

**CITY OF PARK RAPIDS
CITY COUNCIL MEETING
June 28, 2016, 6:00 PM
Park Rapids Public Library-Lower Level
Park Rapids, Minnesota**

1. CALL TO ORDER: The June 28th, 2016, Regular Meeting of the Park Rapids City Council was called to order at 6:00 p.m. by Mayor Pat Mikesh, and everyone present recited the Pledge of Allegiance.

2. ROLL CALL: Present: Mayor Pat Mikesh, Councilmembers Ryan Leckner, Rod Nordberg, Erika Randall, and Paul Utke. Absent: None. Staff Present: Administrator John McKinney, Liquor Store Manager Scott Olson, Treasurer Angela Brumbaugh, Planner Ryan Mathisrud, Public Facilities Superintendent Chris Fieldsend, Public Works Superintendent Scott Burlingame, and Clerk Margie Vik. Others Present: Dick Rutherford, Nancy Newman, Sue Tomte, Jay Ross, Steve Wigness, Cynthia Jones, Hubbard County Attorney Don Dearstyne, and Kevin Cederstrom from the Enterprise.

3. APPROVAL OF AGENDA: A motion was made by Utke, seconded by Randall, and unanimously carried to approve the agenda with the following additions:

Add to Consent:

Item #7.23. Approve Public Facilities Use Permit for Roadhouse Sandwiches to Use Red Bridge Park, on Monday, July 4th, 2016, from 4:00 p.m. to 7:00 p.m.

Item #7.24. Approve Transient Merchant License for Andre Reams d.b.a. Roadhouse Sandwiches on Monday, July 4th, 2016, to Sell Food in Red Bridge Park.

Additional Information was presented for Item #10.1. and #10.2.

Add to General Business:

#10.4. Resolution Authorizing Proper City Officials to Execute the Independent Contractor Agreement by and between Harlan Johnson and the City of Park Rapids.

4. PUBLIC HEARING FOR REVENUE BOND FOR CATHOLIC HEALTH INITIATIVES:

A motion was made by Leckner, seconded by Utke, and unanimously carried to open the public hearing at 6:04 p.m.

4.1. Presentation for the Revenue Bonds, Series 2016 for the Catholic Health Initiatives, Issued by the Colorado Health Facilities Authority: McKinney stated this public hearing is required by treasury regulations for a refunding of a large bond issue which has been refunded, part of the proceeds of which were spent on the facilities in Park Rapids. There is a representative from the hospital here to answer questions. There are no liabilities on behalf of the city.

Jay Ross, Chief Financial Officer for St. Joseph's Hospital, stated Catholic Health Initiatives (CHI) is attempting to obtain statutory required approval to issue tax exempt bonds. CHI and many of its facilities across the United States, it's just shy of one-hundred and twenty, with four in the State of Minnesota, has funded capital purchases throughout the year. It issues debt from a tax free perspective, that's why we're here today, to obtain a formal motion.

Ross stated in section 147.F. there is says it doesn't necessary require city approval, it could be any governing body, so it could have been the county. But I think with the city it is easier to obtain. The biggest question is does this obligate the city in any way. The resolution says the request for approval does not impose any liability, debt, or obligation on the city or in any way involve the city in issuance of these Colorado bonds.

Ross requested questions. There were none.

4.2. Public Comments: Mikesch requested comments from the audience. There were none.

A motion was made by Utke, seconded by Randall, and unanimously carried to close the public hearing at 6:06 p.m.

4.3. A Resolution of the City Council of the City of Park Rapids, Minnesota, Concerning Revenue Bonds, Series 2016 (Catholic Health Initiatives) Issued by the Colorado Health Facilities Authority: A motion was made by Randall, seconded by Nordberg, and unanimously carried to approve Resolution #2016-105 A Resolution of the City Council of the City of Park Rapids, Minnesota, Concerning Revenue Bonds, Series 2016 (Catholic Health Initiatives) Issued by the Colorado Health Facilities Authority.

5. APPROVAL OF MINUTES:

5.1. City Council Regular Meeting Minutes-June 14, 2016: A motion was made by Randall, seconded by Nordberg, and unanimously carried to approve the June 14th, 2016, City Council Regular Meeting minutes as presented.

