

**CITY OF PARK RAPIDS
CITY COUNCIL MEETING
July 12, 2016, 6:00 PM
Park Rapids Public Library-Lower Level
Park Rapids, Minnesota**

1. CALL TO ORDER: The July 12th, 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: Public Works Superintendent Scott Burlingame, Planner Ryan Mathisrud, Liquor Store Manager Scott Olson, Treasurer Angela Brumbaugh, Public Safety Director Harlan Johnson, Public Facilities Superintendent Chris Fieldsend, and Clerk Margie Vik. Others Present: Sue Tomte, Dick Rutherford, Nancy Newman, Scott Wilson, Jon Olson, Cynthia Jones, Lowell Wolff, Gene Kinkel, Joshua Hawn, Julie Hudek, Don Dearstyne, and Nicole Vik from the Enterprise.

3. APPROVAL OF AGENDA: A motion was made by Utke, seconded by Nordberg, and unanimously carried to approve the agenda with the following changes: A Revised Ordinance was presented for Item #5.2. Add to the Consent Agenda: Item #5.16. Resolution Authorizing Proper City Officials to Execute a Contract for Criminal Legal Services by and between County Attorney Don Dearstyne and the City of Park Rapids.

4. FINANCE:

4.1. Payables & Prepaids: A motion was made by Utke, seconded by Randall, and unanimously carried to approve the payables in the amount of \$66,219.34, and the prepaids in the amount of \$18,945.66, for a total of \$85,165.00.

5. CONSENT AGENDA: Julie Hudek removed Item #5.11. and #5.12. Randall removed Item #5.14. Nordberg removed Item #5.16. **A motion was made by Nordberg, seconded by Leckner, and unanimously carried to approve the following consent agenda items:**

- 5.1. Approve First Reading of Ordinance Amending the City Code of Ordinances of the City of Park Rapids, Chapter 30 City Administration, Section 30.29 Salaries of Mayor and Council Members.**

- 5.2. **Approve First Reading of Ordinance Amending the Park Rapids City Code of Ordinances of the City of Park Rapids, Chapter 36, Fee Schedule Section 36.06 Employee/Contracted Services Compensation.**
- 5.3. **Approve Repairs to the HVAC at the Park Rapids Public Library in the Amount of \$4,850.00 by Leading Edge Mechanical.**
- 5.4. **Approve Transient Merchant License for Tyler Ehrmantraut d.b.a. BBQ Smokehouse on July 14th to July 17th, 2016, to Sell Food at the Hubbard County Fairgrounds.**
- 5.5. **Approve Public Facilities Use Permit for the Park Rapids Lions Club to Use Depot Park on July 12th, 2016, from 5:30 p.m. to 7:30 p.m. for a Private Picnic.**
- 5.6. **Approve Proposal from Lee Davis Electric in the Amount of \$2,775.00 in Install Automatic Locks for the Depot Park Bathrooms.**
- 5.7. **Approve Proposal from Howard's Driveway in the Amount of \$62,390.00 for a Bituminous Overlay for East River Drive, by Utilizing Funds from the State of Minnesota and Fund 100-20100-26422: Street Maintenance Expense.**
- 5.8. **Approve Installation of City Sewer to Nate Sitz at 16266 Discovery Circle by Girtz Excavating in the Amount of \$2,175.00, at the City's Expense based on a Previously Executed "Memorandum of Offer to Landowners" Regarding a 2006 Utility Project.**
- 5.9. **Authorize Execution of a Natural Gas Installation Agreement with Minnesota Energy Resources to Provide Gas Services to Several Lots on Municipal Airport Property.**
- 5.10. **Resolution #2016-120 Authorizing Proper City Officials to Execute the Land Lease Agreement by and between Towerco 2013 LLC and the City of Park Rapids.**
- 5.11. *Removed from the consent agenda.*
- 5.12. *Removed from the consent agenda.*
- 5.13. **Authorize Staff to Advertise, Accept, and Review Applicants for the Chief of Police Position.**

5.14. *Removed from the consent agenda.*

5.15. **Approve Proposal from Howard's Driveway in the Amount of \$26,000.00 for Bituminous Overlay, pave, and/or patch various streets and alleys with money budgeted from Fund 100-20100-26422: Street Maintenance Expense.**

5.16. *Removed from the consent agenda.*

END OF CONSENT AGENDA

5.11. Approve a Multi-Vendor Transient Merchant License for Park Rapids Downtown Business Association on Thursday, July 28, 2016, to sell food and crafts (and) 5.12. Approve Public Facilities Use Permit for Park Rapids Downtown Business Association on Thursday, July 28, 2016, for Crazy Days:

