# CITY OF PARK RAPIDS CITY COUNCIL MEETING JUNE 22, 2012, 4:00 PM Park Rapids Public Library-Lower Level Park Rapids, Minnesota

- <u>1. CALL TO ORDER:</u> The June 22<sup>nd</sup>, 2012 Special Meeting of the Park Rapids City Council was called to order at 4:00 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 Employee Dean Christofferson, Planner Dan Walker, Treasurer Angela Brumbaugh, and Clerk Margie Vik. Others Present: Mari Jo Lohmeier, Kim Harmon, Jamie Munson, Eric Munson, Alan Zemek, Mark Nygaard, Cynthia Jones, Eileen Reish, Michelle Johnson, Laura Jordahl, Susan Cutler, and Anna Erickson from the Enterprise.

Dan Walker left the meeting at 4:15 p.m. Pat Mikesh left the meeting at 4:17 p.m. for a fire call.

- 3. APPROVAL OF AGENDA: A motion was made by Konshok, seconded by Utke, and unanimously carried to approve the agenda with the following addition: a Supplemental Agenda dated June 22<sup>nd</sup>, 2012, to be discussed after General Business.
- <u>4. EMPLOYEE RECOGNITION:</u> Scott Olson, for twenty years of employment, and Kristine Pohl, for ten years of employment, were awarded certificates of recognition from the City of Park Rapids.

### 5. APPROVAL OF MINUTES:

5.1. City Council Regular Meeting Minutes-May 22, 2012: A motion was made by Mikesh, seconded by Utke, and unanimously carried to approve the May 22<sup>nd</sup>, 2012 City Council Regular Meeting minutes as presented.

### 6. FINANCE:

6.1. Payables & Prepaids: A motion was made by Konshok, seconded by Tomte, and unanimously carried to approve the payables in the amount of \$59,403.38, and the prepaids in the amount of \$235,821.58, for a total of \$295,224.96.

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- 7. CONSENT AGENDA: Smith removed Item #7.3. from the consent agenda. A motion was made by Tomte, seconded by Mikesh, and unanimously carried to approve the following consent agenda items:
  - 7.1. Approve Plumber's Permit to Work in the City of Park Rapids in 2012 for Mid-City Mechanical Corporation.
  - 7.2. Approve Pay Request in the Amount of \$33,524.68 to Ulteig Engineers for Professional Services on Various Projects in the City.
  - **7.3.** Removed from the consent agenda.
  - 7.4. Resolution #2012-106 Approving Wage Adjustment and Step Increase for City Planner Daniel Walker.
  - 7.5. Resolution #2012-107 Approving Wage Adjustment and Step Increase for Park Rapids Police Officer Joseph Rittgers.
  - 7.6. Resolution #2012-108 Appointing Jeff Mosner to Serve on the Library Board for the City of Park Rapids.
  - 7.7. Resolution #2012-109 Approve a Temporary On-Sale 3.2 Beer License for the Shell Prairie Fair Association in the City of Park Rapids.
  - 7.8. Resolution #2012-110 Approving Application for Minnesota Lawful Gambling LG220 Application for Exempt Permit for the Hubbard First Response & Rescue.
  - 7.9. Approve a Purchase Order in the Amount of \$3,521.00 for the Public Works Department to Purchase a 5 ½ Ton Lift Jack from Auto Value.
  - 7.10. Approve Public Facilities Use Permit for the Park Rapids Area Community Band to Use Red Bridge Park on Wednesday, July 4<sup>th</sup>, 2012 for a Public Concert, and to Waive the Fee.
  - 7.11. Authorize the City of Park Rapids to Serve as the Fiscal Agent for "The Wreck" for the Purposes of Acquiring Funding from the Northwest Minnesota Foundation.
  - 7.12. Resolution #2012-111 Appointing Amy Andersen to Serve on the Library Board for the City of Park Rapids.

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### **END OF CONSENT AGENDA**

7.3. Approve a Public Facilities Use Permit for the Park Rapids Lakes Area Arts Council to Use Pioneer Park on Friday, August 17<sup>th</sup>, 2012, and to Waive the Fee: Smith stated we have this application for a public facilities use permit for Pioneer Park on August 17<sup>th</sup>. The Council has approved going forward with a landscaping project for that park and we have solicited quotes, which are due by the end of the month. It's conceivable that a quote could be approved and work would be under way during that timeframe. I meant to make some phone calls and find out exactly what this activity would entail. As a matter of safety, you should probably not allow them to use that space because there may be work going on there.

Carroll stated its part of the youth music and arts showcase. I think they just need that stage under a canopy, and they're going to be at Bella Caffe and downtown, maybe they could use Second Street stage for the evening. Smith stated you could table this for more information. A motion was made by Tomte, seconded by Mikesh, and unanimously carried to table the Public Facilities Use Permit for the Park Rapids Lakes Area Arts Council to Use Pioneer Park on Friday, August 17<sup>th</sup>, 2012, and to Waive the Fee, for further information.