6. FINANCE:

6.1. Payables & Prepaids: A motion was made by Utke, seconded by Randall, and unanimously carried to approve the payables in the amount of

\$118,094.24, and the prepaids in the amount of \$119,437.17, for a total of \$237,531.41.

7. CONSENT AGENDA: A motion was made by Nordberg, seconded by Leckner, and unanimously carried to approve the following consent agenda items:

- 7.1. Resolution #2016-106 Approve Ordinance No. 560 and the Summary Publication of Ordinance No. 560 Granting to Minnesota Energy Resources, a Subsidiary of WEC Energy Group, a Wisconsin Corporation, Its Successors and Assigns, Permission to Erect a Gas Distribution System for the Purposes of Construction, Operating, Repairing and Maintaining in the City of Park Rapids, Minnesota, the Necessary Gas Pipes, Mains and Appurtenances for the Transmission or Distribution of Gas to the City and its Inhabitants, and Others and Transmitting Gas into and through the City and to Use the Public Grounds and Public Ways of the City for Such Purposes.**
- 7.2. Ordinance No. 560 Granting to Minnesota Energy Resources, a Subsidiary of WEC Energy Group, a Wisconsin Corporation, Its Successors and Assigns, Permission to Erect a Gas Distribution System for the Purposes of Construction, Operating, Repairing and Maintaining in the City of Park Rapids, Minnesota, the Necessary Gas Pipes, Mains and Appurtenances for the Transmission or Distribution of Gas to the City and its Inhabitants, and Others and Transmitting Gas into and through the City and to Use the Public Grounds and Public Ways of the City for Such Purposes.**
- 7.3. Summary Publication of Ordinance No. 560 Granting to Minnesota Energy Resources, a Subsidiary of WEC Energy Group, a Wisconsin Corporation, Its Successors and Assigns, Permission to Erect a Gas Distribution System for the Purposes of Construction, Operating, Repairing and Maintaining in the City of Park Rapids, Minnesota, the Necessary Gas Pipes, Mains and Appurtenances for the Transmission or Distribution of Gas to the City and its Inhabitants, and Others and Transmitting Gas into and through the City and to Use the Public Grounds and Public Ways of the City for Such Purposes.**
- 7.4. Resolution #2016-107 Approving Ordinance No. 561 An Ordinance Implementing a Gas Service Franchise Fee on Minnesota Energy Resources, a Subsidiary of WEC Energy Group, a Wisconsin Corporation, Its Successors and Assigns, for Providing Gas Service within the City of Park Rapids.**

- 7.5. **Ordinance No. 561 An Ordinance Implementing a Gas Service Franchise Fee on Minnesota Energy Resources, a Subsidiary of WEC Energy Group, a Wisconsin Corporation, Its Successors and Assigns, for Providing Gas Service within the City of Park Rapids.**
- 7.6. **Approve Plumber's Permit to Work in the City of Park Rapids for Denny's Plumbing, Heating & Air Conditioning LLC, Park Rapids Plumbing & Heating, and Green's Plumbing & Heating Inc.**
- 7.7. **Approve Installation in the Amount of \$1,385.00 for an Electrical Line for the First Four (4) Private Hanger Lots, Installation to be done by Minnesota Power & Light.**
- 7.8. **Approve Repair in the Amount of \$16,207.00 with Hammers Construction to Fix Sagging Interior Soffit, reinsulate the Ceiling and Fix Drywall Cracks in the Municipal Liquor Store.**
- 7.9. **Resolution #2016-108 Approve Wage Adjustment for Full Time Rapids Spirits Lead Liquor Store Clerk Robyn Capistrant.**
- 7.10. **Resolution #2016-109 Appointment of Election Judges for the Primary Election for the City of Park Rapids for the Year 2016.**
- 7.11. **Resolution #2016-110 Accepting and Approving the Final 2015 Audit Report for the City of Park Rapids.**
- 7.12. **Resolution #2016-111 Authorizing Proper City Officials to Execute the Paperwork to Certify Special Assessment for PID #32.19.02800.**
- 7.13. **Resolution #2016-112 Accepting Donations for the City of Park Rapids.**
- 7.14. **Approve Pay Request in the Amount of \$950.42 to Apex Engineering for Professional Services Regarding the Fire Hall Expansion Project.**
- 7.15. **Approve Pay Request in the Amount of \$8,708.36 to TKDA for Engineering Services Regarding the Airport Master Plan.**
- 7.16. **Approve Finance Committee's Recommendation to Prioritize East River Drive as the first street repaired with State Funds received in 2015 along with other City Street Department Funds, and Approve Letting Bids for the Project to be completed in 2016.**

