

**CITY OF PARK RAPIDS
CITY COUNCIL MEETING
APRIL 24, 2012, 7:00 PM
Park Rapids Public Library-Lower Level
Park Rapids, Minnesota**

1. CALL TO ORDER: The April 24th, 2012 Regular Meeting of the Park Rapids City Council was called to order at 7:00 p.m. by Mayor Nancy Carroll, and everyone present recited the Pledge of Allegiance.

2. ROLL CALL: Present: Mayor Nancy Carroll, Councilmembers Dave Konshok, Patrick Mikesh, Sue Tomte, and Paul Utke. Absent: None. Staff Present: Administrator Bill Smith, Public Works Supervisor Scott Burlingame, Treasurer Angela Brumbaugh, Planner Dan Walker, Liquor Store Manager Scott Olson, and Clerk Margie Vik. Others Present: Ulteig Engineer Jon Olson, Alan Zemek, Don & Jeanette LaBounty, Ron Jensen, Thomas Spahn, Lyle E. Oines, Bob Hanson, Jim Harding, Janel Stewart, Mike Johnk, Parry Eidsmoe, Meghan Compton, Collette Baldwin, Char Jensen, Nancy Nyhus, Scott Williams, Lorna Vessey, Joe Vessey, Dick Devine, Ed DeLaHunt, Dave DeLaHunt, Mark & Dawn Johnson, Dick Rutherford, Ryan Eischens, Dave Barnum, and Anna Erickson from the Enterprise.

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

- 7.22. Approve Pre-Application and Authorize Appropriate City Officials to Execute Northwest Minnesota Foundation Grant Application.**
- 7.23. Approve the "Due To-Due From" Transfers for TIF#7 and TIF#10 in the Amounts of \$10,998.09 and \$10,834.50, Repectively.**
- 7.24. Resolution Accepting the Resignation of Full Time Park Rapids Liquor Store Clerk Tom Marcussen.**
- 7.25. Resolution Accepting the Resignation of Park Rapids Library Board Member Carolyn Conklin.**

4. PUBLIC HEARING FOR THE TODD TOWNSHIP PHASE III ANNEXATION AREA UTILITY AND STREET PROJECT:

4.1. Presentation of the Todd Township Phase III Annexation Area

Project: Mayor Carroll stated this is a formal process. The purpose of this public hearing is for the City Council to receive comments from members of the public. We want your comments to stay on the utility project. That is the purpose of the meeting. The purpose of this hearing does not include hearing comments regarding annexation. I know that's high on everybody's mind at the moment, but this meeting is to talk about the project. We sent

notice out to the people. All the residents have been notified of the meeting and the city clerk has filed an affidavit of mailing. The Council will first call upon Jon Olson, the city engineer, he's with Ulteig Engineers, to make a presentation on the proposed utility and street project. This will largely be a repeat of the preliminary engineering report, which has been made available to the public via the city's website and with hard copies at city hall and the city library for public review. After the presentation, those who have registered, signed up on the list, will be afforded opportunity to address the Council. We will go through the list and ask people to comment on the utility project. We're going to limit comment to two minutes because there are so many people here. We want to hear from all of you. If someone has said what you'd like to say, you can refer to a previous speaker by saying you agree or disagree with them. Try to refrain from exact repetition. We ask that you respect each speaker. If you need to have a conversation with somebody, while we're going through the list, please feel free to step outside. We are recording and it's hard to understand what's being said if there's more than one conversation going on at a time.

Public Hearing:

A motion was made by Utke, seconded by Tomte, and unanimously carried to open the public hearing at 7:07 p.m.

Jon Olson stated I will run through a presentation, which summarizes the preliminary engineering report, which we put together last fall that defined the requirements necessary to serve the Todd Township Annexation Area III for city water and sewer.

Olson stated the public hearing is a requirement of Minnesota Statutes, which defines the procedures necessary for the city to follow when they intend to apply assessments to benefitting properties for a utility project. It gives us the opportunity to touch base and pass along the proposed improvements, review the proposed costs and financing. It's an opportunity to receive questions or comments that there may be relating to the project.

Olson stated annexation areas I and II were serviced by city sewer and water in 2004. In 2007 another small extension project took place and it extended utilities further on into the phase III area. Phase III is approximately 103 acres, of that 103 acres approximately 60 of those acres have been provided connections. The majority of area III has been provided water and sewer. The focus of this report was looking at the Fish Hook Park Addition and Welle's Channel Shores. The south portion of area III was provided service in 2004 along with the first phase project. The focus of this study is looking at the requirements necessary to get water and sewer to the north portion, Eagle Ridge Circle, and End of the Day Drive.

Olson stated the proposed improvements include the extension of trunk line main on the north side of Highway 71 from where we left off in 2007 up to the End of the Day Drive. We'd extend six inch watermain and eight inch sewer around both of those streets, and then extend services from the main to the property line. There are a few areas, especially around lakes, where gravity service is not possible with the current existing sanitary sewer and the depths that we're at. We did evaluate whether or not a lift station was an appropriate fit for that area and did conclude with the limited service area and the extreme amount of cost associated with that type of facility, using individual grinder stations at each individual property that requires a lift to the city system is probably a more

appropriate solution, and much more financially reasonable. It's a procedure that we use very commonly on these types of projects. We have a few installed by the river on 71, and many other communities, particularly Detroit Lakes, around the lakes where we use these facilities. If the project does move forward we'd touch base with each property owner to determine what and where service laterals should be placed. There would be some coordination to the specifics of the service laterals once we get into the design.

Olson stated once the underground improvements are installed, we're proposing to reconstruct the gravel streets, and as per city standard, resurface them with bituminous. We are proposing a 28 to 30 foot street. Once we get into the design that could narrow down, we may determine that a 24 foot street, which is the city's minimum may be more appropriate. The exact street width will be up for discussion once we get into the design phase. We aren't proposing curb and gutter on these improvements because of the increased costs that would result.