**8. COMMENTS FROM CITIZENS:** There were no comments.

# 9. GENERAL BUSINESS:

9.1. Request from Downtown Business Association to Allow Six

Temporary Directional Walking Map Kiosks on Main Avenue: Walker stated the Downtown Business Association (DTBA) has submitted a request to be allowed to place six temporary directional walking map kiosks on city owned light posts along Main Avenue between Second and Fourth Street. The kiosks would be 23 inches high by 15 inches wide and the map would be weather proof and placed inside a vinyl case with the business names and locations similar to those you would find in a shopping mall. They are requesting two kiosks per block on the light posts closest to the corner nodes. They would be on a temporary basis, with the installation of permanent kiosks in the future based on the recommendation of the Community Destination Sign Program Task Force. The recommendations will not be complete until later this year and the DTBA would like to put up the temporary kiosks in the meantime. The cost of the maps, kiosks, and installation will be covered by the DTBA. They will also be responsible for any upkeep and maintenance.

Walker stated staff recommends approval of the request to allow the DTBA to place temporary walking map kiosks on the city owned light posts along Main Avenue as long as they bear all costs the associated with the request including installation and any future maintenance.

Tomte questioned how soon will they be put up? Cynthia Jones stated our goal is to have them up by the Fourth of July.

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A motion was made by Utke, seconded by Konshok, and unanimously carried to approve the request from the Downtown Business Association to Allow Six Temporary Directional Walking Map Kiosks on the Main Avenue light posts.

The Council deviated from the printed agenda and discussed Item #4.2. from the supplemental agenda next.

4.2. Resolution Approving a Temporary/Interim Sign Policy for Community and Special Event Off-Site Signage for the City of Park Rapids: Walker stated staff and the Planning Commission have been working over the past few months on updates to the sign ordinance. Off-site signage was prohibited in 2007 in response to MNDOT's Scenic Byway designation along Highway 34 East and West and Highway 71 North. Since that time there have been a number of community events that have either been denied signage opportunities or placed signs in violation of the Zoning Ordinance. In response to a survey of other community ordinances, and after a thorough review by the Planning Commission, staff would support a temporary resolution to allow temporary off site signage for community events for the remainder of 2012, with the goal to enact a permanent ordinance by the end of the year. The resolution would sunset on December 31<sup>st</sup> of this year and we'd hope to have a permanent ordinance in place by that time.

Walker stated staff and the Planning Commission recommend allowing the Zoning Ordinance exemption resolution to allow temporary community and special event off-site signage for the remainder of 2012 under the parameters recommended by the Planning Commission. A motion was made by Tomte, seconded by Utke, to approve Resolution #2012-118 Approving a Temporary/Interim Sign Policy for Community and Special Event Off-Site Signage for the City of Park Rapids.

**Discussion:** Tomte questioned is the idea that the fishing opener will get covered with a permanent ordinance so we don't have issues with signage related to that? Walker stated I believe that they will probably present their own request. That will come from the GFO Committee. Tomte stated this will expire before that. Walker stated we'll have a permanent ordinance in place by then.

Cynthia Jones stated this is for community and special events. What about craft fairs and vendor expos? Walker stated the definition is pretty liberal of what a community event is. If it meets community wide appeal it would fall underneath that.

Alan Zemek stated I'm personally glad it's a temporary resolution. I think you're going to find that someone is going to test the limits of what a community event is and define their garage sale as a community event. As a downtown taxpayer and a commercial property owner I have a personal philosophy of signage that less is more. Signage is something that becomes a nuclear arms race that nobody wins and you end up with clutter. I personally have a lot of sympathy for Walker on this issue. Nobody's sign is more important than their own. A viable enforcement mechanism is important to maintaining the character of downtown. If you're a transient business that doesn't own a business downtown, doesn't pay tax, belong to the Chamber or the Downtown Business Association, or another way to contribute to the permanent economic base of the community, allowing them to skate on the fringes of the wings of the ordinance is

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something that makes me uncomfortable. I would support the idea of a temporary resolution. I think you're going to get tested on it.

Jones stated that's what I was getting at. This is not coming from the Downtown Business Association to be clear. We as an association have not discussed this to support it. Some of us do feel that once you let the cat out of the bag, you have a lot of kittens running around. We need to discuss it more. I'm happy that it is a temporary thing. I do feel for Walker in trying to make this equitable. I know that everyone is supportive of the business community, but we'll resolve this.

Zemek stated the idea of the task force that Walker is working on, I think is a much more, long term, viable approach when you're doing wayfinding signage that directs people to community destinations of some significance. We're not against the idea of community signage but once you open the bag it's hard to get the kittens back in.

Carroll stated a public hearing was held on this at the Planning Commission. That's where the comments should have been received. We're not trying to open up the public hearing again and take additional information at this time. I hope you had a chance to be there.

Laura Jordahl stated I'm one of the kittens.

The vote was called.
The motion carried unanimously.

Planner Dan Walker left the meeting at 4:15 p.m.

THE CITY COUNCIL BEGAN THE SUPPLEMENTAL AGENDA:

### 1. APPROVE MINUTES:

1.1. City Council Workshop Minutes-May 22, 2012: A motion was made by Utke, seconded by Mikesh, and unanimously carried to approve the May 22<sup>nd</sup>, 2012 City Council Workshop minutes as presented.