- 7.17. **Deny Request to Become a Member of the Minnesota Association of Small Cities.**
- 7.18. **Approve Repairs in the Amount of \$4,700.00 from Heartland Maintenance & Repairs on the 2006 Ford One Ton Pickup Truck for the Rear Springs, Front Steering and Suspension.**
- 7.19. **Resolution #2016-113 Approving Appointment for Joseph James White to Full Time Probationary Police Officer for the City of Park Rapids.**
- 7.20. **Resolution #2016-114 Approve a Wage Adjustment and Step Increase for Full Time Public Works Employee Curt Eischens.**
- 7.21. **Resolution #2016-115 Authorizing Proper City Officials to Execute the Authorization for Professional Services by and between TKDA and the City of Park Rapids.**
- 7.22. **Resolution #2016-116 Approve Temporary On Sale Liquor License for the Park Rapids Chamber of Commerce in the City of Park Rapids.**
- 7.23. **Approve Public Facilities Use Permit for Roadhouse Sandwiches to Use Red Bridge Park, on Monday, July 4th, 2016, from 4:00 p.m. to 7:00 p.m.**
- 7.24. **Approve Transient Merchant License for Andre Reams d.b.a. Roadhouse Sandwiches on Monday, July 4th, 2016, to Sell Food in Red Bridge Park.**

END OF CONSENT AGENDA

8. COMMENTS FROM CITIZENS: There were no comments.

9. PLANNING:

9.1. Discovery Circle Project Updates: Mathisrud stated at the May 10th Council meeting there was a presentation on the Discovery Circle Project and the community attitudes associated with the open house that was held in preparation of the project. At that time the Council authorized staff to circulate a petition in the neighborhood to confirm the level of support there was for the project. Comments were made to staff to make sure the residents knew that not signing the petition meant that they would be required to update their septic systems. Staff originally discussed with the Council of

having a single person walk around with a petition, but staff opted instead to direct mail that petition via certified mail. We choose that option to insure that all the property owners received the petition because there has been an increase in rentals in that neighborhood. The petition that was sent was a legal document that stated the property owner that signed it is requesting that the city provide service to the neighborhood. The enclosed letter stated the project may cost up to \$19,000.00 per lot in assessments and that septic system upgrades may be triggered if we do not do the project. Under statute 429, if 35% of the residents request the extension the Council can order the project and have some statutory protections. Otherwise the Council can choose to order the project on its own accord and just follow the statutory requirements associated with that. Over the last five years the Council has had this project identified in the CIP to be completed in 2017. This has been disclosed to residents, real estate agents, and potential buyers.

Mathisrud stated we sent out that petition. It was intended to be signed only if the residents wanted the project, via certified mail on June 2nd, 2016. Forty-four were sent out. Thirty-three were accepted by the property owners. Eleven signed petitions were returned to staff, which means 25% of the property owners in the neighborhood are requesting the project at this time. We also received two letters stating that they did not want the project.

Mathisrud stated at the June 14th Council meeting a comment was made by a resident stating that the letter was confusing and that some people didn't know what to do. At that time Council discussed having staff resend something other than a petition, but a motion was not made. We wanted to present the results of the petition at this time, and then request a course of action going forward.

Mathisrud stated staff has identified this project from the CIP for construction in 2017. We are presenting three options to consider. A. Execute a task order with Apex Engineering Group and authorize design for the construction of sewer and water for Discovery Circle in 2017. B. Postpone the project indefinitely. Staff would follow up by obtaining septic system compliance inspections. The cost for this is estimated at \$8,800.00. Once a compliance inspection is obtained that shows that a system has failed the property owner would be notified that they would have twelve months to upgrade their system. Follow up enforcement for this option may result in additional time to administer. Option C. is to look at another option of the Council's choosing.

