

**CITY OF PARK RAPIDS
CITY COUNCIL MEETING
OCTOBER 9, 2012, 7:00 PM
Park Rapids Public Library-Lower Level
Park Rapids, Minnesota**

1. CALL TO ORDER: The October 9th, 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, and Paul Utke. Absent: Councilmember Sue Tomte. Staff Present: Administrator John McKinney, Public Works Superintendent Scott Burlingame, Treasurer Angela Brumbaugh, Liquor Store Manager Scott Olson, Fire Chief Donn Hoffman, Planner Dan Walker, Public Works Employee Tim Little, Fireman Travis Little, Police Chief Terry Eilers, and Clerk Margie Vik. Others Present: Julie Snow, Jeanne Troge, Conny and Don Blair, David Collins, Donna Petty, Donna Lord, Larry Hoganson, Brad VanBuskirk, Ellis Jones, Cynthia Jones, Colin Perry, Jay Echtenkamp, Charlene Koons, Alan Zemek, Mahendra Gupta, Jeff Skogen, Traci Ryan, Janel Stewart, Dick Rutherford, Charlotte Campbell, Tanuj Gulati, and Anna Erickson from the Enterprise.

3. APPROVAL OF AGENDA: A motion was made by Utke, seconded by Mikesh, and unanimously carried to approve the agenda as presented.

4. PUBLIC HEARINGS AT 7:00 PM:

4.1. Presentation of Modification #1 to the Tax Increment Financing Plan for Tax Increment Financing District No. 1-9:

A. Public Hearing: A motion was made by Mikesh, seconded by Konshok, and unanimously carried to open the public hearing at 7:03 p.m.

Traci Ryan, a fiscal advisor and public finance specialist with David Drown Associates, stated we were retained to help the city put tax increment financing in place for a proposed event. This public hearing is to consider the modification of an existing tax increment financing (TIF) district that the city has. Park Rapids has nine districts outstanding right now. TIF No.1-9 was created in 2008. It is a redevelopment district, which means it has a maximum duration of twenty-six years. It started generating increment in 2010, primarily to assist the J&B Food Store Project. Because we've collected increment for a couple of years, by modifying this district, we're not extending the life, we're just expanding our ability to be able to assist other developments. The remaining life on this TIF district will be twenty-three years. We're not changing that.

Ryan stated we have a twenty page document that outlines the district. The basics of TIF districts is the numbering. In TIF No. 1-9, the one stands for the development district

that the TIF district falls within. That's a term you hear when you're creating districts, beyond that you'll very rarely deal with a municipal development district. It provides some boundaries where you can spend TIF in the future, but it's really not a part of regular conversation once the district is put in place.

Ryan stated TIF development district No. 1 was put in place in 1985. You've created nine districts. This is a modification of a district. This district already exists. We are adding four parcels to many parcels already in the district. There are close to 120 to 140 parcels in this district. The district was created to promote redevelopment of substandard properties that are primarily located in the downtown area. We're doing a small modification by only adding four parcels. The other thing we're doing is expanding the budget. When you add parcels and change the boundaries of a district, change the budget, or change the amount of bonded indebtedness that can occur within a district that requires the full process of publication in a newspaper and a public hearing.

Ryan stated we are doing all of those things. We're changing the boundaries because we're adding parcels. We are amending the budget. It's a rather large budget already, we have a significant project that is being proposed that will substantially increase the increment proposed to be generated in that district. We are increasing the budget. The current budget for the TIF district will have \$4 million of expenditures matched by \$4 million of revenues. This is not to say that the city is going to spend \$4 million. Those are the maximum limits that you have to operate within before you have to modify the plan or it has to be decertified. The original budget was \$4 million. We are adding \$1.957 million of additional increment, and \$1.957 in expenditures. That doesn't mean that we are going to spend that, or receive that. Those are the maximum perimeters that you have to operate within. By increasing the budget it allows you to incur additional debt supported by increment. We are not suggesting that you issue debt. But it preserves the opportunity under TIF law to issue TIF bonds. The original TIF No 1-9 authorized \$3.5 million in debt. This modification will increase the maximum you can bond for up to \$4.494 million. This is one of the items that has to be addressed in the TIF plan according to state law.

Ryan stated this is a redevelopment district. In order for property to qualify for inclusion in a redevelopment district, the property needs to be found to be substandard. Building inspections were done by Dave Neisen who works for the city on rental inspections. We went out and inspected all of the properties. Neisen found all but one of the properties that we are adding to be substandard. This being a standalone area that is being added to the district qualifies under redevelopment criteria for TIF. The inspection forms will be included as part of your permanent record when we send out your final transcripts on your TIF district.

Ryan stated once the public has the opportunity to ask questions on the plan, the city will close the public hearing and the Council will be asked to consider a resolution approving the modification of TIF No. 1-9. When you do that, you are not approving assistance, you are simply approving the modification of the district that will ultimately allow you to give assistance. In the resolution you will be making four findings. The first finding is that this TIF does qualify as a redevelopment district. We've done the inspections and the area is more than 70% improved, and 50% of the structures were found to be substandard.