### 2. FINANCE:

- 2.1. Payables and Prepaids: A motion was made by Utke, seconded by Mikesh, and unanimously carried to approve the payables in the amount of \$80,918.09, and the prepaids in the amount of \$138,595.53, for a total of \$219,513.62.
- 3. CONSENT AGENDA: A motion was made by Konshok, seconded by Tomte, and unanimously carried to approve the following consent agenda items:

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- 3.1. Resolution #2012-112 Approving the City's Application for Funding Under the Minnesota Business Development Capital Projects Program (DEED).
- 3.2. Approve a Plumber's Permit to Work in the City of Park Rapids in 2012 for Liberty Plumbing Co LLC.
- 3.3. Approve Purchase Order in the Amount of \$3,275.72 for Parts Needed to Switch Tar Box from GMC Topkick to Ford 8000, from the Fire Department, from Maney International, for the Public Works Department.
- 3.4. Approve a Transient Merchant License for Travis Cerven d.b.a. Generous Jerry's to Sell Fireworks from June 25<sup>th</sup> to July 5<sup>th</sup>, 2012.
- 3.5. Resolution #2012-113 Permitting the Destruction of Aged Documents as Determined by Adopted Minnesota General Records Retention Schedule.
- 3.6. Resolution #2012-114 Approve a Temporary On-Sale 3.2 Beer License for the Park Rapids Chamber of Commerce in the City of Park Rapids.
- 3.7. Resolution #2012-115 Authorizing Proper City Officials to Execute the Commercial Pledge Agreement for the OES Grant Loan by and between Armory Square Management Corporation and the City of Park Rapids.
- 3.8. Approve Pay Request in the Amount of \$2,177.91 to Diamond Mowers for Repairs to the Airport Mower.
- 3.9. Approve Pay Request in the Amount of \$2,385.00 to Howard's Driveway for Repairs to Lake Street and Western Avenue.
- 3.10. Approve Pay Request in the Amount of \$767.91 to TKDA for Architect Fees Regarding the 2011 Airport Terminal Area Improvements.
- 3.11. Approve Pay Request in the Amount of \$201.25 to the Construction Bulletin for Advertising Costs for the County Road 6 Watermain Looping Project.
- 3.12. Resolution #2012-116 Accepting Donations for the City of Park Rapids.

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- 3.13. Resolution #2012-117 Authorizing Disposal of Excess City Property from the City of Park Rapids.
- 3.14. Approve a Transient Merchant License for Steve Bolton d.b.a. Stevie B's Concessions on July 26<sup>th</sup>, 2012.

### END OF CONSENT FROM SUPPLEMENTAL AGENDA

# 4. GENERAL BUSINESS:

4.1. Request for Consideration for Sewer Backup for Eric and Jamie Munson at 314 Lake Avenue: Eric Munson stated we bought a house at 314 Lake Avenue. The morning after we moved in, it backed up and flooded the basement. We called the realtor. We thought something was going on with the city main. We called the city. Dean Christofferson came out. He said he checked all the manholes and there was no problem at the city end. We asked him where could the problem be, and he said it's got to be old pipes. We had a few plumbers come out and inspect stuff.

Jamie Munson stated over the course of the month we kept taking on water. It would be okay for a while. We'd go back and forth. The consensus was we had old clay tiles and they need to be replaced, removed, in order to correct the issue. Upon digging up our front yard, and all this, it was not the clay tiles. They had already been replaced with PVC pipe and the blockage was in fact on the city's end of the sewer. We could have saved a pretty large bill. We've met with your insurance and basically it's just a dent in the cost that we've incurred.

Eric Munson stated prior to any construction we called the city again. Christofferson came out again and our excavator was there. We pulled up the manhole and Dean told us the main was running to the north. He pulled up the North Main Avenue manhole and showed water trickling out and said it's running to the north. It's running fine. We're trying to establish a height to where our sewer main is for depth. He showed us that and we scheduled the demolition and we started the work. We got down and we noticed PVC and standing water in the PVC, so the excavator called the city and Tim Little came out. And said the block has to be further out because it's not on our end, for sure. We called the city again before we tore up the road, there was no blockage in there. Dean said it's got to be under the road, keep going. It wasn't in our line. There was no blockage in our line. The whole thing was working perfectly fine. We didn't need to do anything. We didn't need to spend a dime on this project. It was a mistake on Dean's part. It's costing us a lot of money. It's been extremely inconvenient. We have three kids. It drags on. We're growing weary of this. We can't put our house back together. It's not done.

Carroll questioned the repairs haven't been made? Eric Munson stated the inside. There's no front step, no yard. Jamie Munson stated the steps and the landscaping had to come out. We skimmed on the floor coverings for some of the rooms in our home because we're already out. We're not going to keep going with the project. Every day he works on our home he loses out on income for our family and we're spiraling down. Eric Munson stated it's been a nightmare. We have all of our costs together and we've been informed that there's no way we could ever incur our labor costs back, which is a stab in the gut.

