

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 May 6, 2019. 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 roll call: Council Member Oachs, Whitlock, Steiner, and Norland, City Administrator Harrenstein, City Attorney Kennedy, Finance Director McCann, Community Development Director Fischer, Public Works Director Host, and City Clerk Van Genderen.

Approval of Agenda

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

Approval of Council Meeting Minutes April 15, 2019

Council Member Steiner moved, seconded by Council Member Norland, to approve the minutes of the Council meeting of April 15, 2019. Vote on the motion: Oachs, Whitlock, Steiner, Norland, and Dehen aye; no nays. Motion carried.

Approval of Council Work Session Minutes April 22, 2019

Council Member Norland moved, seconded by Council Member Steiner, to approve the minutes of the Council Work Session of April 22, 2019. Vote on the motion: Oachs, Whitlock, Steiner, Norland, and Dehen aye; no nays. Motion carried.

Public Hearing, 7 pm Ordinance No. 113, Amending North Mankato City Code, Title VII, Traffic Code, Chapter 71, Parking Regulations.

Community Development Director Fischer noted the amendment to Chapter 71.05 on Street Parking would change the number of continuous hours a person can park on the street from 24 to 48 hours. He noted there were two references in the code to 24 hours that would now change to 48 hours. With no one appearing before Council, Mayor Dehen closed the Public Hearing.

Public Hearing, 7 pm Ordinance No. 114, Amending City Code Section 156.035 Related to Swimming Pool Setbacks.

Community Development Director Fischer reported a request came from Richard Sawatzky to reduce the rear yard setback for swimming pools to 10 feet. The current rear yard setback for either an in-ground or above-ground swimming 15 feet. For ravine properties, the setback for in-ground pools is 25 feet measured from the ravine breakline. The Planning Commission discussed the request on two separate occasions, held considerable discussion, received engineering recommendations and looked at other city codes. Community Development Director Fischer reported the Planning Commission recommended a reduction in the breakline setback for pools from 25 feet to 10 feet he stated it is not a concern when a ravine is in good condition and stable. However, when a ravine shows signs of sloughing, a 10-foot ravine breakline setback would not be recommended. Therefore, the recommendation is for a City Building Inspector to review the condition of ravines when determining a breakline setback of either 10 feet or 25 feet. Above ground pools will remain at 25 feet. Community Development Director Fischer reported City staff has been determining setbacks and breaklines since 2001 and a checklist has been created to ensure if a ravine has questionable features that it is referred to the City Engineer for further review to determine if the setback should be moved to 25 feet.

Richard Sawatzky of Sawatzky Pools, 433 Belgrade Avenue, appeared before Council and reported there have been no erosion problems due to swimming pools he has installed.

Barb Church, 102 Wheeler Avenue, appeared before Council and indicated she had concerns about the wording and indicated she believes the code should remain 25 feet with the option to decrease to 10 feet.

Phil Henry, 1300 Noretta Drive, appeared before Council and stated he believed the setback should remain 25 feet because a lot of ravines are slumping.

Tom Hagen, 927 Lake Street, appeared before Council and reported he believed the soil on the ravines would lead to pools sliding into the ravine if the setbacks were reduced and indicated a soil engineer should review each request. Mr. Hagen also indicated concrete pools could crack and leak adding to soil issues.

Taber Sawatzky, 24 Howard Court, appeared before Council and reported the pools that Sawatzky Pools installs are not concrete, they are vinyl lined and will not leak.

Kim Veroeven, 14 Camden Court, appeared before Council and reported with the setbacks changed they may be able to install a pool to enjoy and encouraged Council to change the setbacks.

Public Hearing, 7 pm-Proposed Assessment for Project No. 18-07 ABCDEF, Tyler Avenue Street & Utility Improvement.