Olson stated the total estimated project costs for the improvements, including watermain, sanitary sewer, water and sewer services, and street reconstruction is \$837,300.00. The project is proposed to be financed through general city funds and the use of special assessments. The standard size watermain and standard size sanitary sewer would be 100% assessable. Any oversizing costs associated with any trunk line along Highway 71 would be 100% city share. Water and sewer services, the actual service from the main to your property line would be 100% assessable. Street reconstruction is 60% assessable and 40% city share. If we apply those percentages to the project costs we get a breakdown of \$223,600.00 for the city's share, and \$613,700.00 for the assessable share. In order to determine the assessment rate we determine how many total assessable units are assessable. Then we take the assessable amount for the item and divide it by the total amount of assessable units and come up with a rate. Watermain is estimated to be \$45.00 a foot, sanitary sewer at \$44.00 a foot, water service at \$1,750.00 per lot, sewer service at \$1,500.00 per lot, and street at \$47.00 per foot.

Olson stated as per the city's special assessment policy, an interior lot is assessed by the width of your access along the right of way. Take that distance and times it by the rates provided, and then add in the service estimates and you'll get your estimated assessment. Corner lots are assessed on the short side only for your water and sanitary sewer mains, even if the project was on the long side of the lot. There is a slight credit given for the street assessment. It's based on the short side, which is 100% assessable, plus ½ of the long side up to 150 feet. Anything beyond 150 feet would be 100% assessable.

Olson stated the estimated assessment for an eighty foot lot would be \$14,100.00, \$15,500.00 for a ninety foot lot, \$16,900.00 for a one-hundred foot lot, and \$23,600.00 for a one-hundred and fifty foot lot. These costs are estimated at this time. The actual assessments would be calculated after construction of the project. The assessment rates would be calculated using those final numbers. That would take place after construction is completed. We would re-calculate the assessments and send out a notice similar to the notice you received for this meeting. However, it would have a detailed breakdown of the actual assessment that is proposed for your parcel. Once we have that assessment hearing, the role is certified. You can pay it up front in full, but the more common approach is that they are financed on the property tax roll. The first statement that you'd see the special assessment on would be the first year following construction.

Olson stated, regarding the timeframe for the project, we completed the preliminary engineering report. Tonight is the public hearing. The next step, in order to maintain compliance with the orderly annexation agreement is to order the development of the plans and specifications for the project. As per the agreement, it states it must be ordered prior to May, 1st, 2012. Then there's some flexibility in the agreement as to when construction can actually take place. That allows three years, therefore it would be 2012, 2013, or 2014 that construction could take place. The assessment hearing would be in the fall of the year of construction.

Tomte questioned has this project been on our capital improvement project (CIP) plan? Olson stated this project has been scheduled on the CIP for several years in coordination with the annexation agreement. It's scheduled for 2014 on the most current CIP. Tomte stated this isn't a new thing that we just dreamed up last fall. Olson reiterated this has been on the CIP.

Mikesh questioned what happens if we don't order the plans by May 1st? Olson stated that's more of a legal question that I'm not qualified to answer. My guess is that we would be skipping a step in the agreement and therefore we'd be opening up the possibility of procedural error. Vik stated that would be an accurate statement. Carroll stated in order to stay in compliance with the orderly annexation agreement I believe that's our final date. Mikesh questioned and if we don't follow that, it goes back to the township? Carroll stated the attorney would be the best one to answer that, but yes the property wouldn't be annexed. Smith stated it would be a violation of the agreement. For the remaining portions of the agreement, if all parties are still in agreement it could go forward without it. On the other hand if a party feels like they've been wronged because that provision of the agreement has not been met then that would be a basis to come in and challenge the agreement to go forward, in my opinion.

Tomte questioned how does the statute play into that? Olson stated chapter 429 states you have one year for the improvements to be let, unless a date other than that is stated in the resolution.

4.2. Questions Regarding the Project: The mayor began by reading the names from the sign in sheet.

Alan Zemek: I own property on Fish Hook River in Park Rapids. I'm not in the annexation area. Without addressing the financial end of the project, just as a philosophical statement, with the low water table we have and the very poor soil that we have, the proximity to the public water shed where our property values are impacted by the water quality, in an equal world, sewers are better than septic systems. They fail. But I'm not going to address the annexation agreement or the financial prospects of the project.

Jeanette LaBounty: It would really be a hardship on a lot of people out there.

Don LaBounty: Have you heard from anybody in the area that is in favor of the project?

Carroll: Yes.

Don LaBounty: How many?

Carroll: I don't have a count.

Smith: I didn't keep tick marks either. I would guess roughly half and half.

Don LaBounty: I don't believe that. No.

Carroll: We'll keep a total going as we go through the list.

Ron Jensen: I'm from 14141 Eagle Ridge Circle. I have to revise my comments here because I didn't know that annexation was off and has already been decided. I thought annexation had not been finally decided so you threw me a curve so I'm going to revise. I had sent a letter to the City Council members and I'm going to make a couple of comments about what I had in there. If annexation is not a possibility, my wife and I are requesting the City Council to delay the municipal sewer and water services to the time period the Todd Township Board had previously requested, which was a ten year delay. Yes I've heard it talked about that it will cost more then, yes the cost may increase ten years from now, but in our case the taxes will go up about \$1,000.00 per year if we are in the city, plus the other increase in cost for being in the city for the next ten years will be far greater than the increase in the cost of this project. I believe that the economy is likely to be much better in ten years and there's a possibility of grants being available. After consideration of the city in this project it is estimated to increase the city's financial part of it \$223,600.00, which I think they already have a pretty steep financial debt. The estimated cost for our property, just for the assessments, based upon the shape of our lot could be just about \$50,000.00. If we went with the route that you're talking about to finance it over fifteen years, it could be \$70,000.00, because we have an inside, odd-shaped, partly triangular 525 foot lot. If this would be the cost, the question is why should we incur an obligation of \$50,000.00 to \$70,000.00 for what we already have? Excellent water, 1.7 nitrate as of June 29th, 2011, and a conforming septic system. The other comment was a question to Jon. I heard your presentation and I've read it a number of times. You failed to answer what is on page 29 of your agenda packet. If you are going to pass a resolution tonight, number one on it is the City Council determines that such improvement is necessary, cost effective, and feasible as detailed in the preliminary engineering report. There are three words there that I have not heard the answer to in the engineering report. I would ask the City Council to address that and answer that. That would be fine.