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We're out \$8,000.00 at least. We're just asking to get our receipts back at least. Jamie Munson stated we're looking at \$16,000.00. What we've been offered in hard costs, doesn't even finish the project.

Eric Munson stated Scott Burlingame and everyone has already admitted fault. Scott Burlingame said send us your receipts and we're sorry that we screwed up here. He said he wasn't here, but he was implying that he would have caught this before any of this work had been done. As soon as it was passed to the insurance company, it's been a nightmare.

Dean Christofferson stated I talked to our insurance agent Mark Nygaard. Tim Little and I gave him our statements. He has our cleaning records. I'm going to go with anything that he recommends.

Mark Nygaard, the insurance adjuster for the League of Minnesota Cities Insurance Trust, stated he was sorry the Munsons feel like it's been a nightmare since we've become involved. A sewer backup is not strict liability. The city cannot control what people put down into the sewer lines. All the city can do is properly maintain their sewer system. What the League likes to see is scheduled sewer maintenance once every three to four years. So that the sewer main in front of your home is cleaned on that type of schedule. When we received this claim, there had been a lot of stuff already done, including the service line for the Munson's home had been replaced. I've never seen that on a sewer backup claim. When I respond to a sewer backup claim, we're talking about damages on the inside of somebody's home. Dean and I met, we reviewed the cleaning records for the city. They're in order. I cannot verify the city accepting responsibility for this. I wasn't there. It's their word against the people that were there. Dean responded the day that the Munsons called. It's typical for a wastewater person, how they diagnose it to see if it's the city's main that's backed up is they pull the manhole covers surrounding a person's home. You're the expert on this, but what I frequently hear from a wastewater person is, the manhole was  $3/4^{th}$ filled. That's on a plug on a sewer main. That's not what Christofferson saw. There was nothing in the main. It was almost empty. That's an appropriate response that he would give a homeowner is that our mainline is fine. It has to be somewhere else, which has to be their home if they are experiencing issues.

Nygaard stated the Munsons then called a private plumber who came out on the first of March and he found a plug at the foundation level on the front side of their home. They have a bathroom that's right there. He ran a snake through there and when he left, the line was not running at a full throttle. It drained, but it was running slow. From my notes, I'm not aware that he went all the way to the main. I don't know why, but my notes say he did not. Then he was called back on the 15<sup>th</sup> again. This time Eric said they never had a problem with their plumbing. But they did. They had a plug under their basement floor in their home.

Jamie Munson questioned why would we tell the same gentleman that came out twice that he was never there. That doesn't even make any sense. It was the same guy from Northern Septic that came out four times. Nygaard stated I don't know. It's your word against ours. What he told me was that he found a plug in their plumbing lines under their floor. When I asked him what it was he said wet wipes. That's just the facts that I got from him. Wet wipes can get hung up, who knows why. Eric Munson stated if you take one-hundred feet of pipe in a field, plug the one end and you have standing water, where are the solvents going to go? The solvents are going to solidify down and that's what caused

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the plug, and that's also on the report from Northland Septic as well. Nygaard stated I don't have a report from Northland Septic. Eric Munson stated both plugs were caused by, the city main was plugged with tree roots, without a doubt. Everybody's seen that. This is past knowledge. What's going to cause us to dig the plugs in my floor were symptoms without a doubt and standing water in the floor and that could explain why they were in two different spots. We actually had a plug four feet up in our pipe in our basement.

Nygaard stated I'm not an engineer. I'm just passing on what my investigation found. In my mind we had a plug in the claimants home, and what could have happened is that when Northland cleared their line, and he went out to the main, there was nothing in their service line and he said it drained dry, and that was on the 15<sup>th</sup> of March when he was there that second time. Prior to digging up your front yard and replacing your service line, a prudent thing would have been to run a camera down that line to see if that was necessary. That would have saved thousands of dollars and a bunch of hard feelings between everybody here. In my opinion what could have happened, when Northland came and cleaned it that second time, and actually went to the city main, that stuff that he's cleaning is pushed into our main, and if you ask Dean, when he came back on that last day when the backhoe service was digging up the yard, and that blockage was found in the city main it was ten feet from the service line of the claimant.

Carroll questioned what does that mean? Nygaard stated the service line attaches to the city main and the blockage in the main was ten feet from the service line downstream. Carroll stated so it had gone out of the service line and down the main. Jamie Munson stated but he's not an engineer so he's just speculating. Nygaard stated well it doesn't run the opposite direction. Eric Munson stated the water was running to the north from day one. Carroll questioned was that debris tree roots? Nygaard stated tree roots and rags/wet wipes. Jamie Munson stated I thought he removed that blockage. Nygaard stated that blockage was removed after the backhoe service dug up your yard. Jamie Munson questioned how did Northland Septic know what it was? Eric Munson stated Northland Septic wasn't there after the yard was ripped up. Nygaard stated I'm not saying that.