City Engineer Sarff reviewed the Tyler Avenue Project. The project is the 300 block of Tyler Avenue between Cross Street and Range Street. The project was included in the City's Capital Improvement Plan for 2019. Tonight is the assessment hearing as a portion of the project will be assessed to the property owners. City Engineer Sarff reviewed the proposed improvements which included sanitary sewer improvements, watermain improvements, storm sewer improvements, and street and surface improvements. He reported there were 21 existing boulevard trees and 16 of those trees will be removed due to size, misshapen, unhealthy or ash trees. Property owners will be offered new trees to be installed behind the sidewalk. City Administrator Harrenstein reminded Council that saving trees is difficult due to the damage that can be done to the roots during the project which can ultimately lead to the death of the tree and possible damage to homes or property. City Engineer Sarff reviewed the estimated cost for the project which includes street and street lights at \$325,400, storm sewer at \$100,800, Sanitary Sewer Mainline at \$51,700, Sanitary Sewer Services at \$24,300, Watermain Mainline at \$54,500, and water services at \$33,400 for a total estimated cost of \$590,000. City Engineer Sarff reviewed the assessment policy and reported that based on calculated assessments the assessments range from \$12,600 to \$15,200, but the City has established an assessment cap and the proposed assessment cap for Tyler Avenue is \$6,000. There are provisions in the City's assessment policy regarding credit for recently constructed sidewalks. Two properties qualify; 318 Tyler replaced a sidewalk in 2018 and they will be credited \$827.50 for a total assessment of \$5,172.50, and 317 Tyler Avenue replaced a sidewalk in 2015 and will be credited \$629.20 for a total assessment of \$5,370.80. City Engineer Sarff reported the special assessment would total \$118,543.30 or 20% of the cost of the project. The City will pay for \$471,556.70 or 80% of the project. City Engineer Sarff reviewed the proposed schedule with construction beginning in June and completion on August 31, 2019; these dates are approximate due to the weather and residents will remain informed of changes.

With no one appearing, Mayor Dehen closed the Public Hearing.

Consent Agenda

Council Member Norland moved, seconded by Council Member Steiner, to approve the Consent Agenda.

- A. Bills and Appropriations.
- B. Res. No. 37-19 Approving Donations/Contributions/Grants.
- C. Approved Park and Audio Permit for Associated Finishing Picnic on August 2, 2019, from 1:00 p.m. to 7:00 p.m. at Spring Lake Shelter #1.
- D. Approved Audio Permit for the Circle Inn on May 11, 17, 18 and 25, 2019, from 6:00 p.m. to 10:00 p.m.
- E. Approved Large Group Permit for Justin Kaus Benefit at 232 Belgrade Avenue on May 19, 2019, from 10:00 am to 6:00 pm.
- F. Approved Parade Permit for Dance Conservatory's Tulips and Tutu 5K on June 29, 2019, from 9:00 am to 1:00 pm at Benson Park.
- G. Approved Application for Temporary On-Sale Liquor License for Vista Prairie at Monarch Meadows on June 14, 2019.
- H. Approved Large Group and Audio Permit for the Mankato Brewery Ribfest Release Party on June 1, 2019, from 11 am to 4 pm at 1118 Center Street.
- I. Approved Large Group and Audio Permit for Mankato Bike Polo-Dynamic Duos event at the Spring Lake Park Hockey Rinks on July 12-14 from 9 am to 10 pm.
- J. Approved Application for 6-month Seasonal Extension of Patio Premise for the Circle Inn at 232 Belgrade Avenue.
- K. Approved Movies in the Park for June 22, 2019, from 8 pm to 11 pm at Wheeler Park.
- L. Approved Movies in the Park for August 2, 2019, from 8 pm to 11 pm at Spring Lake Park.
- M. Set Public Hearing for 7 pm on May 20, 2019, to Consider Small Cell Wireless Equipment Installation Ordinance.
- N. Accepted and Implemented the Traffic and Safety Committee Recommendations from May 1, 2019, Traffic and Safety Committee Meeting.

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

Public Comments Concerning Business Items on the Agenda

Tom Hagen, 917 Lake Street, appeared before Council and requested the Council not support the swimming pool setbacks.

Richard Sawatzky, 2141 East Dream Drive, appeared before Council and requested support for the proposed reduced backyard setbacks for swimming pools.

Business Items

Ordinance No. 113, Amending North Mankato City Code, Title VII, Traffic Code, Chapter 71, Parking Regulations.