Ryan stated the second finding is that this proposed redevelopment would not reasonably be expected to occur solely through private investment within the reasonable foreseeable future. What precipitated the modification of TIF district No. 1-9 was the

request for assistance by SDG Properties LLC in their development of some commercial office space to house the DaVita Dialysis Center, and other medical and commercial retail uses. Their request for assistance is based on the fact that they are going to need to rent, and they have a secure agreement with DaVita to rent the space, and house their space, the additional square footage of their building. They need to be able to financially manage the project in such a way that they can charge rents that are marketable in Park Rapids. To the extent that TIF is provided, it will be able to help them manage those lease rates and make it affordable to future tenants. The developer has represented that they would not have moved forward with the project if not for the provision of TIF assistance.

Ryan stated the third finding that you'll be making is that this TIF plan conforms to the general plan for development of the city as a whole. This development is in a very logical place for expanding the downtown, as well as its connection to the hospital campus. I believe that it does meet the overall redevelopment plans of the city.

Ryan stated the fourth finding is that the TIF plan will afford maximum opportunity consistence with the soundings of the city as a whole for the development of the project area by private enterprise. These are the findings that you will be making when you're asked to consider the approving resolution.

B. Questions/Comments: Donna Petty questioned what are the other businesses that you're talking about that the findings were substandard? Ryan stated the only substandard findings that we made, they relate to the four parcels that are going to be included in this TIF district as a result of the modification. That includes four homes. Petty questioned what does that have to do with the dialysis? Ryan stated that is going to be the site for the dialysis center. In order for the city to provide TIF assistance, they have to qualify those parcels as substandard. The three homes will be torn down.

Carroll questioned you highlighted that there are going to be twenty-three years left within the TIF district to collect increment. In your charts it goes longer, on exhibit three. They go to 2039. Ryan stated there were two years extra because the schedule was based on the creation of a new district. There will be two years less in the final projection. The plan you've been presented is a draft. If there are any changes or comments, they'll be corrected in the final draft. The useful life of a district is twenty-six years of collections. We've already collected three so we only have twenty-three left. Carroll questioned will you have different numbers in your totals? Ryan stated the budgets will be up just slightly in those last years. We will slice off the last two years. The numbers we talked about are maximums, and they will not exceed that.

Mahendra Gupta stated that he had no comment.

Jeff Skogen stated Ryan did a nice job covering it. When you look at construction costs, even though it's in Park Rapids, it's not cheaper to construct something. That's the problem. Then to lease that out, then that becomes the issue. If the increment goes up the same amount of the building then nobody can afford to lease the building. That's an issue. That's what this whole thing is about. I'm a doctor. I don't know anything about this sort of thing. I'm learning. It allows people from the community to lease space in the building because that all gets passed on to the direct costs.

Carroll stated demolition costs would really add up. We had that with the J&B Project also. You have to get down to a buildable surface. We're really happy that you decided to be closer to the downtown center than out of town two or three miles.

David Collins welcomed the two doctors to town. This is an excellent project for the community. Dialysis is something that people have been contacting our office asking for, for some time. They have to drive to Fargo or Detroit Lakes. It will also allow us to clean up that area to create a medical campus and to help us to recruit more medical specialty services to the community. It's a win-win for everyone involved. Help us make this a reality.

Janel Stewart stated I'm here to observe.

A motion was made by Utke, seconded by Mikesh, and unanimously carried to close the public hearing at 7:20 p.m.

C. Resolution Approving the Modification of Tax Increment Financing District No. 1-9 and Adoption of the Modified Tax Increment Financing Plan Relating Thereto: A motion was made by Utke, seconded by Mikesh, and unanimously carried to approve Resolution #2012-155 Approving the Modification of Tax Increment Financing District No. 1-9 and Adoption of the Modified Tax Increment Financing Plan Relating Thereto.

4.1. Presentation of Business Subsidy for Davita Dialysis Project Developer's Agreement:

A. Public Hearing: A motion was made by Konshok, seconded by Mikesh, and unanimously carried to open the public hearing at 7:21 p.m.

Tracy Ryan stated with public programs come much public process. In 1999 the state legislature passed a law called the "Business Subsidy Law". That's been modified a number of times over the past decade. It requires that whenever a public entity is going to provide assistance to a private entity, that if it breaks through a certain threshold then the public entity has to hold a public hearing. It also requires that the city adopt subsidy criteria. So when you're considering assistance to a private entity that your residents, Council, and the public know what they're getting in exchange for the public benefit. At the current time the business subsidy threshold is anytime the unit of government provides assistance of \$150,000.00 or greater, then you must hold a public hearing. That's why we're here tonight.