Julie Hudek stated I am a citizen of the area and a business owner on Main Avenue in downtown Park Rapids, the Downtown Diva. Why would we want to close off the parking to people that might want to come and shop the fantastic sales that happen on Crazy Days? The permit doesn't say if the street is going to be closed. I've heard things. My discussion points are, it's amazing how many cars come down the three blocks of Main. It's really good for our businesses. It enables us to run and stay in business and provide good customer service to our visitors and locals. I can't imagine shutting all that parking off to allow people to find a convenient place to park for Crazy Days. This will be my fifth summer being a participant of this. They haven't been closed before in those five summers. I don't know if there have been any issues with them not being closed. I've talked to a lot of people about this. This is not customer friendly. Where are the elderly, families, and handicapped people going to park, and how far are they going to have to walk to get downtown? Do they park at Coborns, Hugo's, on Pleasant Avenue? I propose instead is leaving the center spaces open for them. We all set up on the sidewalk spaces anyway. I don't agree with barricades. They are unwelcoming. They mean keep out. People are not going to drive around and around looking for a place to park. They will go somewhere else.

Utke stated the street hasn't been closed off for a few years for Crazy Days. I was on Main Street for seventeen years. If everybody participates from the business community it really makes it a nice event. People are free to walk in the streets without dodging cars. Closing off half of it would be worse than doing it all. There's a whole bunch of new people now, so you have to see who's going to be out there participating. This is coming from the Downtown Business Association. We're not going to conflict with what they are asking for.

Hudek stated if you're not a member of that association, then I guess you don't have a voice, and I'm not a member. Utke stated I'm sure they would still hear your input. Hudek stated my input is where are the people going to park? Utke stated I know it becomes congested but we did always have great Crazy Days in the past. Consumers and businesses enjoyed it too.

Hudek stated this is only my fifth summer, and I've had great Crazy Days. The street has always been open. I don't know that there have been any accidents. People cross the street in the middle every day. Another business owner is afraid of the cars that zoom past. That happens every day too. Where are people going to park?

Randall questioned is the road going to be closed? Cynthia Jones stated the request to the city is to close three blocks of Main Street. That was at the request of several business owners. They went up and down the street notifying people and getting the appropriate signatures. We knew that Ms. Hudek was not pleased with this, but the majority of the business owners were okay with it. We also applied for a transient license for up to ten vendors to be on the street, to include food trucks and other vendors. We would control that because we paid the fees for that. The DBA would have the say so for who will be allowed on the street.

Utke questioned do you have non-Main Street businesses coming down like we used to? Jones stated the owners of Rustic Cabin are in charge of this. They will have a parking plan, bulleted information for every business on Main, parking signs. It will be advertised in advanced that the streets will be closed. We are proposing that we try it again. We haven't closed the street for quite a few years, but the majority of the people wanted to try it again.

Hudek questioned regarding the transient license a fellow business owner was under the impression that transients would only be allowed on the cross streets. Jones stated no. The chief met with the DBA and informed us that we need to keep one lane in the middle of the street open for traffic for emergencies, like fire or for an ambulance. For the transient license we would invite everyone from the community to come down to Main Street. If you are a food vendor you would have to apply to us and they would have to pay a fee to the DBA to bring their food to Main Street. We also would have control whether we'd want to accept a vendor or not. We've had problems in the past with trucks of merchandise coming and they wouldn't leave. With the DBA's transient merchant license, the city wouldn't know who these people were, but we would have control of who will be on the street.

Hudek stated we are under the impression that they were going to be on the side street. Jones stated we can't block the side streets. You have to have public access on Second and Third Streets. Hudek questioned when you are determining who can be a vendor are they going to be selling t-shirts and clothing? Jones questioned can we come and talk to you so we don't clog up the City Council. We can explain all of this. Hudek stated I appreciate you letting me be heard. I don't think its customer friendly to close off everything. I have a nail salon and those two days I do about four appointments. I'm out there in the street with everybody else. It's not about my personal agenda. It's about senior citizens, handicapped, and disabled citizens. I don't want to make it worse for people.

Scott Wilson questioned the permit says the street will be closed until 5:00 p.m.? Jones stated no. Wilson stated I want to make sure the barricades go down before 5:00 p.m. In the past when the streets were closed you brought items in and let them stay overnight. Then we're told they have to keep the barricades up. The issue for us is parking in the evening. Jones stated that's the night of Second Street Stage. We never close off the streets for that. Wilson stated I want to make sure. Jones stated everyone will be off the street at 4:00 p.m. No later than 4:30 p.m.

A motion was made by Utke, seconded by Randall, and unanimously carried to approve a Multi-Vendor Transient Merchant License for Park Rapids Downtown Business Association on Thursday, July 28, 2016, to sell food and crafts (and) to Approve a Public Facilities Use Permit for the Park Rapids Downtown Business Association on Thursday, July 28, 2016, for Crazy Days.

Discussion: Nordberg stated the permit doesn't say to close the street so maybe we should clarify that in the future. Brumbaugh stated the clerk was gone and when I received the applications I didn't know the time so I wanted to make sure they had enough time. I didn't realize this would be so important. That was on me.