Council Member Steiner moved, seconded by Council Member Norland to Adopt Ordinance No. 113, Amending North Mankato City Code, Title VII, Traffic Code, Chapter 71, Parking Regulations. Vote on the motion: Oachs, Whitlock, Steiner, Norland, and Dehen aye; no nays. Motion carried.

Res. No. 36-19 Approving Mn/DOT Contract No. 1033832 Appointing Mn/DOT as the City's Agent in Accepting Federal Aid Funds in Conjunction with the 2019 Commerce Drive Improvement Project.

Council Member Steiner moved, seconded by Council Member Norland to Adopt Res. No. 36-19 Approving Mn/DOT Contract No. 1033832 Appointing Mn/DOT as the City's Agent in Accepting Federal Aid Funds in Conjunction with the 2019 Commerce Drive Improvement Project. Vote on the motion: Steiner, Norland, Oachs, Whitlock, and Dehen aye; no nays. Motion carried.

Ordinance No. 114, Amending City Code Section 156.035 Related to Swimming Pool Setbacks.

City Administrator Harrenstein reported the Planning Commission deliberated the request and recommended the setback of 10 feet if there is no degradation to the ravine. He reported there was discussion concerning providing two options. One option would leave the setback at 25 feet and require negotiation between the inspectors and the homeowners. This option is similar to a variance and the request would go through a much different process with different standards. He stated the Planning Commission deliberated, the City Engineer reviewed the request and suggested there may be benefits due to the reduction of weight with the pool weighing less than soil. Braun Intertec a geotechnical engineering firm reviewed the proposal and did not have any concerns. City Administrator Harrenstein reported City staff will review each proposed installation and require extra space if there is degradation of the ravine. City Council Member Steiner clarified that the breakline and ravines would be inspected by professionals. Attorney Kennedy reported a portion of the discussion at the Planning Commission included that in-ground pools weigh less than above ground pools and the setbacks will not change for above ground pools. He also indicated that if there were issues with pools, the City Code could be changed. Council Member Oachs proposed a change to the proposed ordinance. She requested the following change to 156.035 Generally (E) Accessory Uses (3) The following are minimum rear yard setbacks for swimming pools: to read (3) *The following are minimum rear yard setbacks for swimming pools, including attached deck or apron.* Council Member Norland reported she appreciated the public comments and requested clarification from City Engineer Sarff if he was confident in protecting the ravines. City Engineer Sarff stated staff is capable of determining if issues will arise because of preexisting conditions, he did report that in his estimation the vast majority of ravines will not be an issue. He reported the City of Mankato has used 10 feet setbacks and have not had issues. Mayor Dehen reported that the pools built before 2001 with a 10 feet setback have had no issues. The Ordinance was changed from 10 feet to 25 feet following an anomalous rainfall of 9 inches. Attorney Kennedy reported two parties will be a part of the decision making process who have a vested financial interest; the property owner and Mr. Sawatzky and both will do what it takes to protect their investment. **Council Member Steiner moved, seconded by Council Member Whitlock to Adopt Ordinance No. 114 Amending City Code, Title XV, Land Usage, Chapter 156, Zoning Code as Amended. Vote on the motion: Oachs, Whitlock, Steiner, Norland, and Dehen aye; no nays. Motion carried.**

Res. No. 38-19 Adopting Assessment for Project No. 18-07 ABCDEF Tyler Avenue Reconstruction Project.

Council Member Norland moved, seconded by Council Member Steiner to Adopt Res. No. 38-19 Adopting Assessment for Project No. 18-07 ABCDEF Tyler Avenue Reconstruction Project. Vote on the motion: Oachs, Whitlock, Steiner, Norland, and Dehen aye; no nays. Motion carried.

Res. No. 39-19 Accepting Bid Project No. 18-07 ABCDEF 2019 Tyler Avenue Reconstruction Project.