Mikesh questioned with Option B. what timeline are we going to give them to upgrade? Mathisrud stated once a certificate of compliance is completed and shows failure, under MPCA requirements and city ordinance it states twelve months. Utke questioned do they specify failing and non-conforming? Mathisrud stated its two categories. There's a non-compliant system and a compliant system. The non-compliant system does not meet MPCA requirements. That inspection must be completed by a qualified septic system inspector. Randall stated a system can be functioning, not causing a health hazard, but can be non-compliant because of the age of it so it's not up to current standards. Mathisrud stated that is correct. Just because a toilet flushes doesn't mean that the system is compliant.

Nordberg questioned what is our enforcement provision? How do we have enforcement if we don't have an inspection? Randall stated we don't. We passed on a way to have some way to know that these are failing with that point of sale, but we'd have to talk to our city attorney about an enforcement provision, because that's not a service that is provided by the county attorney's office. I've been in the business of enforcing septic's

for thirteen years. You can say twelve months but they drag out. You have to be prepared as to what you're going to ask for if it doesn't get done. Is the city willing to go forward and ask for a court to order that we, the city, go in and abandon the system? You have to think long term about what is it we're going to do when people won't comply, and what kind of expense the city is willing to take on.

Dick Rutherford questioned several years ago the bank had some houses out there. The city told the bank that we will be putting the sewer and water in so they could sell the house and they wouldn't have to bring it up to standards. I'm I right? McKinney stated no. We told them we had it in our plans to do that. Not that we would do that. Rutherford stated for the early ones the city did. Utke stated people have updated a handful of units out there because of timing. Rutherford stated because they couldn't sell the house until they had the approval to do it. Utke stated but the majority of the people did not want it so we tabled the project because it was not desired by the neighborhood. Rutherford stated now it's on the CIP for next year. McKinney stated the CIP is just a funding proposal to do the project. Rutherford stated ten years down the road they are going to come back and say why didn't we do it. Now they're going to have to leave their houses because things aren't working. Utke stated they could update their septic. Rutherford stated and the taxpayers are going to get caught paying the bill.

Randall stated we are not blind to the roller coaster and the mess that this has been. We are very much aware of the chasing of the tails that has been going on with this thing. I appreciate your comments but we all feel the frustration as well. Mikesh stated this was brought up to us by someone wanting it, but it starts everything over and the city spent money time and again looking at this. We've wasted time and money on this project to keep kicking it down the road.

Randall stated my concern with Option B is we had the opportunity to enforce and pass a point of sale for septic systems and the majority of the Council voted against that as a possible way of knowing what systems we have out there that are failing. Now we're saying we're willing to go forward, but for this neighborhood in particular we're willing to spend \$10,000.00 to go out and inspect these systems, but we were not willing to consider the care of the whole city's systems. With Option B I don't know how we justify spending the money to inspect just Discovery Circle and not the rest of the city. Why are they different? There's potentially failing systems all over the city that the majority of the Council said we really don't care about enough about to pass a point of sale. Why are we going to spend the money if we're going to say we don't care what's compliant and what's non-compliant. Why are we focused on one neighborhood?

Utke stated I don't think we should spend the money to go out and inspect those. It will take place if they sell. People know if they need to be upgraded. We shouldn't be doing that at all. We either have the project or we take it off the table. We don't need to inspect them. Randall stated I want to point out that a lot of mortgage companies will require a certificate of compliance, but not all of them do. My property is the perfect example. No one even knew that my septic system existed, or if it was compliant or not. I'm on city water. My lender didn't require a compliance certificate. I did that on my own. Utke stated their term compliant doesn't mean the thing is working properly, it may not be up to current construction standards, but it can be functioning perfectly.