Tom Spahn: I don't know if I'll remember everything that's on my mind, or that I'd like to say. The first thing I'd like to say is I hope everybody uses common sense. Today, in this country, not a lot of common sense has been used in our government. I was for this project ten years ago. Now they have phase one and two completed where the small lots are. Nobody protected anybody from waiting until this happened with their sewers and water. We had to redo. We bought a permit to add onto our house or something like that you had to buy a permit, it's not a big deal, but the county made you upgrade. Now we're upgraded. A judge made that call years ago that could put it off but that was passed away. I just put a new sewer in about four or five years ago because I got a permit and the county made me put in a new sewer and water. Now I'm saying we have big lots, the general area does, and I think that private sewer and water would be fine.

Lyle Oine: I have a property out there in that development. At this point I'd have to go along with the presentation that was just made by speaker number three. He seems to have researched it pretty darn well. We're all proud of him. In my opinion this should be put on hold for somewhere down...the economy being where it's at, a lot of us on fixed incomes it's really going to create a hardship.

Bob Hansen: I'll pass. I'm just here to observe.

Jim Harding: I know you all got a letter I sent to you strongly opposed to the city water and sewer being brought out to where I'm at. I have two large lots and it's going to cost me approximately, if you take out the big lift station out there, between \$50,000.00 and

\$70,000.00 for just one house. Plus, I'm 650 feet away from a hookup. The special benefits that you're giving me, my property will not increase compared to the cost that you're going to assess my property. I spoke with two certified appraisers and they told me the same thing, in this economy, for the past six quarters the values of housing has went down, driven by the economy. Hubbard County alone has approximately 466 properties for sale right now. It's hard to sell properties in today's environment. If you tack an assessment on top of this project on these places....number one I can't afford to pay a \$5,000.00 a year assessment, plus the hookup fees, plus the city water fees, and the city sewer fees. The water I have is fine. The city tested it not too long ago for a water tower. My water quality is just fine. The sewer, arguably it was fine when I moved in, things change. Now I haven't had it looked at but when I bought the home it was in compliance. It's far more cheaper to replace the septic system. It costs about \$5,000.00 than it is to put \$70,000.00 assessment on the properties. I have two properties there. I have \$130,000.00 home that's going to cost \$30,000.00 just to get it hooked up if I ever hook it up. I think that the costs exceed the benefits for most of the property owners out there. There wasn't 50/50 for this project. I haven't heard one person that's against it, Ron Pederson, and he moved out of town.

Smith: I had two phone calls. He was for it, and the other caller was against it.

Harding: That's not 50% though.

Smith: 50% of what I received.

Harding: You can't look at it that way. 50% should be 50%.

Smith: What I'm saying is that I had for sure were the phone calls that I received, but I didn't take a tally of what maybe Margie, Brenda, or some of the others in the office received on phone calls that didn't get to me.

Harding: I think most of the people are here. The properties out there, if you haven't driven out there, you should go and look at the size of the lots that are out there. These aren't small lots like are on Deane Point that it was necessary to put city water and sewer in because there was no place to go with it. I have three acres out there. I have plenty of room for septic systems if I have to upgrade the systems, and it's a lot cheaper to do that than it is to hook up the city water and sewer when there's no financial benefit for me. It's a huge cost that I won't be able to pay if you continue with this project. There may be a lot of lots out there but there are only nine homes. I respectfully ask that you deny this.

Janel Stewart: I have some concerns. We have multiple lots out there. Big lots as well. I haven't seen all the numbers so I haven't sat down and figured out what it will cost for us to hook up. We are towards the lake, quite a ways in. My concern is do we need water and sewer at this price. We have room to put a new well and septic if we need to. Ten years ago it was a different story that we understood, things have changed. Right now I'm trying to get all of the information and go from there because I don't know what the price is according to the new numbers. With the economic conditions that are happening right now it doesn't make sense for us to spend all of that money at this point in time.

Mike Johnk: I have properties just like they do. I have five acres. He said it best, just common sense. Cost benefit. What are we going to get out of it for the expense of putting water and all that stuff in there? Water and sewer is not hurting any of us out there. What kind of services are we going to get from the city that makes it worth it? If we turn around and sell the properties is somebody else going to spend \$400,000.00 to help us recoup the cost of all of this? Not likely. I don't see any benefit. I really don't. I've been here for ten

years and I was told when I bought the place that it was going to happen. It didn't happen. It didn't happen. Well, we've been getting along just fine for all these years. I don't see any benefit to it.

Terry Eidsmore: I'm opposed to it. I agree with Jim over there.

Megan Compton: No comments.

Collette Baldwin: I live on End of the Day Drive and I hope to purchase property in the future and knowing that that much more is going to be added onto the house price, it would be unaffordable for us to deal with. I have good water and sewer right now. I would be against as someone looking to purchase a home there in the future.

Utke: Excuse me, did you say you live there now?

Baldwin: I rent.

Char Jensen: I agree with Ken. Our water is good. Our sewer is good. Adding this much money that we have to pay out, the \$70,000.00, is that going to add \$70,000.00 worth of value to our home? Or is it just money that we have to put out? Can you tell me?

Carroll: I don't know the answer to that.

Jensen: I don't think it will increase the value. I'm very much against it.

Nancy Nyhus: I'm a widow. I have a great house with great neighbors. I have good water and my septic is all right. There's no way, living on social security that I could afford what this might cost me. I understand some areas want it and need it, but I definitely see no need if it does pass.

Scott Williams: I have two lots on the End of the Day Drive and my place appraised for \$130,000.00 in October. Then add a \$30,000.00 assessment, I don't think it's a good value for the money. I'd really like to hear from the people who are for it. They're very silent.

Utke: Scott, which property? What's the name under it?

Williams: It should be my name.

