

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 August 18, 2014. 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, Spears, and Norland, City Administrator Harrenstein, Finance Director Thorne, Attorney Kennedy, City Clerk Gehrke, Planner Fischer, and Public Works Director Swanson. Absent: Council Member Steiner

### **Approval of Agenda**

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

### **Approval of Minutes**

**Council Member Spears moved, seconded by Council Member Norland, to approve the minutes of the Council meeting of August 4, 2014. Vote on the motion: Spears, Norland, Freyberg, and Dehen, aye; no nays. Motion carried.**

### **Consent Agenda**

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

- A. Bills and Appropriations.
- B. Res. No. 52-14 Approving Donations/Contributions/Grants.
- C. Audio and Large Group Permit for Bridges Community School Picnic, Wheeler Park, Wednesday, August 27, 2014 from 3-9 p.m.
- D. Results of 2014 Primary Election

**Vote on the motion: Spears, Norland, Freyberg and Dehen, aye; no nays. Motion carried.** Mayor Dehen thanked donors for their generous donations to the Caswell Park North Soccer Complex Concession Building.

### **Public Comments**

The Mayor stated that public comments would be taken by subject. The first comments would be about business item Z-3-14 Request to Rezone North Gate and North Gate No. 2 from R-2, One- and Two-Family Dwelling district to R-1, One-Family Dwelling district. The following individuals appeared to comment on this subject:

Chad Hoppe, 2243 Kodiak Drive, appeared before the council requesting the rezoning of North Gate and North Gate No. 2 from R-2 One- and Two-Family Dwelling to R-1, One-Family Dwelling stating that when he purchased the house he was told it was a single-family neighborhood. He also produced Certified Document No. 270598 filed with Nicollet County which is a Declaration of Protective Covenants and Restrictions, including that the lots 'shall be used exclusively for single-family residential purposes.' Attorney Kennedy asked if when it became apparent that a duplex was being built was the builder confronted, because covenants are enforced by the neighborhood. Mr. Hoppe responded that they did not confront the builder.

Aaron Glade, Farrish Johnson Law Office, appeared before the Council on behalf of developer Troy Donohue. He stated that Mr. Donohue purchased four lots zoned R-2 with the intent of building

duplexes. Mr. Glade asked the Council not to rezone the property to R-1 because Troy Donohue would suffer monetary loss due to the change in zoning.

Jon Hanson, 2225 Fairbanks Drive, appeared before the Council requesting the rezoning of North Gate and North Gate No. 2 from R-2 to R-1, stating the completed duplex does not have its façade completed, tenants have been parking in front of mailboxes, and speeding through the area. Attorney Kennedy asked if when it became apparent that a duplex was being built was the builder told about the covenant. Hanson responded that he was not aware it was a duplex until it was almost completed. Administrator Harrenstein stated it would be difficult to determine it was a duplex in the early stages of development.

Jonathan Dickerman, 2231 Fairbanks Drive, appeared before the Council stating if another duplex is built he will sell his house. He fears the value of his home will decrease due to the rental property.

Nora Hernandez, 2237 Fairbanks Drive, appeared before the Council indicating that the current duplex is not maintained properly, and if more duplexes are built they will sell their home.

Daniel K. Grassman, 2232 Kodiak Drive, appeared before the Council acknowledging that the current duplex cannot be removed. He requested that the zoning on the remaining lots be changed from R-2 to R-1.

Daryl Timmerman, 2209 Fairbanks Drive, appeared before the Council stating additional duplexes would be a safety concern, due to parking and increased number of vehicles.

Aaron Glade, Farrish Johnson Law Office, appeared before the Council on behalf of Troy Donohue to follow up on concerns brought by the residents. He stated that safety and appearance concerns should be dealt with by a call to law enforcement or a phone call to his client, Troy Donohue.

Chadd Hoppe, 2243 Kodiak Drive, responded to Aaron Glade stating he did not want law enforcement responding to these concerns, there were better ways to spend taxpayer's money.

The Mayor closed comments on the Z-3-14 Request to Rezone North Gate and North Gate No. 2 from R-2, One- and Two-Family Dwelling district to R-1, One-Family Dwelling district.

Barb Church 102 E. Wheeler, appeared before the Council with several questions. She asked when a workshop on the possible historic preservation of the Tschohl property would occur, requested the Intergovernmental Committee address concerns about noise from concerts and events, suggested buying a band shell to focus music to the people who want to listen, asked about the posting of the Housing and Redevelopment Authority minutes on the City website, and requested that answers to any of her questions be given in a public forum. Council Member Norland responded that she had not been able to work on the Tschohl property because she had hip surgery. Administrator Harrenstein suggested the materials for historic preservation should be brought together and presented at a workshop or a meeting. Mayor Dehen requested the materials be reviewed by staff and then presented at a Council Workshop. City Clerk Gehrke reported that the Housing and Redevelopment Authority Minutes on the website were current as of July 29, 2014, which was the last scheduled meeting.