Leckner stated part of the reason for the difference in Discovery Circle is the amount of homes. The reason we want to do this is the fear of contaminating the ground

water in that area with that many septics next to each other. 25% of the people are worried about that. They ask if we're not going to do the project, at least follow through with enforcing our ordinance. So how to do that? The whole city? Randall stated then we need to be willing to put in the time and money because it's going to take more than Mathisrud to do this on his own to acquire certificates of compliance, but not just for Discovery Circle. We need to make sure we are enforcing this citywide. I don't think it's fair for one neighborhood. We need to be willing to spend the time and money for somebody to take that on as a project. We hired Mathisrud for a full time job, that did not include enforcing and dealing with this. This will take time.

Nordberg stated we do know this neighborhood has a higher proportion of non-compliant systems than the rest of the city if there were 26 out of 44 that had open bottom systems. Mathisrud stated the neighborhood was developed with open bottom systems and we know how many have been upgraded since. That's where the 26 comes from, which we are confident are not complaint with current standards. Leckner questioned for the ones that aren't can we enforce the ordinance on those if we know they're not compliant? Randall stated we can ask for a certificate of compliance and when they can't provide it, then you have to decide whether you're going to sue them or not. You'll have to start a legal action.

Nordberg stated I think part of living in the city is you should get police protection, fire protection, and you get protection from your neighbor's sewage. I think it's one of the protections that you should have in the city. Randall stated I agree. I want to make sure we're giving that protection to everybody in the city, and not just Discovery Circle.

Leckner questioned did you look into doing inspections citywide? Mathisrud stated yes. I requested one estimate for citywide inspections, but I don't recall what the number was.

A motion was made by Utke, seconded by Mikesh, to approve Option C to discontinue with the Discovery Circle Project, and to take it off the city's Capital Improvement Plan.

Discussion: Utke stated we have only 25% of the people in favor of this. We've said all along we wanted to do what the people wanted. The vast majority says no.

Mikesh stated we've spent enough on this project. We keep coming back and kicking it down the road. We need to stop. Hopefully, we don't have to do this again.

Nordberg stated I think there's more than the local residents interested in this. I think it's a city issue. It affects the whole city. There's fire protection and the image of the city as a backwoods city. Those septic systems are basically a hole with a couple of pipes.

Randall stated my concern is that we don't have something in place to enforce our septic system ordinance. We don't have a plan for how we're going to make sure that things are functioning properly out there.

Nordberg stated the plan for many years was to provide water and sewer to every house in the city. This was part of the plan.

Steve Wignes stated it's over twenty years ago the county inspected systems and we all had to get compliant. I'm wondering why the city has left this little area with no inspections, no attempt to bring them into compliance, kept people on the line whether it was promised or just in the air, the word was there is city water and sewer coming. What do you do down the road when the city grows around Discovery Circle, and now you have

this little nest of private water and sewer systems? Do you then bring in water and sewer, or just let it sit there and do nothing about it?

Mikesh stated my thought is the county will eventually come around and make them, I would think. Utke stated when the county has the most influence is around the lakes with the shoreline ordinance. We've been hoping the neighborhood would get behind it. We wanted the vast majority to buy in. The last time there were two or three in favor. This time there's a couple more. It's still overwhelming they tell us they don't want it.

Wignes questioned is that something that you didn't expect? If I have a choice of spending \$10,000.00 to \$12,000.00, or \$19,000.00 plus finance costs, if it's just a dollar issue I'm going to say give me the cheap one. Whether that's in the public interest or not, it's number one that I'm basically looking out for. What do you do on those properties that if they don't have adequate square footage are you going to grant them variances for a new system, or will they put in holding tanks? Those are things to think about. It's gone on long enough. You could have done this years ago if we'd have known that eventually we'd be coming back to a sewer system of our own. Mikesh stated years ago it would have been cheaper.

Randall stated I wasn't here when the annexation occurred. My understanding is the majority of the residents didn't want it, or any assessments. It's going to cost some money. Now it's more, but that's true of everything. I'm concerned about just vetoing the whole project and not having a plan for the septic systems out there. We know there are many that are not compliant. I agree when the city grows around it we're going to come back to it and then we'll have a lot of mad people. Potentially it could come back in ten years and there will be a lot of people who have upgraded their septic systems. They'll have a ten year old system that perfectly functioning and compliant and they're going to be forced to hook up. None of us will be on the Council when that happens.