5.14. Approve Updated Job Description for Police Chief: Randall stated the job description indicates that the police chief would supervisor the part and full time officers. I want that amended to say they would also supervisor any police department office staff as well. **A motion was made by Randall, seconded by Nordberg, and unanimously carried to approve the updated job description for the Police Chief, amended to include the chief also supervises the police department office staff.**

5.16. Resolution Authorizing Proper City Officials to Execute a Contract for Criminal Legal Services by and between County Attorney Don Dearstyne and the City of Park Rapids: Nordberg stated I'd like to have Dearstyne get us a description of his work for the city.

Don Dearstyne, Hubbard County Attorney, stated my work for the city provides continuity between our office and the police officers. We provide the city with more than just the city prosecution contract. We take calls from the officers on a regular basis. We help them work through search warrants. You're not just getting the work from myself, but you're getting the office. It includes three attorneys, and all the support staff. The city has been taking the time of 1.2 prosecutors. Given the projection of the cases, unless crime stops in Park Rapids, the case load could easily go to a 1.4 to 1.5 by the end of 2016 based on the up to date numbers. Right now the total open files in our office for the city is forty cases over last year, over 1,360 cases. That does not include probation and DWI probation violation files. The cost to the county for a full time attorney is around \$90,000.00 to \$100,000.00 per year with benefits. The contract for 2017 would be about 1/3rd of that cost. I do that because I recognize that the citizens of Park Rapids are also residents of Hubbard County, so they are paying county taxes. I also looked at what the city numbers have been, and looking forward what they will continue to be. I would encourage the Council to approve the contract. I think we've had a good relationship with the city and the police department.

Nordberg stated we did discuss this in the Finance Committee meeting this morning. It is an increase from previous years, but the work has been going up. Dearstyne explained we get some benefits from the county that they pay 100% of, and also the support services and training events.

A motion was made by Nordberg, seconded by Utke, and unanimously carried to approve Resolution #2016-121 Authorizing Proper City Officials to Execute a Contract for Criminal Legal Services by and between County Attorney Don Dearstyne and the City of Park Rapids.

6. COMMENTS FROM CITIZENS: There were no comments.

7. PLANNING:

7.1. Resolution to Deny a Variance to Extend a Roof Line and Deck Two Feet Closer to the Shoreline in the Shoreland Overlay and R-1 Zoning Districts at

316 Eagle Drive, PID #32.85.00600: Mathisrud stated this request is for a variance request from Stephen and Rebecca Clark regarding extending a roof line and a deck two feet closer to the shore on an existing non-conforming home facing Fish Hook River in the shoreland overlay and the R-1 zoning district, located at 316 Eagle Drive. The deck currently is arrowhead shaped. The applicant is requesting that the sides be extended closer to the river. That would equal 22.5 square feet of additional deck. But the setback is thirty feet from the ordinary high water line. This is a legally established non-conforming structure and so the expansion of which is prohibited under the zoning ordinance. This request is for a relatively small encroachment, however it is in violation of the zoning ordinance and in conflict with the comprehensive plan.

Mathisrud stated the Planning Commission reviewed this request and after a lot of discussion on this, the Commission did conclude that they recommend denying the variance. At the public hearing there was no other comments received. The recommendation is to deny the variance request based on the findings of fact.

Utke stated we had quite a discussion at the Planning Commission meeting. It says it will be two feet closer to the water. It's just squaring up the deck. It does not get any closer, it's just filling in the angled version. After a lengthy discussion at the Planning Commission, the motion to approve was tied 3-3, so it failed on the motion to approve. That's how it ended, on a split decision.

Randall questioned what were the reasons given from the people that voted against it knowing that is wasn't getting any closer? Utke stated it had to do with the shoreland ordinance. Nordberg stated there is a second condition that they wanted to extend the roof on the deck and that's a no-no under some of the rules. I have no objection to just squaring it up.

Utke stated the house roof is angled to match the deck. It's such a minor thing. I was in support of approving it. It's not an intrusion on anything. The shoreland ordinance can't cover every house that's out there because everyone is different. That's why we have these meetings to address it. Those of us in favor said there's no issue here, they're just making a minor adjustment. Others said it should be left as is.

Nordberg stated part of the discussion was setting a precedence. But each variance is considered on its own. Randall stated by law, every time, each variance should be considered individually.

Gene Kinkel stated this house is owned by my relative. They bought this house a year ago. All it's doing is squaring the front up. They don't intend to cause any problems. They've stoned in the whole front so there's no erosion there anymore. They've put a lot of money into it. Utke stated everything is still the same. The roof is over the deck and the

deck is over a hard surface below. The roof will be extended a bit but just to match the deck.

Dick Rutherford stated I did talk to the next door neighbor and they had no objection to this. They thought it would look good. The neighbors are not complaining.

A motion was made by Nordberg, seconded by Randall, and unanimously carried to approve Resolution #2016-122 Approve a Variance to Extend a Roof Line and Deck Two Feet Closer to the Shoreline in the Shoreland Overlay and R-1 Zoning Districts at 316 Eagle Drive, PID #32.85.00600.