Ryan stated what we're talking about has been publicized. A developer group which consists of SDG Properties II LLC is requesting TIF assistance. What they are proposing to do is acquire property, the parcels that are being added to the TIF district, demolish the existing structures, and construct improvements. The plan has evolved over the last several weeks. We've broken it down into phase one and two. Phase one is a minimum of 5,000 square feet of development, which would be a commercial building to house the dialysis center. They could possibly build two or three floors on the footprint. One floor would be leased by DaVita Dialysis Center, and the other two floors would be available for other uses that are medical related, or not.

Ryan stated phase two, as we pursued discussions with the developer there are other properties within that block that are potentially available for sale. By acquiring those properties and clearing them too, afforded the developers the opportunity to keep going and construct additional improvements in conjunction with discussions with the hospital, possibly for leased space, or other uses. We tried to structure some assistance that made some sense by providing an incentive for the developer group to acquire the Knapp-Grover property. It's a facility that's not highly used right now. The individuals that own it are

retiring. It could potentially be a vacant building where nothing is happening. It made sense to provide some incentive to encourage the developers to expand their development.

Ryan stated their investment in phase one is substantial. For them to jump into phase two right away would have been financially difficult, perhaps not feasible. We worked out a proposal whereby the city has some excess TIF funds and we would look at providing some of those funds to the developer to encourage them to acquire and demolish the property if they would do that within a certain timeframe.

Ryan stated we have structured some terms that make sense. SDG will be responsible for certain items, and the city will be responsible for certain items. The developer group would be responsible for phase one of the project. They would purchase the three parcels proposed for their development. They will demolish the homes that are on the sites and prepare the site for development. They would secure a building permit for at least 10,000 square feet of space to house the DaVita Dialysis Center, and additional medical/retail offices, with construction to be started November 2012, and to be substantially completed by April 31st of 2013. That's phase one.

Ryan stated phase two of the development is that they will purchase the additional properties, the Knapp-Grover property. They would complete the site improvements on those properties no later than June 30th, 2013. On that site they would be required to construct a minimum of 5,000 additional square feet of office/commercial building space. That would be required to be substantially completed by December 31st, 2014.

Ryan stated in addition, they would have to insure that at least two full time jobs paying not less than \$12.00 per hour will be created within two years of the projected completion date of 2014. The developer group will have to work with their tenants to insure that those jobs are created. The reason that is in there is that business subsidy law requires that when business subsidy is provided there must be demonstrated job creation goals and those job goals must have specific wage floors that they have to meet. The primary goal of this development is not job creation, it is redevelopment. To be certain that we meet law we put a minimum number of jobs created. It's fully expected that many more jobs will be created. But to make the developers responsible for people who are leasing their space, to make them responsible for other businesses job creation would be really difficult to do, so we didn't wade into those waters. Two jobs is hardly anything, but that's only on paper. The dialysis center will have at least six to ten jobs, as well as part time jobs. But we're only going to require two.

Donna Petty questioned is the city going to raise my taxes in two years? Ryan stated the job creation isn't tied to the amount of assistance. It's simply meeting a requirement of law. The two jobs that are proposed to be created would be through DaVita Dialysis Center. That's only taking up one floor of the two or three floors that they will be constructing. It will take quite a few bodies to take up the other two floors, and then also in the second phase of the development, we expect there to be a substantial number of jobs once the full development is completed.

Jeff Skogen stated I understand that TIF doesn't raise taxes. My property taxes are at \$3,000.00 now, with these site improvements for the building, and if they go up to \$20,000.00, I'm not responsible for that full \$17,000.00 increase. I pay part of it, but no one else has to spend extra tax money. Is that true?

Ryan stated I would explain it differently in concept. Let's say there are \$3,000.00 in taxes on the property right now. Then they tear down the buildings and on the new buildings the taxes are \$20,000.00. The developer will be responsible for paying his taxes

just like anybody else. When property is in a TIF district, the \$3,000.00 continues to go to the city, county, and school district so it doesn't affect other taxpayers. The tax base that is there right now stays there. When the developers build the new building and the taxes jump to \$20,000.00, they pay it like everybody else does. It goes to the county and is distributed as TIF increment to the city. The city then takes a portion of it and returns it to the developer. As the assistance is paid off the property is taken out of the TIF district, and then all of the money gets redistributed to the city, county, and school district. When it's all over with, it should have the effect of lowering taxes. I don't know what taxes will look like in fifty years.

Ryan stated we would be providing cash assistance to help acquire and demolish the Knapp-Grover property for phase two, but the TIF assistance that we're proposing to provide is pay as you go assistance, which means they build, the county assesses, there's a two year delay, when they pay their taxes, they're turned back to the city as increment, and then the city provides payment to them. The city will never provide an assistance payment to the developer until the developer has given them the money to do it.

Ryan stated the developer group will be responsible for paying for the cost of the creation of the TIF district and for legal consul to complete the developer agreement to put all of these terms in a formal document. Those costs are estimated to be between \$10,000.00 to \$12,000.00. So the developers will deposit \$10,000.00 initially with the city. If there are any funds left over they will be returned to them. Any excess charges will be billed to them. There is no net cost for this to the city. They (the developers) agree to make all their scheduled tax payments on time.