City Engineer Sarff reported bids were opened on March 21st. Three bids were received: WW Blacktopping, Inc. \$500,097.08, Holtmeier Construction, Inc. \$510,490.53 and OMG Midwest, Inc. (SMC), \$566,134.85. The low bidder for the project is WW Blacktopping, Inc., and the estimated construction cost is approximately 15% above the Preliminary Engineering Report. Based on past performance on similar projects it is recommended that WW Blacktopping, Inc. be awarded the contract. **Council Member Steiner moved, seconded by Council Member Norland to adopt Res. No. 39-19 Accepting Bid Project No. 18-07 ABCDEF 2019 Tyler Avenue Reconstruction Project. Vote on the motion: Oachs, Whitlock, Steiner, Norland, and Dehen aye; no nays. Motion carried.**

Res. No. 40-18 Declaring Cost to be Assessed and Ordering Preparation of Proposed Assessment 2019 Commerce Drive Improvement Project No. 18-05 DEF.

Finance Director McCann reviewed the proposed project which is located on Commerce Drive between Lookout Drive and Lor Ray Drive. The project includes street and drainage improvements, access removal/consolidation, streetscaping, and lighting. The estimated cost for the project is \$3,314,000. Finance Director McCann reported the proposed assessment is \$67.72 per linear foot and reflects the assessment cap that has been applied to other reconstruction projects. The total assessed to properties would be \$426,331.69 and would meet the legal requirement of 20% of the cost. **Council Member Steiner moved, seconded by Council Member Norland to adopt Res. No. 40-18 Declaring Cost to be Assessed and Ordering Preparation of Proposed Assessment 2019 Commerce Drive Improvement Project No. 18-05 DEF. Vote on the motion: Oachs, Whitlock, Steiner, Norland, and Dehen aye; no nays. Motion carried.**

Res. No. 41-18 for Hearing on Proposed Assessment 2019 Commerce Drive Improvement Project No. 18-05 DEF.

Council Member Norland moved, seconded by Council Member Steiner to Adopt Res. No. 41-18 for Hearing on Proposed Assessment 2019 Commerce Drive Improvement Project No. 18-05 DEF. Vote on the motion: Oachs, Whitlock, Steiner, Norland, and Dehen aye; no nays. Motion carried.

Res. No. 42-19 Approving MN/DOT Contract No. 1033832 Appointing MN/DOT as the City's Agent in Accepting Federal Aid Funds in Conjunction with the 2019 Commerce Drive Improvement Project.

City Engineer Sarff reported this is basically the same agreement signed at the last Council Meeting except MnDOT found more federal funds to be applied to the project in 2019, so the advance from future years, FY 2021 and FY 2022 is less. **Council Member Steiner moved, seconded by Council Member Norland to Adopt Res. No. 42-19 Approving MN/DOT Contract No. 1033832 Appointing MN/DOT as the City's Agenda in Accepting Federal Aid Funds in Conjunction with the 2019 Commerce Drive Improvement Project. Vote on the motion: Oachs, Whitlock, Steiner, Norland, and Dehen aye; no nays. Motion carried.**

Open Forum

Tom Hagen, 927 Lake Street, appeared before Council and requested Council consider a historic preservation committee.

Phil Henry, 1300 Noretta Drive, appeared before Council and indicated he thought expanding the types of trees planted in Benson Park would benefit the park. He also reported that a plaque for a tree that he purchased for his wife is missing and would like to see if it can be replaced.

City Administrator and Staff Comments

City Administrator Harrenstein reported the asphalt plants are operational and crews will be out patching.

City Administrator Harrenstein stated if anyone has suggestions for trees to plant to contact the City Forester, Jason Lobitz.

Finance Director McCann reported the auditors are present at the City this week.

Finance Director McCann reported 101 Meters have been changed to automatic read meters with 31 on the waitlist.

Mayor and Council Comments

Mayor Dehen reported he received a thank you note from the Boys and Girls Club for supporting their event.

Mayor Dehen reported Bookin' on Belgrade will be held on May 18, 2019, starting at 9 am at the North Mankato Taylor Library. There is still time to participate.

At 8:09 p.m. on a motion by Council Member Steiner, seconded by Council Member Norland the Council Meeting was adjourned.

Mayor

City Clerk