Discussion: Kinkel stated the Planning Commission was very kind and nice. We were very comfortable in front of them. They did a good job.

7.2. Discovery Circle SSTS Presentation: Mathisrud stated at the June 28th City Council meeting this issue was referred to staff to review our septic system ordinance to identify how staff would proceed to enforcing septic system compliance should the Discovery Circle Project be abandoned. The city opted into administering our own septic system compliance program in order to have control over the timing of requiring these inspections and the triggering of upgrades, and to have the ability to coordinate these with our CIP. We wanted a certain level of autonomy from the county so that we didn't see upgrades triggered in the Discovery Circle area or other areas when they are identified in the CIP. In 2010 the city passed a resolution waiving the upgrade requirements in Discovery Circle because there was a plan in 2012. Historically we have not actively pursued managing septic systems in the community as we really didn't have a comprehensive septic system ordinance in place until last July. Per the number of water and sewer extensions to serve these areas that have private systems is declining and the number of active private wastewater systems is stabilizing. About 26% of the septic systems in the community are located in the Discovery Circle neighborhood. That's 44 of the active systems in the community. The remaining systems are scattered around the city on large lots in many different areas.

Mathisrud stated under our current ordinance the compliance inspection is the documentation necessary to move forward with the follow up enforcement activity or upgrades. We require that this document be provided by the homeowner when the following triggers occur. When the property owner wishes to alter their septic system, when they wish to alter their structure that would affect the system's capacity, like adding bedrooms. Also, when the use of the property changes, like when they go from residential to commercial. Another option is when staff deems it necessary due to a complaint or for any other justifiable reason, or when the city authorizes area wide inspections, and also to renew operating permits for specialized types of septic systems. Under our current ordinance it's up to the property owner to provide that certificate.

Mathisrud stated once that inspection is completed we have a compliance achievement process. That starts by sending a letter to the property owner when their system has been identified as non-compliant. We give them twelve months to upgrade, or ten months if it's a threat to public health. Once that twelve months passes, another letter is sent to the property owner to plan for insuring that upgrade happens within a reasonable timeframe, within 30 to 90 days. If we don't get a response after a couple of letters our police department can issue a ticket. If citations don't help achieve compliance the case

can be delivered to the city attorney to obtain a judgement. Once that happens the city authorizes the upgrade to the system, provides notice to the property owner and then you hire a septic system installer to do the work. All recoverable costs are assessed to the property. That's the basic process.

Mathisrud stated the point that we really get into additional work is citations. They may help achieve compliance but they would likely be bypassed and sent directly to the city attorney to get an injunction or judgement. Then we'd hire that contractor to do the work and then assess the costs. If this route is necessary it might be cumbersome for staff to complete. It would also require more staff time and legal fees. We traditionally have not been in the business of managing septic systems in that way. So this would be somewhat new. It may not be a good time due to the density of the wells. Under our current ordinance the number of completed inspections that were received in 2015 was zero. People generally are not changing the use of their property, or adding bedrooms on a regular basis. We primarily received those certificates for new systems, with my limited experience with the ordinance.

Mathisrud stated if the Council chooses to pursue that route we would need to address our existing Resolution #2010-173. It exempted septic system enforcement in Discovery Circle. We'd need to clear up the ambiguity between the official ordinance and that resolution. If we'd like to pursue septic system management that is a little more active and efficient way of doing that would be to do an area-wide septic system inventory. That would come at a cost to the city, but it would be a clear and efficient way of manage the systems.

Mathisrud stated I have a couple of options for the Council to consider regarding Discovery Circle. Option A is to authorize design and project engineering for Discovery Circle's sewer and water extension for 2017. This was identified in the CIP as the standard option for providing services throughout the community. Option B is to postpone the project indefinitely and remove it from the CIP. Staff would then administer the existing ordinance. Option C is a motion of another action of your choosing.

Utke questioned on page 108 it says, this process starts when the system is identified as non-compliant. It should be identified as failed. A non-compliant system can be fairly new and a fully working system. They could fall into needing to do all of this and that wouldn't be right. Mathisrud stated non-compliant is the term that they use on the official MPCA form. Utke stated there are a whole lot of them that are working wonderful. Randall stated then they shouldn't be installing that type of system. Utke stated if it was installed five years ago, now they're non-compliant. Years ago there was rapid change in the specifications. Leckner stated you can make them compliant without replacing the whole system. Randall stated I disagree, it shouldn't say failed. It should say non-compliant. Utke stated somehow we have to define working and functional versus failed. Randall stated the state uses non-compliant.

Nordberg questioned is there a difference between non-compliant and conforming? Mathisrud stated we adopted MPCA rules as part of our septic system ordinance. We utilize the state program under the state rules. Basically a septic system inspector will complete the MPCA form and according to their license and rules will identify the system as compliant or non-compliant. Once a system is identified as non-compliant on that particular form, that's when it triggers our compliance achievement process.