Carroll: The address is 19616 End of the Day Drive.

Tomte: It's under Doris.

Lorna Vessey: I also live on Eagle Ridge Circle. My husband also sent letters out to everyone. I wish he could be here tonight because he would have a lot more to say. It will create a tremendous hardship for our family and our water quality, we don't have any problems with it. Actually I think our water is better than the city water to be honest with you. So we're totally against it.

Joe Vessey: I live at 14110 Eagle Ridge Circle. I'd like to point out the fact that I think it's wrong that between three property owners in this room here they're going to be shelling out as much money as the entire City of Park Rapids is for this project. I find that to be wrong. I'm completely against it.

Dick Devine: I'm the unlucky one that owns the most lots there. I own five lots in that circle. I think I just guesstimate that you're talking \$100,000.00. My question is how many of you sitting there would like to be retired, 72 years old and have someone hand you a bill for \$100,000.00 at whatever the interest rate is. Probably 5%, I don't know what it would be. I just guesstimate that it would probably cost me \$1,000.00 a month for the rest of my life. I know that we need good water and good sewer systems, and you know that. But I think that timing right now is terrible. We are in very bad times. Our neighborhood in particular is retired people. All neighborhoods roll over in a matter of timing, and all of those kind of things. But for our area it's terrible timing and individually it's terrible timing because you're talking about the money that I use to enjoy my retirement, \$1,000.00 a month. That's

probably conservative. That's a lot of money to have a retired person pay. Now I think there opt to be some kind of solution for that, maybe there's not. It certainly isn't fun to be on that end of it.

Ed DeLaHunt: I'm just here to observe.

Dave DeLaHunt: Just here to observe.

Mark & Dawn Johnson: I agree with speaker number three, Jim. I'm completely opposed to it. Our water's fine. I don't see any benefit at all in this. Strongly opposed.

Carroll: That is the end of the list. Thank you for your comments. As I mentioned before we have a tape recorder going and that will be used to prepare the minutes from the meeting. We thank you for coming tonight and giving us your comments at the public hearing.

A motion was made by Mikesh, seconded by Utke, and unanimously carried to close the public hearing at 7:43 p.m.

4.3. Resolution Ordering the Improvement and Preparation of Plans for the Todd Township Phase III Annexation Area Watermain and Sanitary Sewer Improvement Project in the City of Park Rapids: Carroll stated this is part of the 429 process, ordering the plans and specifications at this point, we must do this by May 1st of 2012 in order to stay in compliance with the orderly annexation agreement. **A motion was made by Utke, seconded by Konshok, to approve the Resolution Ordering the Improvement and Preparation of Plans for the Todd Township Phase III Annexation Area Watermain and Sanitary Sewer Improvement Project in the City of Park Rapids.**

Discussion: Utke stated I see no use going forward. The people that were here and the contacts that I got at home, one for it, and twenty against. I think the people have spoken. We need to wait until they're ready to move forward. I'm not going to shove it down their throat.

Mikesh stated I'd have to agree with Utke. Is there a way we can contact the township and find a way to push this out, even the dates? We need to do that. The people can't afford it. The city can't afford it. We have how many projects that we've put off. I think we need to worry about the structure we have now. Five months ago we were in a big rush because we had to get Riverside done. We shut it down. Why worry about putting in new stuff when we can't fix our old stuff? Even if we have to go back to the township and say have it back, whatever we have to do. We have Green Acres knocking on our door, same thing. We can't keep our old stuff up, why put new stuff in? We need to push it back.

Tomte stated there's certainly a lot of discussion. All the annexation activity is things that were agreed on eight to twelve years ago, and that was part of an overall planning process for our city. That was part of planning when you're part of a city instead of just letting things happen, we want to have a plan for what's going on. So that all predated all of us. Most of us weren't involved in that activity, Now as the timeframes come up we are forced to deal with those timeframes, and deal with them by the statutes and the laws and all of the requirements that are put on by legal documents. So that's where we are in this process and of course, timing is clearly not good, but I'm going to ask this question. How will things be different in five years or ten years from now? None of us predicted anything with the economy, so that's a comment.

Konshok stated it's important to remember annexation is not about water and sewer. It's obviously the first point of impact for new areas coming into the city, but it's important not to lose sight of the forest through the trees. Annexation is about addressing growth. Cities grow over time. That growth rate changes, they expand out. You get to the point that areas on the edges of the city are overgrowing the ability of township's to support so cities look to annex them. A big part of it is providing water and sewer, but that's not the only reason we do this. At a previous assessment hearing we had folks saying we must be trying to make a fast buck on expanding our water and sewer system. I want to assure folks that is really in no way the case. What money comes in, money goes out. It's a totally nonprofit situation. I'm a rule follower. I've been military all my life. I grew up here in Park Rapids. Spent a lot of time on Eagle Ridge Circle before it was even called that. It was a county road back then. Times do change. I think it's important to note, as a guy who prides himself on following rules, a previous Council and town board hammered out this agreement. I think hammer is the appropriate tool, as I understand it, it was not without contention in the process. It ended up going to arbitration. I think it's important not to forget that your neighbors to the east that were truly in a world of hurt out on the point, quite frankly, one of the only reasons the city was probably willing to extend them water and sewer services was because they weren't the only part of the annexation. To be quite blunt, it didn't make cost effective sense for the city to extend water and sewer all the way out for just those few properties along the point. I would point that out and try to refresh everybody's memories that there is a process going on here. It was broken into phases. I understand the reason for that. There was some folks that had immediate need, the folks that we're looking at, you're talking now in phase III, annexation, the need was not near as critical. I would point out there are deferred assessments for properties along the main line in the amount of \$300,000.00. Without this annexation being completed the city is deferring \$300,000.00 in assessments. The city has that on a permanent credit card with residents that are out there that aren't currently hooked up and aren't currently assessed. I want to cite all of that as counterpoints.