Nygaard stated our thought on this whole mess since there's so many accusations back and forth, was to somehow try to compromise a settlement. We deny a lot of sewer backup claims. The city cannot control what is put into the sewer system. Eric Munson stated its tree roots. Nygaard stated and other debris. Munson stated the other debris would have flowed just fine without the tree roots. It wasn't maintained. Carroll stated let's let Nygaard finish.

Nygaard stated my figure of \$4,444.00, Munsons originally put a figure together of \$7,388.00. That has changed a couple of times since. Jamie Munson stated as the work has progressed. Nygaard stated I've taken that figure and added to that the cost of repairing the road, and that totals \$8,888.00. I offered 50% of that as my settlement, and we are firm. If we have to go to small claims court it won't be the first time we've been there. I have to believe what Christofferson and his coworker are showing me for records. I believe they are not ignoring your sewer system. We take a look at the history of backups on that line. We've had one backup as far as we can recall in 2007 one block to the south. Another thing on a sewer backup, we often have multiple homes that are affected. This is an isolated deal.

Utke questioned was the home lived in when you bought it or had it been vacant for a while. Munson stated it was owned by Mark Grossman. He moved out and we moved in.

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Utke stated you mentioned there was PVC pipe coming out of the house and running to the street and we hear that there are tree roots. Where did the old and the new meet? Was it all PVC under the property? Nygaard stated it met at the main. Utke questioned so the roots were right as the PVC went into the main? Nygaard answered no. They were found ten feet down from where the service connects to main. Utke stated so there's old pipe coming off the main towards the property. Nygaard answered no. Utke questioned the PVC is going right to the main? Roots can't get into PVC. Nygaard stated that's not accurate from what I'm told. Utke stated unless there's a failure with the PVC. Nygaard stated at joints. Utke stated genuine PVC can't have roots.

Carroll questioned the roots were down ten feet in the main intact? Nygaard stated it's a scientific questimation. When they're rodding out the main they have x number of feet of cable. They run that out of their truck. They feel for the blockage. Then they look at their line and do the math to see how many feet they are out. Carroll questioned so you did that in response to their problem? You rodded the main? Nygaard stated that work was done.

Carroll stated you have my sympathy. Sewer backups are the worst things that can happen in your home. I have personal experience with it. We're working on replacing our sewer line. There's no argument that it's a horrible situation to be in.

Utke questioned is there a four inch line from their house all the way to the main? Christofferson stated they have a standard eight inch main.

Tomte questioned where were the roots? Eric stated they were to the south uphill ten feet. The tree roots were in the main. This wasn't a problem that happened overnight. It's been building up. I talked to the previous owner. I didn't believe Mark Grossman was telling the truth. This has been going on for a while, but they only took two showers a day in the home. They never noticed the water fill up and then slowly trickle down. We have a family of five and it didn't take twelve hours and two showers and a bath. Jamie Munson stated they told us to go after the previous homeowner, and the baby wipes, you don't take your baby in the bathroom and flush the wipes. You change them at a changing station and you wrap them in the diaper and you throw them away. I can 100% say I'm not flushing flushable wipes. I'm not saying that they couldn't have been in the line, but the fact that we managed to destroy a house's plumbing in less than twelve hours is really not believable.

Utke questioned when did the excavation start? Jamie Munson stated it was over Easter weekend. Utke stated on March 15<sup>th</sup> the plumber fully rotor-rooted the pipe from your house out to the main and opened everything up. Eric Munson stated he said that the blockage was right under our laundry room in the basement, it was about sixteen feet further than the first time. These are symptoms. This isn't what's going on here. Jamie Munson stated he thought he was getting flecks of shale from old pipe. Eric Munson stated he said just to be safe I'm going to run it all the way to the main. A camera is not necessary. It's fully cleaned. The line is completely good. So we called Scott Burlingame that day. He said he has to go with Dean's analysis and it's not the city's line. We waited two more weeks wondering what we were going to do. Jamie Munson stated we can't use our water. We go to the Laundromat. We're living on our in-laws floor. We just can't not have water forever. You guys have to figure out what the problem is. They were telling us it was old clay tiles, all the information was saying it was in our yard and we have to replace it. So we dig up our yard and we find that somebody already did that.

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Carroll stated without the use of a camera its one person's best estimate, as opposed to another person's best estimate of what it is. I have to stick up for our staff. They see backups pretty regularly, and they're right almost all the time. We've been having backups at my house. My experience is Christofferson brought a camera over and we saw the roots. They are definitely in my service line. Jamie Munson stated the City of Park Rapids can more easily use the camera than we could have.

Eric Munson stated the fact that Christofferson thought that the line ran north shows that he was not familiar with that at all, because it ran to the south. Carroll questioned it doesn't go north and south? Munson answered no, it goes straight south, but the manhole is to the north. It flows south, and it was trickling into that north end of that sewer main. It was going backwards. That's what made him think it was going to the north. Hindsight is 20/20. That's why there were all the apologies.