**Business Items****Z-3-14, Request to Rezone North Gate and North Gate No. 2 from R-2, One- and Two-Family Dwelling District to R-1, One-Family Dwelling District**

Mayor Dehen stated that the Council has heard testimony on the subject of rezoning and asked Planner Fischer to present the Planning Commission's recommendation. Planner Fischer directed the Council to Exhibit B in the packet. The map was color coded with the red lots showing those in forfeiture, the four lots purchased by Donahue were yellow. Lots 14-15 (yellow) face Fairbanks and one has a permit to build a duplex the other has a completed duplex. The two yellow lots facing Kodiak have no plans for development. Planner Fischer was also given notice that a lot was purchased Thursday, August 14, 2014 by another individual to build a duplex. Planner Fischer stated there was considerable discussion by the Planning Commission concerning implementation with concerns about non-conforming use and the potential for problems when refinancing or purchasing a lot with a non-conforming use. The Planning Commission recommended Lots 14-15, Block 5, that are developed or in the process of development remain zoned R-2 and rezone the rest of North Gate and North Gate No. 2 as R-1. Attorney Kennedy noted that homeowners ignored the R-2 zoning when purchasing the property and the Covenant was at odds with the zoning. This does not mean the Covenant was invalid, but the Covenant of Restriction is enforceable by property owners not by the City. The Planning Commission was trying to recommend a fair resolution and this is not spot zoning. Mayor Dehen noted that it is the developers' responsibility to look at covenants. Administrator Harrenstein suggested rezoning everything except the lot with the completed duplex and the other lot with the foundation.

**Council Member Freyberg moved, seconded by Council Member Norland, to adopt Ord. No. 59, Fourth Series, Rezoning North Gate and North Gate No. 2 from R-2, One- and Two-Family Dwelling district to R-1, One-Family Dwelling district, with the exception of Lots 14-15, Block 5, North Gate No. 2 which will remain zoned R-2, One-and Two-Family Dwelling. Vote on Ordinance: Spears, Norland, Freyberg and Dehen, aye; no nays. Motion carried.**

**Consider Setting Public Hearing for HUD Consolidated Annual Performance Evaluation Report (CAPER) for 7 p.m. on Tuesday, September 2, 2014**

**Council Member Norland moved, seconded by Council Member Freyberg, to set a Public Hearing to review the HUD Consolidated Annual Performance Evaluation Report (CAPER) for 7 p.m. on Tuesday, September 2, 2014. Vote on the motion: Spears, Norland, Freyberg and Dehen, aye; no nays. Motion carried.**

**Consider Setting Date for 2015 Budget Workshop**

Administrator Harrenstein requested a Budget Workshop be set for 6 p.m. on Monday, August 25, 2014. A second Budget Workshop has already been scheduled for 6 p.m. on Tuesday, September 2, 2014. **Council Member Norland moved, seconded by Council Member Freyberg, to set 2015 Budget Workshop on August 25, 2014 at 6 p.m. Vote on the motion: Spears, Norland, Freyberg and Dehen, aye; no nays. Motion carried.**

**City Administrator and Staff Comments**

Administrator Harrenstein introduced April Van Genderen as the new City Clerk she will be replacing Nancy Gehrke who will be retiring later this year.

Administrator Harrenstein complimented Public Works Director Swanson on a very successful "Movies in the Park" held at Spring Lake Park on Friday, August 15, 2014. Director Swanson reported that it was a group effort and there were approximately 500 people at the movie. He added that they would like to continue with "Movies in the Park" next year with a possible additional night.

Public Works Director Swanson reported the Old Belgrade Ravine project is moving forward with over 1/2 of the fill completed. He also stated the work is proceeding on the concession building at the Caswell Park North Soccer Field.

Mayor Dehen stated the lights at Spring Lake Park are a nice addition, with Director Swanson reporting they will be working on adding limestone around the bases of the light poles.

**Mayor and Council Comments**

Council Member Norland indicated that she is doing well after her hip replacement.

Mayor Dehen displayed the post card that residents received outlining the expanded garbage and recycling services and stated if anyone wants to make changes to their cart selection to contact City Hall. Mayor Dehen reported he was able to attend the ground breaking for the Dakota Meadows \$6.7 million addition. Next year, 6<sup>th</sup> Grade will be at Dakota Meadows and they will be repurposing Garfield School.

**Public Comments**

Ward Jackson, 257 Butterworth Street, appeared before the Council stating that he recently paid \$55,000 for a lot in North Gate with the intent to build a duplex. Attorney Kennedy asked him if he knew of the possible rezoning of North Gate and if he checked Nicollet County's records for Restrictions of Covenants. Jackson stated he knew about the possible rezoning and thought if he bought the property before the rezoning he would be grandfathered in as R-2. He also stated that he did not check for Restrictions of Covenant, but was not notified by Nicollet County of any covenant.

Jim Whitlock, 332 Belgrade Avenue, appeared before the Council to provide a report on the economic impact of Blues on Belgrade. Jim reported there was an estimated four thousand people sustained, and six thousand during the 11 hours of the production. Revenue was estimated at \$80,000 worth of activity generated that day on Belgrade Avenue. Jim concluded by saying that the economic impact from the Pub Crawl on Friday, July 25<sup>th</sup>, and Blues on Belgrade on Saturday, July 26<sup>th</sup>, was over \$250,000 dollars to the region. The direct impact of this is over \$150,000 to our immediate area and \$7,500 in sales tax.

There being no further business, on a motion by Council Member Norland, seconded by Council Member Freyberg, the meeting adjourned at 8:07 p.m.

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Mayor

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City Clerk