Konshok stated I totally sympathize with landowners that are here tonight talking about the high cost of the assessments. I have a commercial property on Highway 34 that got hit by assessments. My home is on Riverside Avenue, which was delayed but is coming up. There are water and sewer lines under it that need to be replaced. I'll be assessed for that. It's not an easy process. I understand that. Discovery Circle is going through the same pain and heartache that you are. Comparing the two projects, we know of five properties in Discovery Circle that have nonconforming systems that the city issued a letter of intent pending the sale of those properties that hookup to water and sewer is imminent. My question is in this area of annexation that we're talking about do we have any similar properties that we know of? Smith stated I've had nobody communicate to me that they're trying to sell a property that the lender refuses to make the loan. Konshok stated which to me is an important point because if there was even one property out there I would feel obligated on the city's part to follow through with annexation and to do what was set in motion previously.

Tom Spahn questioned one property would make you say the whole thing should go through? Konshok stated because of the fact that we had already extended water and sewer lines out, the trunk goes $\frac{3}{4}$ of the way needed into the whole annexation area. My point being, that the city has already made a commitment that was worked out with the

township. Your property was represented by the township board. What I think is possible and feasible is, we talk about the timing and the phasing of it, what we're really here to talk about is the project and not annexation. I'm willing to talk about the timeframe on the project, but as far as annexation goes, I feel that that process was set in motion and decided a long time ago. It would be a difficult decision for me to go against that process. I wouldn't want to bring an annexation agreement out today with the township around us, I would hope that future Councils would respect that, looking back on what we did today. Probably not what everybody wants to hear. I want that all pointed out from the perspective and background on it from the city's standpoint as how I see it as a city resident. We are taking your views in mind, but I also have to consider the views of 3,709 other Park Rapids city residents that are currently hooked up to the utilities and within the city boundaries.

Carroll questioned would Smith please clarify for us that portion of the orderly annexation agreement having to do with the provision of services and the timing for the phase III properties. Smith stated the agreement has a triggering date of May of 2012 for annexation and ordering of the utility and street project. That's why all of this is happening at this point because it was agreed upon when the agreement was signed. The city in order to honor its obligation under the agreement, in order to keep things moving, would presumably, if it goes forward and orders the plans, then it's fulfilled its obligation. It still has the option of scheduling the project on our CIP, which is a planning document, it's not in stone, but presently, it calls for the project in 2014. It's being delayed two or three years already in our current plans. Carroll stated I want to make sure the Council understands by approving the resolution tonight that means we're still in compliance with the orderly annexation agreement. It is a legal document and if we deny the resolution then we are in violation of our own legal document. I hope the Council understands.

Utke stated if we order the preparation then the annexation goes forward and we're required to move forward with the project within the three year time period. If we don't go forward the orderly annexation disappears. Smith stated not necessarily. The aggrieved party would be the township. They're the other party to the agreement. It depends on how the township board views it. Utke stated they would have to have some input back in, but from what we're hearing tonight, three years didn't seem to fall within anybody's time period from what I'm hearing.

Carroll stated having participated in that lengthy and very contentious period of time for the residents, town board, and the City Council, this was an agreement that we agreed to. We filed it with the state. The city has been fulfilling its part of the agreement. The township has been abiding by it's part of the agreement as far as zoning. I agreed that we need to respect this document and this agreement. But I've also heard the size of your lots. The reason for the agreement to begin with was so many people had noncompliant systems and wells. We needed a solution for them. We needed a common solution. Many of those people, hopefully most of them were served by phase I, the installation of sewer and water along the river, and the southern edge of Fish Hook Lake. But it was always going to be a larger portion than just the river front properties. It was going to be the entire area. And we agreed to phasing it so, I really don't remember why. I think it was because the biggest need was going to be met first, and that was a doable project within one construction season. It was a give and take with mediation.

Carroll stated I'm really listening just as everybody else did about what you have said about your very large lot sizes. That you do have room for additional drain fields and you have room for additional wells. That was not the case for phase I and possibly some of phase II. That area is just a couple of properties. A potential compromise is moving forward, taking this step of approving the resolution tonight so that we stay on track with the agreement and seeing if we can potentially negotiate with the town board on going past with deadline of only three or four years remaining of our agreement. I think we were supposed to have it completed by 2015. That's fast approaching. Would the Council consider an action like that, to talk with the town board about a longer term and see if that would be a solution?

Tomte stated we definitely have to have our attorney's look at it if we're going to change anything up, to make any big scale changes to the agreement. I think just not performing would probably get us into trouble. We have to address that. I think if we are proactive in addressing that and coming up with compromises is not unreasonable. I think that would be a good idea. Smith stated the Council would also have to consider the city ordinance which says you have to hook up within three years after it's made available. We'll have to address that if we go that route.

Utke stated I would go along with talking with the township but I don't want to tie us to a three time period at this point. I've counted thirty properties, twenty of them have voiced their opinion, and they say no. That's 2/3rd. I'm not going to tie anyone's hands. I'm willing to negotiate with them, but if we vote in favor of it tonight, we've turned the time clock on. I'm afraid of that.

Carroll stated I don't understand that. I see this as ordering the plans and specifications, which can be held. Utke stated the annexation agreement kicks in at that point. It says we have to do a three year plan, unless we negotiate the change. That's why I'm saying, to me, it's the cart before the horse. Carroll stated if we don't approve it tonight, we've lost the opportunity entirely. Utke stated they're telling me they don't want it. Tomte questioned can we make that decision? It was not us who got it to that point.

An audience member questioned why should we be bound to something that was ridiculous in the beginning? Carroll stated I resent that remark. Legally we have a document. It is recorded with the State of Minnesota. We followed the statutes. What is going to happen? And what about those deferred assessments? What is happening to the city if we don't follow through? Smith stated there is a statute that addresses time lapse on deferred assessments. I think it's thirty years. There's a little cushion there. My opinion is if the city doesn't fulfill its obligations under the agreement the aggrieved party is the township board. They may be okay with that and not have any issues. On the other hand if they have a problem with that, they file their grievance with us and try to work it out. If you order the plans and specifications tonight, you still have the leeway later to proceed with the notification to annex, or not to proceed with the project. When the plans are presented you can vote yea or nay to go forward.