Nordberg stated for the financial consideration for the people that are worried about spending the money, if you put in a septic system the plumber wants to be paid right away. But on the assessments on our plan it's available to be paid over twenty years on an annual basis. They'll get a chance to spread out the cost. Utke stated that is true but in this case that development not only would get the project going down the street and they'd have to hookup. That's why this is a unique project. For other projects the infrastructure is already in from the street to the house. So they get hit double, for the project and the hookup fees.

Nordberg stated we talked about including their service lines on the assessment. Leckner stated that was one of the options. McKinney stated one of the problems with carrying the septic system replacement costs with the assessment costs is that the assessment includes water services, sewer services, and work on the street. Its apples and oranges in that sense. You should check with your bond counsel as to whether or not you can assessment the cost, or borrow money to pay for the service lines that go on private property. The other difficulty is we're acting like if we assess \$19,000.00 that we're going to get that. Some of those assessments won't get paid. Some may challenge the benefit of the assessment. In Minnesota the assessment is limited to what we can show as the increase to the property value. Say the property is worth \$100,000.00, and the assessment is \$20,000.00, then we have to show if challenged that the property's assessed value is \$120,000.00 after the project. If we can't do that, then we can only collect to the extent of what that value is. Yet the contractor still gets paid, and the bond

still has to be paid. It's not a no risk to the city situation. The city is all the other people in the community that pay taxes. That's why we've been very reluctant to go beyond the scope of this. We need buy-in to this project. If we have to fight 75% of the people out there to do them a favor, then there's a risk to the rest of the community.

Randall stated wasn't that considered back when this was annexed? All I've heard about Discovery Circle is constantly saying our home values aren't increasing. That's the frustration of dragging this out this long is that, why wasn't that thought of back then? If the city is going to have to eat this cost, as a taxpayer in the city, I rather pay money for the road that goes to my house fixed instead of paying for city sewer and water for Discovery Circle. McKinney stated I don't know the answer to your question, but a factor was this annexation encompassed a lot of territory that Discovery Circle was a part of. We've modified the agreement to reduce it in size. It was driven by Highway 34 development east. At the time everybody thought this was going to be the growth area.

Randall stated that adds another element. I don't want to foot the entire bill for this. If this is a genuine concern that these property values are not going to increase because of this, that should have been part of this consideration and the information of the true finance costs to the city. McKinney stated it depends on what facts we are allowed to use. Some people say my house is worth \$100,000.00, but I can't get anyone to buy it for less than \$75,000.00 because they know this project is coming. If the reality is \$75,000.00, and we add our \$20,000.00 to that, then we've met our standard. But they're then going to say, no, the value is \$100,000.00 and you're charging me \$20,000.00. I don't know if anybody would appeal, but if they do?

Leckner stated we were hoping for the support so we wouldn't have to worry about that. If everyone was saying yes we need this, we could go into it feeling this is what we need to do. McKinney stated that was what the petition was for. Randall stated so now they can fight it, if they didn't think of it before, they have a pretty good clue. McKinney stated I'd rather they fight it now then after we build it.

Nordberg stated I think we should give them a commitment. These people are looking for some planning. If we say other action, option C, it doesn't say it's not going to happen. That doesn't give the property owners anything to go on. Utke stated my option is to take the project off the table and the CIP. It's totally done. If it comes back on the CIP years from now, it starts from scratch. Leckner stated I heard that from a lot of the residents that were for the project if it wasn't going to happen they wanted it to be wiped. They'd also like the septic ordinance to be enforced. We have to work on that. Randall stated that should be the Council's priority.

The vote was called.

The following Councilmembers voted in favor: Mikesch, Utke.

The following Councilmembers voted nay: Nordberg, Randall.

The following Councilmember abstained: Leckner.

The motion failed to pass.

Further discussion: Randall stated I don't love the idea of voting it down. If we can come up with a septic system plan? Leckner stated if we said it's a city issue and a health concern, then we should do it, but now that we're split like this, I think we're wasting time. Utke stated it's not fair to keep dragging on the people. Mikesch stated the people come to

us with their concerns. Leckner stated we're going to have one person that wants it, and one that doesn't.