Randall stated I'll point out that when we make people go to be certified as septic inspectors, when they are out there doing that inspection, they give a certificate of compliance. They say they are compliant or non-compliant. They don't say failing or working. Whether you like the language or not, that's what the certified inspectors do.

Randall stated if we did Option B is there something we have to do with Discovery Circle? Nordberg stated the Resolution #2010-173 would have to be changed. Mathisrud stated if that option is considered we'd have to alter that resolution so that it would be included in the administration of our existing ordinance, therefore removing any ambiguity associated with it.

Randall stated I believe the county required a certificate of compliance anytime a permit was pulled regardless of the modification. Mathisrud stated the ordinance that we have on our books is not that restrictive. Randall stated the county does. Don Dearstyne stated if it's within the shoreline where a permit is required. The county doesn't require building permits, but some townships do.

Utke questioned regarding the non-compliant and non-conforming, would non-conforming mean they've changed their plumbing design and it wouldn't be conforming to the newest design but yet still could be compliant as far as a working system? Mathisrud stated non-conforming in terms of septic systems may apply to items related to zoning such as setbacks. But the septic systems themselves are referred to as compliant or non-compliant.

Randall stated to get a handle on all of this, I'd like to see that anytime you get a building permit that would trigger a certificate of compliance. It would give us an idea of what's going on out there. You'd be exempt from that if you've already had one in the last handful of years.

Nordberg stated we had a vote to postpone this to ask for staff's input, which Mathisrud has given us. I think it's time for us to make a decision for these people. Mikesh stated when we brought them into city limits we did tell people that we were bringing out services, and we didn't. We want to make everyone in town abide by this but we're tip toeing around Green Acres. Nordberg stated I think it's a decision that affects the rest of the city, more than just 44 homeowners. On behalf of the city, they should be compliant. It's an accident waiting to happen out there.

Utke stated we've made attempts to get the neighborhood out there on board. I'm still a firm believer that the neighborhood has to be on board. We haven't had a project in the city since I've been on the Council that the vast majority of the neighborhood hasn't been in favor of. In this case, the majority is saying no. I think we can't shove it down their throat.

Randall stated instead of just affecting Green Acres, if we're going to take this on we're going to have to do septic inspections for the whole city. It's going to cost the city money up front to get all of these inspections done. I'm not necessarily against that. The reason I pushed the point of sale is because I wanted an understanding of what the septic's were like out there and a way to keep track of them. When Mathisrud got done spending all that time on them, there were some that he didn't even know existed.

Dick Rutherford stated there are more septic's out there that are bad than there are good. I'm somebody that knows more about it than anyone else in this room. We put them in according to the state but there are some out there that have not been inspected since they were brand new when we put them in fifty years ago. Randall stated I would think

homeowners would be jumping for joy to put in a new septic system, rather than connecting to city sewer and water, and the cost would be a fraction of the cost. They might not be happy with our decision, but when it comes down to the money, a septic is cheaper. There still might be some that say they can't afford that either. The city needs to be prepared to refer this to our city attorney and that's going to cost us money.

Nordberg stated the people who say they can't afford \$1,200.00 a year over twenty years for sewer, water, fire hydrants, street repaving, are not going to spend \$5,500.00 to \$8,000.00 in a chunk for a septic system. It's going to fall apart. There's going to be sewage in the yards. Randall stated we'll have to put a lien on the property, we can hire the work done and then assess it to them. Nordberg stated that's the end point of the policy as we have it. The city does the work. Mikesh stated and every time we address this the price jumps up. It's a big chunk to bite off but if we make a problem we'll want to do something and we keep putting it off. There's nothing more I'd rather see to fix what we have that's failing now. But Green Acres, soon or later it's going to hit. We told them last time it's not when, it's how soon. It's going to happen. Here we are at a standstill again.

A motion was made by Nordberg, seconded by Randall, to approve Option A, to continue with the utility project for Discovery Circle.

Discussion: Utke stated I think we should have buy in from the development before we jump in with both feet. We have 25% in favor of it. Leckner stated we have to remember what was said about the city ending up paying for it. I think there will be a fight.

Nordberg stated under this option there is a percentage being paid for the street by the city. If they have to do it later they will pay 100%. Under this they don't get assessed 100% for all of the costs. The street costs are shared.

Joshua Hawn stated I'm a resident of Discovery Circle. I understand the concern about compliance and making sure there is no health hazard. The health issue has been addressed. The water quality has been tested and found that the failing system is not affecting the water quality. That's not an issue and it's not affecting the rest of the city. This project isn't for public safety as much as it is for the residents there.

Hawn stated as one of the people opposed to the project that the cost involved, it's not only \$19,000.00, but then the \$5,000.00 to \$8,000.00 for hooking up, plus the 4-5% interest for twenty years. You can say it's on your property taxes, but that's still a lot of money that you'll never ever be able to recoup on a property there. Just adding \$19,000.00 to the home that we have right now, we'll never be able to recoup that.