Konshok stated this is not the final vote. This is an ordering of the plans. One of the purposes is to shine a spotlight on it and get clarity of exactly what the costs are going to be. We understand the sticker shock. We deal with it all the time, both personally and as Councilmembers. But, at this point we're ordering the engineering design to be fully flushed out, completed, and a complete and final cost estimate. Actual assessments are based on project costs. The other clarification is, I understand all the people from

annexation area III. I get what your overwhelming opinion is but understand from the city's standpoint, areas I and II also voted for this. If you added their votes in as property owners I think the vote count would be much closer as far as whether to do this or not. At this point you can't slice off areas I and II and say they got theirs, now don't get us. The agreement was for the entire area.

An audience member said the residents from I and II didn't vote for it. Konshok answered yes they did. They've already been annexed. Carroll stated there were a number of polls taken. Konshok stated the agreement is for areas I, II, and III. I take exception of parceling out area III from I and II. The city has put a lot of money into a trunk line. We did that with a specific area in mind, now we would be down to 40% of the original area.

Carroll stated I'm not satisfied with the legal implications. Konshok stated I say proceed and talk with the township, not just default on our portion of the orderly annexation agreement. Carroll stated we will be in default on May 1st. I suggest we table this item and have a special meeting later this week so that we can have our attorney present and we need to know the consequences of the assessments. Tomte stated that's the big thing. If we're going to default, we need to know the ramifications of that action. I don't think we know that tonight.

Carroll moved to table the resolution and called for a special meeting on Friday, April 27th.

Konshok stated we had a motion and a second on the floor. Utke needs to change his motion. Utke stated do we have a time that we can make it work?

Carroll removed her motion, and the discussion continued. Council discussed when they would be available for a special meeting where they will discuss legal advice for being in violation of the process outlined in the orderly annexation agreement, the potential loss of the deferred assessments.

Utke changed his motion to table the Resolution Ordering the Improvement and Preparation of Plans for the Todd Township Phase III Annexation Area Watermain and Sanitary Sewer Improvement Project in the City of Park Rapids, and to set a special City Council meeting for Friday, April 27th, 2012, at 3:00 p.m. at the Public Library. Konshok seconded the motion, and it carried unanimously.

5. APPROVAL OF MINUTES:

5.1. City Council Workshop Minutes-April 10, 2012: A motion was made by Utke, seconded by Konshok, and unanimously carried to approve the April 10th, 2012 City Council Workshop minutes as presented.

5.2. City Council Regular Meeting Minutes-April 10, 2012: A motion was made by Mikesch, seconded by Utke, and unanimously carried to approve the April 10th, 2012 City Council Regular Meeting minutes as presented.

6. FINANCE:

6.1. Payables & Prepaids: A motion was made by Konshok, seconded by Mikesh, and unanimously carried to approve the payables in the amount of \$22,159.95, and the prepaids in the amount of \$258,892.04, for a total of \$281,051.99.

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

- 7.1. Resolution #2012-73 Approving Ordinance No. 537 Amending the Park Rapids City Code of Ordinances, Chapter 151 Zoning, Section 151.057 (C-1) Conservation District, Section 151.058 (AG-1) Agricultural District, Section 151.060 (R-1) Single-Family District, Section 151.061 (R-1A) Single-Family Residential in Annexation Area District, Section 151.062 (R-2) Single, 2-Family and Townhouse District, Section 151.063 (R-3) Medium Density Residential District, Section 151.064 (R-B) Residential-Business Transitional District.**
- 7.2. Ordinance No. 537 Amending the Park Rapids City Code of Ordinances, Chapter 151 Zoning, Section 151.057 (C-1) Conservation District, Section 151.058 (AG-1) Agricultural District, Section 151.060 (R-1) Single-Family District, Section 151.061 (R-1A) Single-Family Residential in Annexation Area District, Section 151.062 (R-2) Single, 2-Family and Townhouse District, Section 151.063 (R-3) Medium Density Residential District, Section 151.064 (R-B) Residential-Business Transitional District.**
- 7.3. Approve Pawnbroker's Permit for Royce A. Holland d.b.a. Fuller's Gun & Pawn Shop at 223 Main Avenue South, for May 1st 2012 to April 30th, 2013.**
- 7.4. Approve Multi-Vendor Transient Merchant License for Brenda Mason d.b.a. Brigid's House, at 500 Park Avenue South, on Saturday, June 16th, 2012.**
- 7.5. Approve Purchase Order for the Public Works Department for the Spring Irrigator Service from Elsner Irrigation Service in the Amount of \$1,080.00.**
- 7.6. Resolution #2012-74 Accepting the Resignation of Volunteer Firefighter Mark Gossman for the City of Park Rapids.**
- 7.7. Authorize City Staff to Advertise for the Open Firefighter Position in Accordance with the Attached Advertisement.**

- 7.8. **Approve Application/Permit for Fireworks Display for the Park Rapids Rotary Club, on July 4th, 2012 at Heartland Park in the City of Park Rapids.**
- 7.9. **Resolution #2012-75 Accepting the Resignation of Housing and Redevelopment Authority of Park Rapids Member Ted Godfrey.**
- 7.10. **Approve Backhoe Operator's License to Work in the City of Park Rapids in 2012 for L&B Excavating Inc.**
- 7.11. **Resolution #2012-76 Appointing Janice Tidrick to Serve on the Park Rapids Planning Commission.**
- 7.12. **Resolution #2012-77 Approve Wage Adjustment for Part Time Rapids Spirits Liquor Store Clerk Fredrick Thompson.**
- 7.13. **Resolution #2012-78 Authorizing Proper City Officials to Execute the Paperwork to Abate the Special Assessment for PID #32.37.10010.**
- 7.14. **Authorize Staff to Enter into a Five Year Lease for a Lanier MPC4502 Copier/Printer for City Hall.**
- 7.15. **Approve Pay Request in the Amount of \$1,097.01 to TKDA for Architect Fees for the 2011 Airport Terminal Area Improvements.**
- 7.16. **Approve Pay Request in the Amount of \$4,137.80 to NW MN Environmental Consulting and HRDC Administrative Services Regarding the Small Cities Development Program Grant.**
- 7.17. **Resolution #2012-79 Authorizing City of Park Rapids to Execute the State of Minnesota, Department of Transportation Cooperative Landscaping Agreement No.00960.**
- 7.18. **Approve Transferring \$83,998.72 to Hubbard County Highway Department for the Main Avenue Project.**
- 7.19. **Resolution #2012-80 Approve Minnesota Lawful Gambling LG220 Application for Exempt Permit for Minnesota Darkhouse & Angling-Park Rapids Chapter.**
- 7.20. **Approve Purchase Order in the Amount of \$20,405.51 to Restock the Water Department's Inventory of Water Meters from Ferguson Waterworks.**