Ryan stated the city will modify the district, which was just completed in passing the last resolution. Upon completion of phase one the city will issue a TIF pay-as-you-go note in the amount of \$281,000.00, with payments to the developer equal to 90% of the increment generated by the phase one development property for a term of ten years with 6% interest. That will reimburse the developers for a portion of the land acquisition, demolition, and site improvements that are related to phase one. The maximum amount of that note is \$281,000.00. That is based on what tax increment can support if they build the maximum project of 19,000 square feet. If they build less, they'll get less. If they build more, they'll get more on an annual basis, but it will never exceed \$281,000.00 plus interest. Their land acquisition, demolition, site improvement costs are estimated at this time at \$510,000.00, so the \$281,000.00 is not paying for their full costs. It's just helping them to manage it. When you're providing assistance to a developer when it's redevelopment is we're trying to balance the value of a development on bare ground, which doesn't have these costs associated with it. That is the reason for the assistance.

Ryan stated if phase two is completed by December 31st, 2014, the acquisition, demolition of Knapp-Grover, and construction of at least 5,000 square feet of office space, the city will amend the pay-as-you-go note and increase the principle balance to \$418,500.00, with the same terms, 90% of the increment with 6% interest, but the term will be increased by five years. Both projects would have a maximum of fifteen years. In taking on phase two they'll have additional costs of over and about that \$510,000.00, of \$455,350.00. We're not covering the full amount.

Donna Petty questioned what is the interest rate that the city is charging? Ryan stated the interest rate on this note will be 6%. That 6% is what the city is paying the developer because the developers will borrow the money up front, and tax increment financing will reimburse them with interest. The interest rate of 6% approximates what the

developer would be paying on the funds that they have to borrow to financing their project. It should resemble conventional business financing terms.

Ryan stated the city will make biannual payments to the developer on February 1st and August 1st. That coincides with when the city receives their tax settlement statements. The first payment on the TIF note is expected to be on August 1st, 2015. They will build this year, not be substantially complete until next year, assessed the following, and actually the full taxes will come on line in 2015. The city will reimburse \$75,000.00 in costs associated with the acquisition, demolition, site improvements, and stabilization of these parcels. Those funds come from surplus increments in TIF district 1-9. That's the additional incentive to move forward more quickly with phase two than they initially intended to.

Ryan stated those are the terms that are being presented. The 90% increment will leave the city with 10% of the increment generated annually. That will allow the city to cover their expenses to operate this TIF district. With the developers paying for the legal and consulting costs to get here, and with the 10% reserved for administration, this should be a no net cost proposition for the city.

Carroll questioned you're saying that \$75,000.00 is already in a pile somewhere? Ryan stated it appears so. Later on in the agenda the Council is going to be considering hiring me to make sure it is. Based on the financial statements of the city, there are funds there. Again, when you retain my services, there will be an overall review of the city's TIF districts just to make sure what each district was intended for, make sure their reports are in order. The attorney is not comfortable with having the city execute the development agreement until we are sure those funds are there. If I'm directed to do so, I will be in the city tomorrow morning getting started on this so we can be certain. I believe they will be available in district 1-9. If for some reason they are not, they are available in district 1-1. That may take some more administrative action to accomplish, but it's still possible. We'll get you and the developers there one way or another through legal means.

Carroll questioned is this letter the beginning of the developer's agreement? Ryan stated this is a basis for the developer's agreement. This is something David Drown Associates has found to be very good to do, because it allows the city, staff, and developers to work out the terms before it goes to legal consul. Legal consul is a lot more expensive than me. We've worked out these terms, everybody is in agreement. There's no sense sending terms to the bond consul, who is going to draft the agreement, until everybody is on the same page. If you all agree, it goes to bond consul. Bond consul has seen these terms already because she was going to be out of town and she knew this needed attention. She has a basic draft ready. It can be changed if there is something that the Council feels strongly about. We have worked to come to this point so we're ready to go and it can be finalized as early as next week.

Carroll questioned if you are in the office tomorrow morning, you'll be able to verify where the \$75,000.00 is? How long will that take? Ryan stated I hope by the end of the year. Tomorrow morning I'll get the information I need to get started, get everybody comfortable, and move forward.

John McKinney stated the terms of the agreement as outlined by Ryan are consistence with our negotiations. We've advised them that when we get a signed agreement we will bring it to the Council. We don't have a signed agreement. They have finalized the terms consistent with their statement. I don't know what is left to be done with the developer to sign the agreement. The city's policy is to not sign an agreement until the other party has signed.

Ryan stated there are two separate actions to finalize this deal. If the Council so wished, they could approve the proposed terms. You are not signing an agreement, or authorizing the execution of a development agreement, but you could approve a business subsidy as presented. Then we can have the legal agreement that uses much more detailed language. You can consider approving the terms of assistance as outlined and authorize preparation of a developer's agreement, or you could wait until the development agreement has been gone through with a fine toothed comb, and they (the developers) sign off on that. Time is of the essence. The most important part is if you strongly object to any of the terms being presented, then we want to talk about it tonight. If there is no objection, then we can wait and after all the bugs are worked out, bring it back to the Council for approval.