Wignes questioned why are you afraid to include in your motion a mandate that all septic systems out there will be inspected and if non-compliant they will be brought up to code. Why can't that be done? Utke stated we're going to refer it to staff to start that process. Randall stated once we refer the septic system issue to staff and come back with our plan citywide, then I'll feel more comfortable saying to not go forward with this project for Discovery Circle knowing we have something in place. But right now we have nothing in place. I didn't want to make it part of this motion to tie just Discovery Circle. I think it should be citywide. Wignes stated I agree with you.

Randall stated I'd like to refer the citywide septic system to staff, for this I'd like to table it pending a report from staff on the citywide septic system issue. I'm not suggesting the city pay for any septic system inspections.

A motion was made by Randall, seconded by Nordberg, and unanimously carried to table the Discovery Circle Project, pending a report from staff on a citywide compliance and enforcement plan for septic system inspections.

10. GENERAL BUSINESS:

10.1. Criminal Attorney Contracts:

A. Resolution Approving State of Minnesota Joint Powers Agreements with the City of Park Rapids on Behalf of its City Attorney and Police Department: Don Dearstyne, Hubbard County Attorney, stated I'm presenting two resolutions for the Council's review to allow myself and my successor, and the chief of police, and his successor, to sign a joint powers agreement with the State of Minnesota, the Department of Public Safety, Bureau of Criminal Apprehension, it allows us to continue to do business to obtain criminal justice data and for the filings we will start July 1st. **A motion was made by Utke, seconded by Randall, and unanimously carried to approve Resolution #2016-117 Approving State of Minnesota Joint Powers Agreements with the City of Park Rapids on Behalf of its City Attorney and Police Department.**

B. Resolution Authorizing Proper City Officials to Execute a Contract for Criminal Legal Services by and between Attorney Don Dearstyne and the City of Park Rapids: Dearstyne stated the other item is the 2017 to 2018 city prosecution contract. We're in our budget process for the county. The city's contract will expire on December 31st, 2016. I've submitted two charts showing police department cases for comparison purposes. The numbers of cases prosecuted for the city have gone up every year. In 2015 we handled for the city 632 cases. This year from January 1st to June 1st, 2016, we're at 339 cases already. If you project that out the city number will be around 678. The total files that we'll handle for the city have gone up every year except 2013. Last year the total was 800. This year through June 1st it was 441. That projected number is 882. We had fifteen in custody on Monday morning. That's two shy of the

record. That's the most I've had since I've had the office. It was a busy weekend for the city and the county officers.

Dearstyne stated the number of attorney hours to handle the city files, under the city contract only, again, with the exception of 2013, the numbers are consistently higher. We need 1.2 people to handle the city hours. If you charge out those man hours at \$200.00 per hour it would be substantial. The city is still getting a good break even though I increased the city contract for 2017 and 2018.

Nordberg questioned it did look like a considerable increase for 2017 and 2018. Dearstyne stated I did that based on projections of what I expect the numbers to be. Utke stated you said you're going to the county board with your budget. What is your time schedule on that? Dearstyne stated the county wants the budgets in by July, to be finished by August 1st. Utke stated you're showing us the increase but I'm going to recommend that it go to staff and the Finance Committee because it's a contract with increases. We have a couple of Council meetings before you finalize your budget.

A motion was made by Utke, seconded by Nordberg, and unanimously carried to refer the Resolution Authorizing Proper City Officials to Execute a Contract for Criminal Legal Services by and between Attorney Don Dearstyne and the City of Park Rapids to the Finance Committee for review.

10.2. Results of Closed Session Regarding City of Park Rapids Employee Terry Eilers Evaluation Pursuant to Minn. Stat. § 13D.05, subd. 3(a):

McKinney stated we are required after any closed session to report back. We can take no action in a closed session. At the last meeting we had a closed session regarding the Police Chief Terry Eilers. As a result of that discussion, we were presented with a request to retire with some compensation through July and August. I have now got that in writing. We have prepared a separation and release agreement between the city and Eilers. The terms have been agreed to by Eilers, and he has signed it with the assumption that the Council will approve it. Randall questioned the \$11,000.00 that Eilers is receiving is that for July and August? McKinney stated yes. That's before taxes. The city is not paying sick or vacation time for those months. It's wages only.