- 7.21. **Resolution #2012-81 Approve a New On Sale 3.2 Beer License for Park Rapids Lakes Area Chamber of Commerce in the City of Park Rapids.**
- 7.22. **Approve Pre-Application and Authorize Appropriate City Officials to Execute Northwest Minnesota Foundation Grant Application.**
- 7.23. **Approve the “Due To-Due From” Transfers for TIF#7 and TIF#10 in the Amounts of \$10,998.09 and \$10,834.50, Repectively.**
- 7.24. **Resolution #2012-82 Accepting the Resignation of Part Time Park Rapids Liquor Store Clerk Tom Marcussen.**
- 7.25. **Resolution #2012-83 Accepting the Resignation of Park Rapids Library Board Member Carolyn Conklin.**

END OF CONSENT AGENDA

8. COMMENTS FROM CITIZENS: Alan Zemek stated in February the City Council endorsed a resolution for the Northern Lights Opera Company to file a joint grant application to the National Endowment for the Arts. It was for cultural mapping, an Our Town Quality of Place Making Grant to evaluate the armory auditorium as a location for performing arts. The city endorsed that with the stipulation that it not cost any money. We have found the source for the matching grant. We'll know in July if we get the NEA grant, and we've potentially identified the source of the match. It would give us 100% of the funds and would allow the city to bill for administrative time.

9. GENERAL BUSINESS:

9.1. Summerfield Place Water Issues: Dave Barnum, the property manager from Summerfield Place, stated I've updated you on the problem that occurred. The meters at Summerfield are read every ninety days. We have no idea where the water went. We check all our vacants. We rely on our residents to alert us to any water leakage problems. We didn't find out about this one until the end of the billing cycle. We're \$1,500.00 over what it normally has been for the last four years. We have ten apartments, four of which were vacant. Dean Christofferson came out and helped us out as much as he could. He could find nothing wrong. He said that the meter could be wrong. He did several checks and said that the meter probably isn't wrong. I'm here asking for mercy. A couple of negative things, we rely on the residents. If you look at the amount of water that went through there in the last 96 days, there was 150,000 more gallons that we usually use. We get both sewer and water and the readings on the meters are only being taken every 96 days. As an apartment complex, besides us reading the meters ourselves to keep track, in the seventeen years in our history, there's never been something like this happen. I don't know if there is anything that you can do, or not? I don't know what we can do besides

reading our own meters and documenting stuff. We have sixty apartments in the senior unit. This one ten unit apartment used more water than the sixty units in the senior building did.

Carroll stated part of the discussion was that you had problems with one toilet that you replaced a flapper. Barnum stated on Christofferson's suggestion we did a seepage test on all toilets and found one or two that had slight leakage. There was no way that could have caused all of this. We had one service call, and that day we changed the flapper. We're at the mercy of our residents. Christofferson could not explain how that much water could have come from the toilet.

Carroll stated I had personal experience with a leaky toilet. It wasn't to this extent but it's surprising how much water can go through the meter in a short period of time. Barnum stated the meters are old and it doesn't help us to head off a problem if there is one. Carroll stated have you looked at the chart that has leakage rates? Barnum stated we run ninety-six apartments and this never happens. I'm not trying to get out of our bill. Carroll stated the city's policy on this is after an investigation, a city employee comes to see if they can identify if the water went through the meter, and then did the water go through the sewer system. If it went through the meter, and there's no pool of water in the basement, and there's no indication that it didn't go through the sewer, then we have to charge you for the full thing. Barnum stated I should then request that you test the meter, and that would be \$100.00. You'd have to put in a new meter which would be an advantage to us. There's one meter for all of the ten units. Burlingame stated it's either that or we put in an old one just as a temporary, which would probably be the case. Those large meters are about \$2,000.00 each. We can send it in. If it comes back fine, then the resident has to pay for the inspection.

Utke stated you started with this problem a little over a month ago, and you've been watching it good for a month. I don't think you're going to find anything. It's not worth spending that money. I had it too, but I caught it in three weeks. Mine was the fill valve so it was just going into the basin of your toilet. One toilet was \$70.00 in three weeks. I understand exactly what you're going through.

Barnum stated the time period is a bad thing when you're dealing with hundreds of people, and relying on them to be good residents. What are you going to do to protect us? We're a big water user. Three months is a quarter of a year and dealing with so many people there, our record for seventeen years has been pretty miraculous that this has not happened before. Now technology is there, what are you going to do for us to help us to handle this? Burlingame stated we've been putting in at least fifty e-coder meters per month. We've discussed doing more than that to get the entire system up and to go to monthly reads. Carroll stated the sooner we get to that the better. Barnum questioned can you fast track the accounts that have the biggest number of people? Burlingame answered sure. We can put in an e-coder. We could tell him when his leak started and when it ended.

A motion was made by Tomte, seconded by Mikesh, and unanimously carried to deny the request for an adjustment on the first quarter water/sewer billing for Summerfield Place at 905 Central Avenue North, as per staff recommendation based on past practice, and to replace their water meter with an e-coder model as soon as possible.