McKinney stated at this point the Council has nothing from the developer to indicate they have accepted the terms. Ryan stated accept that we've been negotiating with them. McKinney stated I fully appreciate that. Ryan questioned is the Council supportive of the terms? McKinney stated the first order of business is would be to close the hearing.

B. Questions/Comments: Dick Rutherford stated he was here to listen.

Mr. Gupta stated timing is of the essence. We want to be able to do the ground breaking starting November 1st. I think it's very important that the public and the Council follow this and move forward.

Jeff Skogen questioned is what we're talking about, phase one, and phase two, is all that linked together as far as signing that and getting that agreed on? Ryan stated the way that the development agreement is drafted is that upon execution it locks in assistance only once you have moved forward on a phase. Once you move forward with phase one, the assistance applied for phase one will be provided. If you never move forward with phase two, assistance will never be provided. It's one agreement, wrapped into both and there are performance measures throughout. The city won't be putting more forth if you don't meet your obligations. Skogen stated because phase two, with the acquisition of these other properties, where the \$75,000.00 comes in, to make that even feasible, that's not pressing. The timelines that you have built in for us to meet, if it gets pushed off too far, then those would have to be pushed a little bit. But phase one for sure, if we're going to get this open by next spring that foundation has to be in by November.

Donna Petty questioned does the Council remember the man from the state that told us the deficit was double now, so maybe the over excess you have now should be kept. What are we going to do if you spend that excess and then things don't come from the state? Then you're going to raise the taxes to get the money because you spent the excess somewhere else. Carroll stated this money is already in the bank somewhere. It's not coming from future taxes. It's already been collected. Ryan stated that's correct, and it can only be used for certain purposes. It cannot be used to fund general government. TIF law prohibits that. We're sensitive to that thought. Everybody has to tighten their belts and watch their budgets. Unfortunately, this isn't a resource that the city can use for general operating costs.

A motion was made by Konshok, seconded by Utke, and unanimously carried to close the public hearing at 7:50 p.m.

C. Resolution Approving Business Subsidy to SDG Properties II, LLC: McKinney stated we don't have the business subsidy agreement. We have the terms

in a draft that we got from Briggs & Morgan, but we don't have an indication of the acceptance of the developer to the terms. Ryan stated the developers can provide that now. We had to give it to the attorney early, before action tonight. The first draft was emailed to the developers and the city on late Friday afternoon. Unless everyone reviewed it over the weekend, everybody needs to go through it and be certain that it works. McKinney stated after talking with the attorney, it was her suggestion that we not take any action until everyone has had a chance to look at it. The sooner you tell us it's okay, the sooner we'll be ready to go. What you could give them now is an indication of your acceptance of the proposed terms. The formal action, authorizing the city to sign the agreement could come at the next Council meeting. Ryan stated that would be appropriate.

Skogen stated we went through all of it and whatever we have to do to formalize it, we're in agreement. McKinney questioned so the terms as outlined are acceptable to you? This is pretty much a standard agreement. I don't think there's a problem with your process if we do this in two weeks. Skogen answered no.

Konshok stated our next scheduled meeting is not until the 23rd. Skogen stated for phase one the contractors have to do certain things including getting the power ready. They were thinking of doing all that stuff next Monday. We have the closing of the property set up for Monday. I'm wondering if this is tied to that. Somewhat the first phase is. It's the second phase that we're having trouble. So time is of the essence.

McKinney stated our problem is in order to give you that extra time requires you to agree to it now, or we lose that extra time at the end of the collection period. You have the option of doing that but you have to decide whether you want that in the agreement or not now. I don't think there is any downside. Ryan stated I don't think so. Konshok stated with three days public notice we can call a Council meeting provided we have a quorum to review this. If we get an agreement from the developer, with three days public notice and a quorum of the Council we can review it and potentially adopt it then. That's our statutory minimum.

Skogen stated it's up to you guys because we agree to it. We went over the latest one this weekend. This morning everyone signed off on it. Basically, both parties have to be happy and meet in the middle. So this is fine.

McKinney stated the resolution before the Council authorizes the mayor and the administrator to execute the developer's agreement which governs the assistance. Attached would be exhibit A. I have a draft. Ryan stated the resolution is approving the letter of terms that I went through with you. If the developer's agreement matches those terms, then this authorizes the administrator to execute the formal document, to approve the general terms as presented. It's not asking you to approve the developer's agreement. McKinney stated if you read paragraph two, it is. Ryan stated it authorizes you to execute it once you've reviewed it and its acceptable to the terms presented, we can amend that language. If the Council is supportive of the terms and can provide the developers tonight with some level of comfort that you're not going to change your mind by the end of next week, you can go ahead and start the work that needs to happen. The approval of the TIF district is what had to happen before you can pull a building permit. If you are comfortable that the Council is going to move forward with the assistance that is outlined in the business subsidy hearing, you can go ahead and start, and then we'll sign the paperwork in the next couple of weeks. The developer agreement will not slow you down unless the Council is uncomfortable with the terms presented.

