and Safety Committee for a one-year term; Nancy Hopkins and John Daley to the Board of Appeal and Equalization for three-year terms through 2015; Keith Hamm to the Board of Appeal and Equalization for a two-year term through 2014; Brenda Peterson and Gary Zellmer to the North Mankato Taylor Library Board for three-year terms through 2015; Jo Robbins and John Maiers to the North Mankato Bicycle Commission for two-year terms through 2014; Jon Anderson and Tom Schwinghammer to the North Mankato Bicycle Commission for one-year terms through 2013; Kennedy & Kennedy as City Attorney; Bolton & Menk as Consulting Civil Engineer; Northland Securities, Inc. as Bond Consultant; Abdo, Eick & Meyers as Auditor; Todd Mettler as Weed Inspector; Bruce Royer as Plumbing Inspector; and Derek Tostenson as Construction Inspector. **Council Member Freyberg moved, seconded by Council Member Norland, to set the appointments for the year 2013. Vote on the motion: Steiner, Norland, Freyberg, Spears and Dehen; aye; no nays. Motion carried.**

#### **Res. No. 05-13 Approving City Council Committee Assignments**

Mayor Dehen presented Resolution No. 05-13 Approving City Council Committee Assignments. Council Member Freyberg asked if Council Member Spears would be interested in serving on the Region Nine Development Commission in his place. Council Member Spears reported he would be willing to serve in this capacity. The City Council Assignments are as follows:

Mayor Mark Dehen:	Nicollet County/North Mankato Liaison Committee North Mankato Port Authority Commission Personnel Committee Intergovernmental Cooperation (Advisory Committee) Cities/Colleges/Universities Advisory Council Coalition of Greater Minnesota Cities North Mankato Fire Relief Association Highway 14 Partnership North Mankato Bicycle Commission
Council Member Billy Steiner	Personnel Committee North Mankato Taylor Library Board North Mankato Port Authority Commission Intergovernmental Youth Assets Envision 2020
Council Member Diane Norland:	Region Nine Development Commission Mankato Area Community Services Council Envision 2020 Park and Green Spaces Committee Chair
Council Member Bob Freyberg:	All Seasons Arena Board Intergovernmental Cooperation (Advisory Committee) Nicollet County Recycling Task Force North Mankato Planning Commission Metropolitan Planning Organization (MPO)
Council Member Kim Spears	Region Nine Development Commission (Alternate) Nicollet County/North Mankato Liaison Committee Community Center Task Force Traffic & Safety Committee Passenger Rail Group

**Council Member Freyberg moved, seconded by Council Member Norland to adopt Resolution No. 05-13 Approving City Council Committee Assignments. Vote on the Resolution: Steiner, Norland, Freyberg, Spears and Dehen; aye; no nays. Motion carried.**

**Certificate of Recognition to Dave Trask for 20 Years of Service on the North Mankato Planning Commission**

Mayor Dehen read the Certificate of Recognition honoring Dave Trask for his 20 years of service on the North Mankato Planning Commission.

**City Administrator Hiring Update**

The Mayor reported negotiations are proceeding with John Harrenstein to fill the City Administrator position with a resolution expected shortly.

**Letter from Oscar Bruner**

The Mayor read a letter from Oscar Bruner thanking the Council for keeping the City of North Mankato a wonderful place to live.

**Sioux Valley Mental Health Center**

The Mayor announced an open house would be held from 4 p.m. to 6 p.m. on Wednesday, January 23, 2013 at the Sioux Valley Mental Health Center, 342 Belgrade Avenue.

**Coffee with the Council**

The Mayor reported the next “Coffee with the Council” will be held from 10:30 a.m. to 11:30 a.m. on Saturday, January 12, 2013 at the City’s newest eating establishment, Erbert and Gerbert’s, 1710 Commerce Drive.

**Pedal Past Poverty**

The Mayor reported he, along with Mankato Mayor Anderson, will be an honorary chair for the Pedal Past Poverty event to be held from 9 a.m. to 2 p.m. on Saturday, March 2, 2013. He is looking to form a 10-member team from the City of North Mankato and asked interested City Council Members and City employees to contact him.

**Open the Meeting to the Public for the Second Time**

**Barb Church, 102 E. Wheeler Avenue**

Barb Church, 102 E. Wheeler Avenue, appeared before the Council and stated she believes a five-minute limit seems a reasonable time during the open portions of the Council meetings.

**Bills and Appropriations**

Council Member Norland moved, seconded by Council Member Steiner, to approve all bills and appropriations in the amounts of \$245,846.45 and \$313,588.28 Vote on the motion: Steiner, Norland, Freyberg, Spears and Dehen, aye; no nays. Motion carried.

There being no further business, the meeting was adjourned at 7:53 p.m.

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Mayor

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City Clerk