9.2. Request for Funding For Headwaters Softball League: Ryan

Eischens, League Director of the Headwaters Softball Association, stated you have a letter explaining our needs. Smith stated the Parks Board considered this matter and recommended that \$500.00 of their funds be made available, and that the Council consider further assistance. The staff recommends purchasing the agri-lime for the softball fields and make that available to the league to spread for \$1,200.00. \$500.00 from the Parks Board and \$700.00 from the city. Carroll stated the city can't make a donation so we will need an invoice to work off of. **A motion was made by Konshok, seconded by Utke, and unanimously carried to approve a \$1,200.00 reimbursement for the purchase of agri-lime for the Headwater Softball Association fields.**

9.3. Re-Sealing Main Avenue:

Burlingame stated I got a quote several years ago from a company that installs colored, decorative concrete. At that time it was \$20,000.00 to clean and reseal Main Avenue. The public works department can do it for \$5,000.00. We didn't budget that money, but it needs to be done. We're not sure how long we're going to tie up some of these blocks. We'll do it in May, and I've estimated it will take three days per block. We'll start by power washing the street at 4:00 a.m. so we can get ample drying time, and then start sealing sometime in the afternoon if the temperatures are right. Then it has to sit for another twelve hours before you can open the street back up. We'll do one block at a time. It would be too difficult to manage it any other way. We'll be able to do it faster if we can block off the street.

Zemek questioned if they could power wash the sidewalks at the same time? Burlingame stated we only have one power washer so doing that will extend the time the streets are closed. Carroll questioned could we rent another power washer? Tomte stated if you get that power washer up next to some of those old buildings, who knows what will happen. Burlingame stated we'll also take care of the granite inlays. We'll put a sealer on it that has some grit so they won't be so slippery.

A motion was made by Utke, seconded by Mikesh, and unanimously carried to authorize the public works department to re-seal the decorative, colored concrete on Main Avenue, with the expenses coming out of operating reserves.

9.4. Resolution to Appoint Councilmember to HRA of Park Rapids:

Tomte stated she hasn't been able to attend the meeting since they are on Wednesdays, at 9:30 a.m., once a month. Konshok stated he would accept the appointment. **A motion was made by Utke, seconded by Tomte, and unanimously carried to approve Resolution #2012-84 to Appoint Councilmember to HRA of Park Rapids.**

9.5. Resolution Establishing a Lawn Watering/Irrigation Ban for the City of Park Rapids:

Burlingame stated this is the same ban that we enacted last year. I want to do the same thing, knowing that our maximum capacity with two wells is about 500,000 a day. We've been averaging, this month, about 480,000 per day, which could change real quick. I don't want to use well eight if I don't have to.

Carroll stated I've heard some concerns. One was from a commercial lawn maintenance person who wanted to know if this ban was going to start now and go through the whole summer. The other was a private resident who had a lawn sprinkling system. He had the same concern. The thought of a ban was enough to make people wonder if it's for

the whole summer. Burlingame stated if it's hot and dry all summer, it will probably be. But if it's like last summer, when it was fairly wet, we didn't have an issue. We can only produce 500,000 gallons of water a day. If it's pumping more than that, the majority of it will be for irrigation.

Carroll questioned what about people with newly seeded lawns? If you don't have the water, the whole thing is going to die and you've lost that investment especially if it's sod. Burlingame stated it can be every other day. Carroll questioned will you consider some exemptions. Burlingame that's up to the Council. I don't know how we're going to manage that. Smith stated we'll have to ask for the good will of the people. Burlingame stated in the few instances where people have redone their lawns, I don't think that's the big user. It's the banks that turn on every night and go through thousands of gallons. Those are big, big users.

Tomte questioned does the first paragraph of the resolution still apply? Smith stated that's part of the problem, we've lost two wells. Burlingame stated we have closed well seven and well four, and well eight has high iron and ammonia in it. We didn't find out about that until after production. The ammonia eats up the chlorine. It puts us at high risk for bacterial contamination. You'd either have to use more chlorine, or go to a different disinfection system with ammonia, which would be expensive also. At this point, it's not a very good well for us to use. It's good for a backup.

A motion was made by Utke, seconded by Mikesh, and unanimously carried to approve Resolution #2012-85 Establishing a Lawn Watering/Irrigation Ban for the City of Park Rapids, and to have staff educate the public on good water practices.

Discussion: Utke stated this is a tool you can use, but we need to get this information out there so everyone knows how much water they use every day. Konshok stated there are no restrictions now. We have no water use policy, and that's available too. Burlingame stated because of a recent project with the Army Corp of Engineers we had to adopt a conservation rate structure. That has made a big difference.

9.6. Fiscal Agent for RBEG Grant: Smith stated we're asking the City Council to approve the EDA's recommendation to extend a \$25,000.00 interest free loan for six months, with administrative fees, to the Hubbard County Regional Economic Development Commission. **A motion was made by Tomte, seconded by Utke, and unanimously carried to approve a six month, \$25,000.00 interest free loan, subject to administrative fees, to the Hubbard County Regional Economic Development Commission, from the EDA revolving loan fund.**

10. CITY ADMINISTRATOR UPDATE: Smith stated the audit is complete. There will be a few write ups on the segregation of duties, the normal things we see in cities of our size. There will be some criticisms on our purchasing practices for large equipment items where the bidding process could have been used better. The city will finish 2011 in the black. We're expecting a good report. We'll go down to St. Cloud in the middle of May to talk with the auditors and finalize the report. Then they will present to the Council.

Smith stated May 4th the tree distribution will be done at city hall. We ordered two-hundred and fifty trees and they will be passed out with the help of the Urban Forestry and the Rotary Club.

11. DEPARTMENT HEAD UPDATES: Scott Olson stated we've had 2,000 more customers this year than last year at this time. We finished the last of the liquor reset. May 10th they will do the beer cooler reset. I will be interviewing people on Friday and Monday.

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

13. COMMENTS FROM COUNCIL: Carroll stated she will be intending the Minnesota Mayor's Conference this weekend.

14. ADJOURNMENT: A motion was made by Mikesh, seconded by Konshok, and unanimously carried to adjourn the meeting at 8:55 p.m.

[seal]

Mayor Nancy J. Carroll

ATTEST:

Margie M. Vik
City Clerk