Skogen stated now I understand. Gupta stated that's fine. Carroll stated the terms that were outlined are the ones that we need to approve. Ryan stated I think you can wait until October 23rd when all of us have had a chance to review the agreement. Once we get to the point that the administrator can recommend Council approval which we can do on the 23rd. If you guys are comfortable you can go ahead and get started and we will formalize the execution later. I don't want to push you to take an action that you are not comfortable with.

A motion was made by Konshok, seconded by Mikesh, and unanimously carried to table the Resolution Approving Business Subsidy to SDG Properties II, LLC.

Discussion: McKinney questioned whether the Council were comfortable with the terms as outlined. Konshok, Carroll, Utke, and Mikesh agreed. Gupta stated then we can start working on our timelines.

5. APPROVAL OF MINUTES:

5.1. City Council Regular Meeting Minutes-September 25, 2012: A motion was made by Mikesh, seconded by Utke, and unanimously carried to approve the September 25th, 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 \$49,541.37, and the prepaids in the amount of \$127,079.99, for a total of \$176,621.36.

7. CONSENT AGENDA: Konshok removed Item #7.9. and #7.10. A motion was made by Mikesh, seconded by Utke, and unanimously carried to approve the following consent agenda items:

- 7.1. Resolution #2012-156 Approving Ordinance No. 540 Amending the Park Rapids City Code of Ordinances, Chapter 151 Zoning, Section 151.062 (R-2) Single, 2-Family and Townhouse District, (C) Conditional Uses (19) Recreational Camping Area.**
- 7.2. Ordinance No. 540 Amending the Park Rapids City Code, Chapter 151 Zoning, Section 151.062 (R-2) Single, 2-Family and Townhouse District, (C) Conditional Uses (19) Recreational Camping Area.**
- 7.3. Resolution #2012-157 Appointment of Election Judges for the General Election for the City of Park Rapids for the Year 2012.**

- 7.4. **Resolution #2012-158 Authorizing Proper City Officials to Execute the License Agreement to Use Public Right of Way by and between SDG Properties LLC and the City of Park Rapids.**
- 7.5. **Resolution #2012-159 Authorizing Proper City Officials to Execute the Paperwork to Certify the Deferred Special Assessment for PID #32.25.04000.**
- 7.6. **Approve a Plumber's Permit to Work in the City of Park Rapids in 2012 for Denny's Plumbing, Heating, & Air Conditioning LLC.**
- 7.7. **Resolution #2012-160 Appointing Nels Peterson to Serve on the Park Rapids Planning Commission.**
- 7.8. **Approve Pay Request in the Amount of \$8,305.00 for Touch of Eden Landscaping for Professional Services Associated with the Pioneer Park Landscaping Project.**
- 7.9. *Removed from the consent agenda.*
- 7.10. *Removed from the consent agenda.*
- 7.11. **Approve Pay Request in the Amount of \$10,879.50 to LBG for Professional Services Pertaining to the Water Treatment Facility.**
- 7.12. **Resolution #2012-161 Adopting Personnel Policy #58- Cell Phone Reimbursement for the City of Park Rapids.**
- 7.13. **Approve Setting the Cell Phone Reimbursement Amount for Personnel Policy #58 at \$35.00 per month.**

END OF CONSENT AGENDA

7.9. and 7.10. Resolution Appointing Krystal Krautkremer to the Position of Volunteer Firefighter for the City of Park Rapids, and Resolution Appointing Jonathan Lanz to the Position of Volunteer Firefighter for the City of Park Rapids:

Konshok stated I have some concerns regarding policy and making sure we have a policy review on the hiring of firefighters. I would to table these and refer them to staff for a legal and policy review. **A motion was made by Konshok, seconded by Utke, and unanimously carried to table the two resolutions to appoint firefighters for the City of Park Rapids.**

8. COMMENTS FROM CITIZENS: There were no comments.

9. PLANNING:

9.1. Resolution Approving a Conditional Use Permit to Allow a Recreational Camping Area in the R-2 Zoning District at 501 Central Avenue South, PID #32.25.04000:

Walker stated the applicant is Northern Lakes Company, who is the owner of the property. They are requesting a conditional use permit to allow a recreational camping area (RCA) in order to add an additional twenty-four camp sites to the existing sixteen camp sites for a total of forty sites in the R-2, Single, Two Family, and Townhouse District. The property is located at 501 Central Avenue South, and is the current location of Big Pines RV Park. The property is currently being used as a recreational camping area with sixteen existing camp sites. This use is considered a legal non-conforming use, as a recreational camping area is not currently listed as a permitted or conditional use in the R-2 District. The site acreage that is zoned R-2 is 11.37 acres, which does not include the area which is zoned C-1, Conservation District, which is 2.46 acres, for a total site acreage of 13.83 acres. The property is located adjacent to the Fishhook River, but the portion of the property that is being considered is located outside of the shoreland zoning requirements. The city's comprehensive land use plan designates this property for multiple family residential use, and is serviced by City water and sanitary sewer.