Nygaard stated that's an honest mistake. Anyone can make an honest mistake. It's doesn't mean that there is negligence. Negligence is when you ask for the records and they haven't touched that line in six years, and they don't clean the line. There are some communities that use a fire hydrant to flush their sewer mains. That's not considered a cleaning of a sewer main. The fact that Christofferson thought that the water was running in that direction, is a mistake. Eric Munson stated it was a habitual mistake. Jamie Munson stated we called several times. We didn't just jump on the first gun and run with it. It's carelessness, its negligence continuing. Nygaard stated if you ask Christofferson, that's not what happened. He was out there twice.

Carroll stated I'd like the discourse to stop. We understand there is a disagreement. She questioned are you aware of any similar issues that we've had in the past that can help us? Smith stated nothing like this. We've had backups but there's not been such a divergence of opinion of what happened and what the situation was. Konshok stated it is a fact that some of our lines in town are older and require more maintenance. What I'm hearing from both sides is that it's not conclusive. It looks like this problem is a combination of factors. From what you're describing, clearly there were problems within the line on the property. Eric Munson stated no. They were after the fact. We talked to Mark Grossman and were told he never had a plug. Konshok stated you already said it wasn't a full family. I moved into an older house on Riverside Avenue that went from two older people to a full family and it's a major difference in water and sewer usage. The point is it's not surprising that you discovered problems that the previous owner never had to deal with. Eric Munson stated when we ran it out it was the city main from the get go. It was just missed, a mistake, negligence, or whatever it wants to be called. We've paid thousands of dollars when we didn't have to spend a dime on it. None of this had to be done. We don't want to do this. If I could take it back, I would. It's been a horrible experience being called a liar over and over again. Jamie Munson stated right is right. We do business in town, we had our own business, and we work with other tradesmen in construction. They are trying to discredit us as individuals as far as our reputation. We're not liars. We're not out to get anybody. We don't want anything that's not just. We are guilty of what? Having our house flood because the sewer line wasn't cleaned out?

Eric Munson stated the Director of Public Works is Scott Burlingame. He's acknowledged this and understood it completely. From day one he said somebody really "f'ed" up. He said I'm really sorry, if I would have been here this wouldn't have happened. It's already been admitted. All the pieces of the puzzle are all right there. Jamie Munson

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stated no one is disputing that it was the city main that had blockage. But here we are disputing. Eric Munson questioned what are we supposed to do?

Carroll questioned do we have a staff recommendation? Smith stated public works have provided all the information to the adjustor and they would go along with the adjustor's recommendation. That is my comment as well. The Munson's have been in my office to talk to me. Public works has talked to me. Dave Hacker called. Honestly, the statements don't match. I think Nygaard's offer to split the costs is probably the right way to go. We would like to say the city has no fault, but there's enough contention going on that it casts doubt on it. Personally I support that as well. The offer of splitting the first invoice is a fair deal. Jamie Munson stated that's not even a total of what has to be done. There's still thousands of dollars of work that's not on that invoice that has to be done. Eric Munson stated Scott Burlingame is aware of that. He asked what do you have so far, but none of the work's done. It's just a projection. Jamie Munson stated you asked us for a rough estimate. We've written checks out of all the receipts that you've seen, and we've stopped the project since then. I don't care, I won't put my yard back together. Eric Munson stated if we wouldn't have put our house back together, this would have been resolved a lot faster.

Carroll questioned if there is a claim and receipts for work done are received, is that the common practice? Smith stated once we decide there is a claim that's going to be filed, the city hands the case to the insurance company and the adjustor manages the case. Carroll questioned do they wait for all receipts to be received? Nygaard stated I had them all when I first met with these folks to discuss their damages. After I communicated that we would do a compromised settlement, some additional stuff has come in. Carroll questioned so you didn't have all of them at first? Nygaard stated I would say that I did. The additional stuff is lost wages and additional labor. Jamie Munson stated no it's not.

Carroll questioned what is the total that we're talking about? Nygaard stated the offered settlement is \$4,444.00. Eric Munson stated they want us to pay for the road which was estimated at \$1,500.00. Nygaard stated that is according to your city ordinance. My number was \$8,888.00. The \$1,500.00 to fix the road is included in that. Munson stated they offered us \$4,444.00, but you have to take out \$1,500.00 for the road repair. It's not \$4,444.00 that we are getting. We're only getting \$2,944.00. It was actually zero dollars. I told Nygaard that he better start calling people to get the story straight. He called back after talking to Burlingame and said he really felt sorry and he offered us the \$4,444.00, but added that we had to write a check back to the city for \$1,500.00 to fix the road. I said we can't do that. Jamie Munson stated we still have to fix the sidewalk and steps that got ripped off for \$1,200.00. We had a fifty year old tree, and all the landscaping that got ripped out. We had to replace the floor coverings in the utility room. Eric Munson stated we tried to be fair every step of the way. We're not gouging. Everything is reasonable.

Nygaard stated I'd like to say that I've never paid for anything outside of a home on a sewer backup. When we work with someone on a sewer backup the damages are inside the home. The damages to the tree and replacing the steps, and fixing the line, that is not from the sewer backing up. Jamie Munson stated if it had been assessed properly to begin with, none of that would have even happened. There wouldn't have been any working in the yard. There wouldn't have been concrete saws in the basement cutting the floor. That's the problem that we're having.