Hawn stated I've talked with realtors and brokers and they've all said that putting in city sewer and water does not improve the value of the house one bit. If we were putting in curb, gutter, and street lights to make the neighborhood nicer, you could justify at how you're improving value the value of the house, but this is just putting a burden on the people that live there.

Hawn stated there are some people that want it. I feel that the people who want the project are more in fear that the project cost is only going to go up, and then eventually the city gets what the city wants, and they're going to shove it down their throat, so why not do it now rather than later. I don't feel in your heart that you necessarily want to force it on people. I understand you are in a hard place as well. There are people who want it. You have made promises. When you made those promises, who did you make them to? When I bought the lot in 2010 I didn't buy it because there was a promise because city water was

coming in. I bought it because it was a nice house. I understood that there would be a \$10,000.00 assessment coming in the future. That's a lot better than a \$19,000.00 assessment. I also didn't factor in all of the other hidden costs.

Hawn stated it is your call. I understand that it's not necessarily a majority vote. I feel that if there was a petition from Discovery Circle that said will you please bring us services, then you would be obligated to fulfill that promise that you made. But if the promise was made to people who lived there twenty years ago, those aren't there anymore. The ones who are still there are against this project. They can't afford it. For the people that can't afford \$19,000.00 can afford \$5,500.00, I'm not sure where that comes from. We had to pay \$5,500.00 for a new septic system last year. We didn't like doing it but I put my foot through the top of the system. Ours was not only non-compliant, but it was failing. We didn't have a choice in that matter. We had to replace it. Even if we had not put the system in and we had a working system, I would still be against this project because of the cost and the monthly water bill. I don't know anyone in the Circle that wants city water and sewer. But what they don't want is for the price to keep going up. As to the portion that the city kicks in, we're talking \$2,000.00. \$19,000.00 or \$21,000.00? It's the same difference. It's still putting a burden on the homeowners that they'll never be able to recoup. At the end of the day they'll have exactly what they have now, a working water and sewer system. I would continue to urge for Option B.

Randall questioned when it comes to Option A has there been a discussion about giving a time waiver for those who have a brand new septic system. Mathisrud stated we have not discussed that in any depth beyond what is in our ordinance, which is three years. We have traditionally offered that waiver so they can get some value out of their system before having to hookup. We can discuss something else.

Leckner stated the cost to the rest of the residents of the city is what I'm worried about. We want to make sure we're in it as a Council if we decide to do this because we're going to get to the public hearing, and you're going to have everybody's story. You have to be ready to go one way or the other because we have already spent tons of money on this. Brumbaugh stated the amount is \$84,000.00. Randall stated we're spinning our wheels. Part of me thinks that the Council, seven years ago, had a plan, so stick with the plan. So if seven years from now and if we extend city utilities then we're going to have all these 10 year old septic systems that are perfectly good and compliant. For Option A, I don't know if three years is long enough for people to hook up if they just put in a new system. Systems can be twenty-five years old and still be compliant, not just working.

Leckner stated I think if we do go ahead it's going to be a big battle. Randall questioned was it ever not a battle? Leckner stated last time they said they'd do it and then they had the public hearing and the Council folded. You have to be 100% that you're not going to fold. Utke stated I remember that meeting in 2012. There was only three that spoke in favor of it in the whole neighborhood. The 25% is growing, but it's still such a small percentage. Without the neighborhood buying in I can't support it.

Hawn questioned what's the normal procedure when you have a project? Do the people bring it to your attention and ask for it? If they wanted it would you have to have so many people in favor of it? Utke stated this is a unique circumstance because none of you have services. Most of our city upgrades that you see all over town are already on city services. They are so old that they are failing underground so we're replacing that. You need everything. That's why your expenses are so much more than the others.

Nordberg stated when we did the SW Area had been done when the development had been done and the developer paid the costs, or the assessments when they sold the lots. Typically, when they go in they're assessed when the lots are sold, so it's there from the beginning when the house goes up.

Hawn stated our house is valued at \$91,000.00, with a market value of \$99,000.00. A \$19,000.00 assessment is 20% of our value. If you add twenty years, and all of the other costs that have been talked about you're talking about a 40% increase in cost that doesn't translate to value. I'm not the only one like that in the neighborhood.

Leckner stated the cost of this project has been brought up. It's not a normal street project and a lot of the cost could fall back on the city. That's what concerns me. That would not be a good thing for the city.

The vote was called.

The following Councilmembers voted in favor: Mikesh, Nordberg.

The following Councilmembers voted nay: Randall, Utke.

The following Councilmember abstained: Leckner.

The motion failed.

A motion was made by Utke, seconded by Randall, to approve Option B, which is to postpone the Discovery Circle Project indefinitely, remove the exemption for septic inspections for the Discovery Circle area which is governed by Resolution #2010-173, and to start the process to upgrade the septic systems in Discovery Circle.

Discussion: Mathisrud stated Option B would be to administer our existing septic ordinance and then address Resolution #2010-173, which can be brought to your next meeting.