A motion was made by Randall, seconded by Nordberg, and unanimously carried to approve Resolution #2016-118 Accepting the Separation and Release Agreement between City of Park Rapids, Minnesota, and Terry Eilers.

10.3. City Council Salary Increase: McKinney stated this issue came out of the Finance Committee. There hasn't been an increase in the compensation for the Council or Mayor since January of 2006. In order to have a salary increase it has to be adopted by the preceding makeup of the Council so you can't vote yourself a raise, but you would have to take action now for that to be effective January 1st, 2017.

A motion was made by Mikesh, seconded by Nordberg, and unanimously carried to approve the recommendation of the Finance Committee to start the process to increase the Mayor's and Council's monthly compensation by \$50.00 per month.

10.4. Resolution Authorizing Proper City Officials to Execute the Independent Contractor Agreement by and between Harlan Johnson and the City of

Park Rapids: McKinney stated in anticipation of the previous action by the Council I have arranged to fill the responsibilities of the chief. We have a report coming from the Upper Midwest Police Association on July 26th, 2016. The availability of a party who is a resident of this area now, is Harlan Johnson. He was a policeman in Bemidji at one point, a police chief in Deephaven, and the Executive Director of the Minnesota Chiefs of Police. He is willing to serve as a consultant to us while performing the duties of the chief, but not be the chief law enforcement officer (CLEO). We will leave that position open. He has said this is not long term. He has a place in Arizona that he intends to go to this winter. The agreement outlines all of that. He will deal with the situations that we have, while taking the report that we have coming and help us formulate an approach to fill the position of chief. I recommend that the Council approve this contract.

Randall questioned will he have the authority to sign things? McKinney stated he will have all of the duties of the chief. To be the chief you have to have a POST license. His license has expired due to retirement.

Randall questioned will we have an update at the next Council meeting as to the timeline for getting this vacancy posted. I want this position filled and the start date to be so Johnson is still here as chief. McKinney stated I think he would agree to that.

A motion was made by Utke, seconded by Randall, and unanimously carried to approve Resolution #2016-119 Authorizing Proper City Officials to Execute the Independent Contractor Agreement by and between Harlan Johnson and the City of Park Rapids.

Discussion: McKinney stated now that this is done, he and I will start doing what's required and we'll report to you regularly. I'd like to add for the record my appreciation for Eilers' work. He's been here thirteen years. He did a good job.

Cynthia Jones stated the Downtown Business Association (DBA), on Thursday night, at Second Street Stage, is going to make him an honorary member of the DBA. He listened to us for ten years so we'd like to show him some appreciation for that. We'll recognize him and award him a lawn chair. Randall stated Eilers has always done a really great job with the downtown events.

11. CITY ADMINISTRATOR COMMENTS: There were no comments.

12. DEPARTMENT HEAD UPDATES: Burlingame stated we finished sealing the concrete on Main Avenue today. We did have a few complaints about not understanding why we do it during the day. Basically we need sunshine and heat, both to wash it and so the sealant will dry.

Jones stated I'd like to thank Scott Olson. He's helped us immensely with Second Street Stage and he'd given us room in his cooler for our product.

13. MINUTES/REPORTS/INFORMATION: There were no comments.

14. COMMENTS FROM COUNCIL: Randall stated I heard that Bemidji is starting a Wednesday concert series there. I'd like to think they are copying us. I met with Harlan Johnson, although I appreciated Eilers' service to Park Rapids, I'm very much looking forward to Johnson stepping in and helping us in this transition. We are extremely fortunate to have someone here to help in this transition. It will take a huge burden off of the Council to have his experience in the hiring process.

Nordberg stated we approved the Arts and Culture Advisory Commission's application for a grant to create an art's plan for the city. That is progressing. There was a meeting today in which we had a report from the HRDC about the grant process. There will be a survey coming out to ask citizens about their interest, experience, exposure, and communications about art, in July and August. It will be both on line and in person with an intern from Bemidji.

15. ADJOURNMENT: A motion was made by Randall, seconded by Utke, and unanimously carried to adjourn the meeting at 7:15 p.m.

[seal]

Mayor Pat Mikesh

ATTEST:

Margie M. Vik
City Clerk