Walker stated the applicant purchased the Big Pines RV Park in 2005 and worked with the city in 2006 to secure water and sewer easements across the property for the mutual benefit for the property owner and the city. The applicant also initiated plans for a townhouse development in 2006, but did not finalize the process due to economic considerations at that time. The applicant then requested to continue the use of the RV Park which was affirmed by the city.

Walker stated the property was originally licensed by the Minnesota Department of Health for seventy RV unit sites in 1972. The property has been used for a varying amount of sites over the years, and has been used for sixteen independent sites, which means they have their own water and sewer connections since sewer upgrades were completed on the property in 2007. No expansion in the number of units has been done since that time. Although the property is currently licensed for seventy sites by the Minnesota Department of Health, local zoning controls supersede that license, including land use restrictions.

Walker stated the applicant contacted staff in August 2012 about the possibility of expanding the number of sites on the property, which is not permitted under the current Zoning Ordinance. Under advisement of the city attorney it was recommended that the zoning code be changed to allow a Recreational Camping Area in the R-2 District, under the conditional uses section and with strict parameters and then have the applicant apply for a conditional use permit to clear up the non-conformity and allow the possibility for the expansion. This is the reason for this request and the zoning amendment which was recently approved.

Walker stated contingent upon the approval of the zoning amendment, which has been done, the applicant is requesting the conditional use permit to allow an additional twenty-four independent RCA sites to the existing sixteen sites, for a total of forty independent RCA sites on the property. There is also an existing rec hall, house, and cabin on the property that will remain. The new sites will be approximately 50' x 100' and will exceed the minimum standards required by the Minnesota Department of Health.

Each site will be serviced by individual sewer, water, and electrical connections as shown on the attached site plan. The applicant has stated that the sites will be positioned in order to preserve the trees on the property. The site plan also shows the units will meet setback requirements, which was agreed upon by the developer. There are also currently two accesses in and out of the property onto Central Avenue. The applicant has stated that one of the accesses will be closed in the future, then they will only access the property through one ingress and egress.

Walker stated the site also meets or exceeds all other requirements from the Minnesota Department of Health and the newly created parameters of the Park Rapids Zoning Ordinance, including property size and site requirements. The applicant has provided a revised site plan which shows approximately 5% impervious coverage, which is well below what is required through the new zoning requirements and well below what would be allowed with other uses for the property.

Walker stated a new plumbing review will also be required by the Department of Health, and they will be required to provide a copy of the inspection report to staff. The applicant has also shown an area for a proposed future expansion of the property to include an additional 30 RCA sites. If the applicant would like to pursue a future expansion of the number of sites on the property, a new conditional use permit would be required through the Planning Commission and the Council. There are no zoning violations on file for this property and there have been no police reports or complaints filed for the property.

Walker stated during the public hearing there were people both for and against the project. The items of concern were temporary versus seasonal sites, additional fencing, property tax values, noise across the river, four wheelers and dirt bikes along the river, extra water demand, and water quality concerns, setbacks of the units to the east along Central Avenue South, aesthetics and tree removal on the site, and issues with the rental cabin on the site. During the deliberation by the Planning Commission members and through the testimony from the applicant, many of the issues were addressed or will be addressed by the applicant. The Planning Commission did add a sixth condition to the permit which requires that the applicant provide a copy of the lease agreement and campground rules to city staff for review. That has been included in the staff report. Staff feels that most of the issues that were raised at the public hearing will be addressed by the applicant through the campground rules which will be monitored and enforced by an on-site supervisor.

Walker stated there were also issues raised about an environmental review for the site. Through review by the staff there was nothing that would trigger any additional environmental review with this application as the portion of the site being used for the application is not in the shoreland district. The total site impervious is 5%, which is well below the allowed other uses in the R-2 district. A stormwater permit is not triggered unless more than an acre of impervious surface disturbed which is not proposed with this application. A mandatory environmental worksheet is not required unless there's over fifty units proposed. If they were to do an expansion in the future that may become an issue. The applicant has also stated that no trees will be removed with this application, and the Planning Commission decided that additional fencing would not be necessary with this phase. All other issues with setbacks have been addressed with a revised site plan with the applicant.

Walker stated staff and the Planning Commission unanimously recommend approval of the conditional use permit to allow a recreational camping area in order to add

an additional twenty-four camp sites to the existing camp sites for a total of forty sites with the six conditions outlined in the staff report.

Carroll questioned if the Council had any questions. They had no comments.