Leckner stated although I'm not voting there are a lot of people in the neighborhood asked that we please make a decision one way or the other. There are some failing systems and there are people that want to get work done this summer. They're in limbo. Hawn stated most people would be willing to update their septic but they don't want to do it and have the city come in with a project. Randall stated we'll need a plan because I don't think three years is enough.

Nordberg stated they're going to need deep wells too. Randall questioned are the wells an issue? Leckner stated most of them are deep. Nordberg stated if you have a shallow well in the sand aquifer and you been dumping sewage into it for forty years. Randall questioned is there a problem? Nordberg stated not according to four tests, but there will be.

Mathisrud stated Option B is going to be a lot of work for staff to do. We're willing to administer whatever needs to be administered here, but this will be a tremendous amount of work to get through. We haven't traditionally been in the septic business. I'm concerned about that action personally. Randall stated is it worth sending another letter to all the citizens saying, if you don't want this project do you understand that you're going to have to put in a septic, pay for a septic compliance inspection, unless the city pays the inspection fee, but if you are failing you're going to have bring your system into compliance within the next year, and that's a cost of \$5,000.00 to \$8,000.00. Mathisrud stated I'm sure that's not entirely clear to everybody. We discussed that at length with people, individually

and at the open house. We've had a tremendous amount of discussions on this. We've had a steady stream of people into the planning office both wanting something done with this and those that don't. Randall stated I felt that the letter that went out was hard to understand. My thought is to refer it back to staff one more time, to send out a letter, and be very clear on do you want this project, yes or no, and understand that if you're system is failing you are going to be required to get it up to compliance within a year and that's it's going to cost you \$5,000.00 to \$8,000.00. Then everything is out on the table with clear yes or nos. And then we can say we absolutely did our due diligence.

Utke questioned do the residents feel that there are people that don't understand it yet? Leckner stated it's hard to speak for other people. We've put a lot of work into this already trying to get the correct information out there. I don't know that another letter will help. Then what are we going to use as a number. Randall stated I'm not looking for a number. I'm talking about due diligence. Leckner stated in my opinion we've definitely done that.

Hawn stated some people do understand that they would have to come into compliance with the city. Mark Harmon and I took a letter around to all of the residents explaining exactly what this entails. Mathisrud couldn't officially endorse it, but he felt like it was a fair description of the pros and cons of the project. We felt that people should know what they're up against. If the city doesn't go with the project there are no fire hydrants. The people that were for the project were very much let's do it now when it's less expensive with the expectation that the city is going to force us to do it at some point. If the option is 2017 or 2026, I'd prefer 2017. But if the option is 2017 or you wait until there are enough people who are for the project can actually sign a petition, than that would be a different story. You wouldn't have eleven people saying yes I want the project now. That was my impression when I talked to all the people. Someone told me back in 1994 the project was \$11,000.00 and that included curb, gutter, and street lamps. Now for \$19,000.00 it's just a road. If there was a kind of guarantee that you are not going to make this happen if the residents don't want it. But if there's enough for it, like 51% to 60%, and you can get the petitions, then we'll do it. People are saying we could do this if it wasn't so expensive, and others are saying let's do it before it gets more expensive.

Randall stated we need to be prepared as a city for our civil legal budget for 2017. If you have people who are refusing to do it, then the city has to take it on. I still don't think we have a great picture of what the cost is going to be to the city. There is going to be legal fees. We might have to hire a part time person at the city. It's easy not to follow through on city ordinances. The city has to take on the cost to get what you want. I've dealt with that for thirteen years. It's a fine balance of we're going to sue you or we'll play chicken for a couple of years to see who folds first, and then it drags out. There are homeowners who are not going to comply. Just with this discussion my vote has gone back and forth. I don't think we're ready because we don't have a good grasp on the cost. We're not discussing under Option B what the real cost to the city is for that. If we're going to go with this I think we'll have to hire somebody. We cannot isolate Green Acres and pay for inspections just for them. It has to be citywide. Mathisrud has a full time job. We've been keeping him plenty busy.

Utke stated this is loaded. I thought we were just going in for the basics. Mathisrud doesn't want it. What can you administer? I don't want to hire more people. Mathisrud stated we can administer Option B. We would just administer what's in the ordinance. In

doing that, section 5 and 6, those are the ones where the rubber meets the road. The ones that won't upgrade are the ones that will incur costs. We currently contract with a law firm in St. Paul, Flaherty & Hood. With the drive times associated with it, those costs would be part of that if we administer that part of the ordinance. Randall questioned have we talked about what that charge would be? Mathisrud stated the loose number is \$160.00 an hour. It's a four hour drive from the cities. Cost will depend on what level it takes to reach compliance. Randall stated I don't think they have to drive up here. It's about filing motions and complaints. It's their time.

Utke amended his motion to postpone the Discovery Circle Project indefinitely and to remove the project from the CIP, and to eliminate that staff will administer SSTS ordinance as explained in the memo.