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Smith questioned when the backhoe guy first dug in and discovered that it was PVC, why did he continue? Eric Munson stated he stopped immediately. Smith stated I thought he dug the whole line up. Munson stated he called us and asked what do you want to do. He called the city. Jamie Munson stated there's no paper trail. Your records are incomplete. He doesn't give you his findings. It's all hearsay. There's nothing written anywhere. You'd think there would be better records saying what's going on here.

Utke stated we have a whole lot of missing pieces. I think this needs to be tabled until we get the answers. They started to dig and then consulted city employees. We need to know those things. We can't make a decision. Eric Munson questioned would a statement signed by Dave Hacker work? Utke stated if Hacker contacted the city and had conversations, we need to know that what went on. That's why we have insurance. If something wrong happened to get suggested or done, we have to know all the facts. I'm not going to make a decision because I'm hearing way too many different pieces.

Konshok questioned what's the process for relooking at this? Nygaard stated I've never been to a Council meeting on a claim. In six years, I handle a claim to the end. If the claimant I'm working with doesn't accept our offer, there's one option, to sue the city. Utke stated that's not a good option. I don't like that right up front. It can go there, but just flat out say sue the city, I'm not going to accept that. Apparently you've gotten to the point that you guys can't agree and that's why it's come here. I think both of you need to supply us with more stuff.

Nygaard stated there's a fair share of sewer back up claims that we don't agree on and those get denied. Either the claimant accepts that denial, or takes it one step further. In my investigation, I don't know who else to talk to. I've talked to everybody involved. This is not a black and white deal.

Smith stated there seems to be a lot of reliance on the city's advice and their comments. But in your own statement it says that you contacted numerous plumbers and I'm assuming that you relied on their expertise and recommendations too. So, I asked you once if you could produce more documented information that's been asserted with signed statements from other parties, and said certainly we'd take a look at that. So far nobody has come forward with a signed statement. Eric Munson stated you said not to worry about it and that we should bring it up with the City Council. Smith stated no sir. I said if you'll bring signed statements to me from other parties we'll take it under consideration. You brought me a packet of information that you wrote. That's not what I asked for. Jamie Munson stated I think you like to play middle of the fence here. Smith stated I'm siding with the adjustor. I accept his recommendation. Eric Munson stated if we got signed statements from Dave Hacker and all the plumbers, because every plumber that came in there said there's nothing wrong, what do you want us to change. I said we have to find the problem and fix it. Jamie Munson stated not only that, this is not only our time, Dave Hacker has given you numerous hours of his time. Smith stated they haven't given me anything.

Utke stated we all need those so we, everyone, have all the pieces of the puzzle so we can make a decision. Jamie Munson stated I understand. I thought that was what his investigation was, talking to all these people about what was going on. Nygaard stated I have. Jamie Munson questioned can you submit that to these people. Nygaard stated I don't talk to Councilmembers when I'm handling claims. Carroll stated normally it would be settled with staff. It's not submitted to the Council for action. Nygaard stated it's privileged, documented information. I don't produce those on a regular basis to cities or Councils. If a

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claim gets sued out, all that stuff is available to the plaintiff's attorney as well as an attorney with the League. Eric Munson stated our story, we have to get the signed statements.

Carroll stated we appreciate hearing all these details from everybody. Sounds as though the Council is not ready for action on this. I'm not sure if we should have any motion if it's gone to the insurance trust. Smith stated the Munson's objective tonight was to see if they accepted the insurance settlement, would the city on top of that, add more compensation to it. Jamie Munson questioned would the city fix the road. Eric Munson stated we're willing to settle it out and take a \$12,000.00 loss on this and write it off because it's sucking the life out of us. We'll settle for \$5,000.00. He came up from \$4,444.00 to \$5,000.00 and I said I'll take it. Nygaard questioned you're asking for \$5,000.00 from the trust and \$1,500.00 from the city? Smith stated we've received the actual invoice and it's \$1,335.00. Utke stated then everyone would be signed off on it and we'd be done.

Konshok stated we understand this is emotional. You know as contractors, at the end of the day it gets down to a settlement. Eric Munson stated employees screwed up and it cost me thousands of dollars. I had to pay every dime. That's where I'm having a disconnect here. Why so much difference?

A motion was made by Konshok, seconded by Tomte, and unanimously carried to authorize a road patch at the city's expense of \$1,335.00, for 314 Lake Avenue.

# 4.2. Item previously discussed by the City Council.

4.3. Park Board Report: Sue Cutler stated I came to the City Council meeting in early June to talk about needing additional funds to build an open air shelter in Lindquist Park. I went to the County Park and Rec Board to discuss it with them. There were some questions on the financial ledger that I presented to them that I wasn't able to answer. Since then Brumbaugh has created a revised ledger and she's talked with Greg Hensel from the county. The original bid from Haataja was only good for a certain number of days. Brumbaugh has gotten an updated bid and it's for \$177.00 more since construction costs have gone up. Overall the amount that we need in addition to what's reserved from last year is \$15,865.00. \$7,932.00 is the amount that I would be going to the County Park Board to ask for on the June 25<sup>th</sup>. Brumbaugh will be there too to answer questions. Carroll questioned the remainder of the project costs will be the city's share? Cutler answered yes. Smith stated the Council has already approved that expenditure.