Discussion: Randall questioned so just let it be like the wild west out there? Utke stated how are we going to make a decision with all of these unknowns. Nordberg stated it would stay status-quo. Randall stated if we're not enforcing it citywide, we're not going to enforce them anywhere. Nordberg stated the city acquires liability. Randall stated in a separate meeting we could refer to staff a separate septic system plan.

The mayor called for a second on the motion. There was no second. The motion failed.

Discussion: Brumbaugh stated the city is not in the septic system business. We're in water and sewer. Staff talked about the fact that the county does that. We take care of water and sewer. Burlingame stated the county used to do all of that. They have a staff to certify septic systems.

Nordberg questioned is that what we opted out of? Mathisrud stated we opted to administer our own ordinance so that we could coordinate projects and upgrades with our CIP for that flexibility for projects like Discovery Circle. If we potentially opt out, that would give our responsibilities to the county.

Randall stated as of January 1st, 2016, there was not a certified septic inspector with the county. Burlingame stated they contract with Al Winterberger. Randall stated the landowners pay for that. Dearstynne stated in the county if a septic requires a compliance check the county, if it comes back compliant, the county will pay up to \$100.00 of the inspection fee. The rest of it would be back on the city as far as enforcement goes, which would require filing a motion or complaint. We just did a probate and I'm charging them \$105.00 an hour. The total was \$8,000.00. The county recouped some of that through social services. It was a \$40,000.00 claim. That's what you're looking at. I would agree that your attorneys wouldn't have to drive up here. A lot can be done by e-filing. But if it was contested and there was a trial, then they would have to drive up for it. That's an unknown cost that you guys should get a handle on before you go with Option B so you know what it's going to cost the city if you are actually going to go out and get the judgements.

Randall stated if the county handled the inspections for us, and when we get a non-compliant system, we send a letter and they don't do it, we file a complaint, we're incurring costs. Then the homeowner makes that call, they will be calling the county. It gets to be cumbersome because they are calling the ones that made the compliance inspection.

Dearstyne stated the septic inspector is an independent contractor. Randall stated we'd have to talk to the county about their services if we opt out. Dearstyne stated the Council has to decide if they want to spend that kind of money to get a judgement. Nordberg questioned have they sometimes done it? Dearstyne stated not in my tenure. There's a significant cost to enforce a judgement.

Hawn stated I feel that people do want working systems. That was the reason we put in our new system. Not to be in compliance, or even to sell our house. We had an offer on our house, but because it was non-compliant the underwriters wouldn't write a mortgage. We still weren't willing to put a new one in knowing that the city was coming in. But once it failed, we wanted a new system in. A lot of people are willing to put in a new system but don't want to if the city is going to come and rip it out. I don't know how many people would really be against a compliant system. You might not be talking about very many people you might have to enforce the ordinance against anyway.

Randall stated I think these things are two separate issues that we need to address. Say no to this project and take it off the CIP, and then separately come in for a plan for citywide septic system inspections where we could address the cost, and then having a discussion about that. We're not equipped to do that. Mathisrud is trying to say, thanks but no thanks. He doesn't want that job. I'd like to refer to staff for the Option B. We want more in depth analysis of what citywide septic compliance would look like and what would it cost, and if we'd need additional staff to do this. Then everyone has a true understanding. I'm not ready to say abandon the project and not have any septic system compliance when we know we have failing systems. If we're going to have this ordinance I'd like to see that we are enforcing it.

Nordberg questioned if septic systems are so wonderful why did cities ever go away from them one-hundred years ago? There must be a reason they started putting in city sewer and water. Burlingame stated that's what's different about the third world and us. People were dying from typhoid. Randall stated I've brought up my own property several times. There are city sewer and water out where I am but I'm grandfathered in for life because I'm so far away from the connection. So why am I different from Discovery Circle? I don't think that it's consistent.

A motion was made by Randall, seconded by Nordberg, and unanimously carried to table the Discovery Circle Project.

Discussion: Nordberg stated we need to be aware that this action postpones the likelihood the project will be planned for 2017. We're getting down to the wire if we don't do something soon. Mathisrud questioned you tabled that for another date? Mikesh stated the Councilmembers want more research. Randall stated if you come back and say you don't have anything else, then that's the way it is. Mathisrud stated we'll put together some more information on the points you discussed.

8. DEPARTMENT HEAD UPDATES: Burlingame stated the final coat of bituminous has been laid for the Riverside Area Project.

Scott Olson stated June sales are up by 5%.

Mathisrud stated the total for our building permits is at \$6.5 million so far this year. Last year, in 2015, we were at \$6.3 million for the entire year.

Harlan Johnson stated I've provided you with some information. The department is making changes and you'll be notified as the changes are being made. Nordberg stated the activity report provided was very helpful and informational.

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

10. COMMENTS FROM COUNCIL: There were no comments.

11. ADJOURNMENT: A motion was made by Randall, seconded by Utke, and unanimously carried to adjourn the meeting at 7:32 p.m.

[seal]

Mayor Pat Mikesch

ATTEST:

Margie M. Vik
City Clerk