Cutler stated since the last update on Pioneer Park, we've gotten a finalized, donated plan from Touch of Eden Landscaping. That has been sent out to various landscapers in the area for quotes. The deadline for those is July 2<sup>nd</sup>. Our next Park Board meeting is the following Monday where we'll be look at those. At the last Park Board meeting there was some concern about the parkland dedication money. It's about \$28,000.00. They're concerned that we're cutting it too close because we need \$8,000.00 for Lindquist Park and \$20,000.00 for Pioneer Park. After talking with Smith and Brumbaugh we've decided to move forward with Lindquist because we're so far down the path with that and then see what kind of quotes we get for Pioneer Park and then go from there.

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Konshok questioned on the quotes for Pioneer Park are we also requesting quotes for the small shelter? Smith stated it's not included. We were going to seek separate bids but we haven't done that yet. There's a question about size and style. I haven't discussed it with Cutler. Konshok stated my concern is we need to press on that. Part of the problem is we're way past the starting line of the construction season. If we're going to get it done this season we need to get on the ball. The time pressure on Pioneer Park is we want to get all construction done this season so when the Governor's Fishing Opener rolls around next spring it will be done. Carroll questioned is the shelter the piece that the Rotary Club might be interested in? Konshok stated that's what we had talked about. But they're looking for a bid. They are waiting on us for a concept and a bid price. They can't take action until they know how much it's going to cost. Utke stated with a donor you need a concept and a cost so they know what you're asking for.

Smith stated the landscaping plan wasn't a full set of specifications. In the general concept drawing from Touch of Eden we had some specifics, so we asked for quotes from the various landscapers in town. We took the design to them and talked about possibly phasing it if we're worried about going past the \$20,000.00 mark. The luminaries, the benches, maybe we can put those in a separate phase if the landscaping itself took up the \$20,000.00. We've received a quote from Touch of Eden, but haven't heard yet from Forest and Floral or Flying W. Smith added nothing has gone out regarding the shelter. Konshok stated that has to be separate anyway. Can we do an RFP for the shelter as well? Smith answered yes we can do that. Konshok stated I appreciate that the Park Board is very diligently trying to stay within their budget, but it's clear that we are going to run out of parkland dedication money. We haven't had any development so it's not going to be refreshed. Hopefully it will be a small amount, but we'll have to look at using non-parkland money, like liquor store funds to make up the difference. Utke stated there might be other organizations that would chip in. But they want to see a full concept on paper so they know what they're going to get for their money. The Council directed staff to collect RFP's on the park shelter.

4.4. Cancelation of June 26<sup>th</sup>, 2012 City Council Meeting: A motion was made by Tomte, seconded by Konshok, and unanimously carried to cancel the June 26<sup>th</sup>, 2012 Regular City Council meeting.

### THE CITY COUNCIL RESUMED WITH THE REGULAR AGENDA.

<u>10. CITY ADMINISTRATOR COMMENTS:</u> Smith stated we are ready to begin again talking with the Todd Township officials on the annexation issue. We've hammered out our negotiating points. They will provide us with dates that they will be available so be thinking about that.

# 11. **DEPARTMENT HEAD UPDATES:** There were no comments.

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

13. COMMENTS FROM COUNCIL: Utke stated last night they had the first Music on Main event held on Second Street. I was asked to say a few words and congratulated them on their first event. It started off pretty good.

Carroll stated I just returned from the League of Minnesota Cities Conference in Duluth. They are going to have a lot of repairs needed. The water in the bay is brownish, rusty color instead of the blue. Mayor Don Ness spoke to us. The governor had been there, as well as our US Congressman. Ness told us about the emergency response from other cities so they have a lot of other people working on it. There are fewer road detours now so some of the flood waters are receding. They have over a \$100 million of damaged infrastructure.

Smith stated we looked at our expenditures for May and we're under our budget overall. Revenues are tracking pretty good too. It looks like fuel and energy costs, as well as police overtime, are a little high, but overall we're in good shape. Utke stated fuel should be going down because crude has dropped about \$30.00 a gallon.

Tomte stated since we have the employee recognition, I was thinking that we should recognize our volunteers like Dick Bradow since he has done a lot for the city. Have we ever said thank you formally? Carroll stated we haven't recognized our volunteers like we have our staff. Sue Cutler stated I have been recognized in the past. Tomte stated I propose that we look at the history of our volunteers and see if we can come up with a thank you. Carroll stated a previous administrator had thought that volunteer recognition was very important, which was ten years ago, so it's time.

Tomte stated I will not be here for scheduled July Council meetings. I will be in Hallock and Dallas.

14. ADJOURNMENT: A motion was made by Konshok, seconded by Utke, and unanimously carried to adjourn the meeting at 4:55 p.m.

[seal]		
	Mayor Nancy J. Carroll	
ATTEST:		
Margie M. Vik City Clerk		

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