Jeanne Troge stated the idea that no trees will be cut down, but if sewer and water is going through that property the roots will be cut and those trees are going to die and that is an environmental impact. I understand that you're following the rules, but I would think the city would want an environmental impact study done on this property. This is a river that flows through our city and I think you would want to know what would happen in making future plans. You're talking about forty RVs today. This is only phase one of the project. Phase two is for seventy, sitting in the middle of the heart of the city. It's going to have water demands. Those of us that live in the city haven't been able to water all summer. We don't have enough water in the town that we're in.

Carroll stated you made these comments in the public hearing at the Planning Commission meeting. Troge answered yes. Carroll stated what we're doing here today is not reenact the public hearing or open it back up again. Troge stated these are concerns that still remain and I'd like them to be on the record. I want to thank you for responding to me. I sent a letter to everyone on the Council. You (the mayor) and Sue Tomte responded to me.

Julie Snow questioned she went to the Planning Commission meeting and if she's not satisfied with what happened there and if she feels her questions were not answered, or that the Planning Commission is more concerned with the developer than our residents, what would be the next thing someone could do? I would think to come here and speak to you guys. But you're saying we're not addressing that issue. I'm confused.

Carroll stated we don't always have agreement on issues, I'm sorry, it does happen in other situations, it would be wonderful if everybody agreed with everything that is happening in the city. Snow stated I understand that, but the issue of water is huge. We have a water shortage, but all of a sudden we have enough water for forty RVs. I don't have enough water for my lawn, apparently, but we have enough water for forty people who don't live here to come and use our water. I don't understand how that can possibly be seen as okay, and how that doesn't need to be addressed. Carroll stated thanks for your comments and concerns. We have the unanimous recommendation from the Planning Commission before the Council. We need to move forward on the agenda item.

A motion was made by Utke, seconded by Mikesh, to approve Resolution #2012-162 Approving a Conditional Use Permit to Allow a Recreational Camping Area in the R-2 Zoning District at 501 Central Avenue South, PID #32.25.04000.

Discussion: Konshok stated I didn't get the chance to respond to your letter but I share the same concerns because it's right on the river. I would point out that this is being done in two phases. The second thirty units are getting much closer to the river bed, than these units. The current units that we're looking at are really just completing the original plan for that park back in 1972. The boundary on it as shown is it doesn't go south of South Street at this point. So it's what I assumed was the boundary of Big Pines RV Camping Sites. The current property owners have took it over and done commendable work on it to bring it up to code. They took fifty-five sewage barrels out of there. That is a strong consideration. I share your concern. We don't want to end up with a ton of these parks all over the city. That would definitely change the tone of the city. What the property owners are proposing

at this point is conditional use. I think it's reasonable and I think we're holding up our part of some very long standing bargains, for whatever reason, were never completed.

Carroll stated there are six conditions. If they are violated, the conditional use permit can be rescinded. Walker stated that's correct. The reason we have a conditional use permit process is that it's similar to what would be a permitted use, but we have the opportunity at the city that if things go awry we can revoke the permit in extreme cases. Konshok stated they have to meet all of the conditions. Carroll stated monitoring will be part of it.

The vote was called.

The motion passed unanimously.

10. GENERAL BUSINESS:

10.1. Minnesota Power & Light Recommendation for the City: Charlotte Campbell stated we were invited here by Scott Burlingame. He came to us with an interest in having an energy audit of the facilities. He's looking at updating the lighting in most of the facilities with the intention of making Park Rapids green with the highlight on Governor Dayton's visit. In the beginning of August we surveyed the airport, library, city hall, and the public works/police department building. We gathered a report for the four facilities and what the savings would be for taking the recommendations that we purpose. We took each unique type of light in each of the facilities and gave one recommendation for replacement lights. We've included cost savings for one light, a rebate amount that would come from Minnesota Power. We have an estimated cost and a payback for each for those. For the four facilities, if all the lights do get replaced with the recommended lights, the potential energy savings is 265,000 kilowatt hours per year. That equates to about \$25,000.00 in cost savings. With that same project the potential right now as it stands until the end of the year with Minnesota Power's current bonus for LEDs, the total rebate could be at least \$50,000.00 to cover the cost of the project. If it goes on to next year, you'd be looking at about \$17,000.00 for the rebates available.

Tanuj Gulati stated because of your participation in the program and having us come in and look at this before August 30th we're able to lock you into a higher rebate, but one of the requirements from Minnesota Power for the higher rebate is you have to initiate the project before December 15th. That doesn't mean that we expect you to put in \$70,000.00 to \$80,000.00. There is definitely a point that you should look at what is your lowest hanging fruit. Are the street lights an issue that you are spending a lot of money on energy? At the same time when you go with LED fixtures, there are a ton of maintenance costs too, because those fixtures have a ten to fifteen year warranty. Other cities are taking a part in this. Minnesota Power is here to increase their customers like they do in other cities. I highly recommend that you start looking into products that not only save you energy, but to take steps to be more energy efficient and to reduce your carbon footprint. With this walk through we came up with some general recommendations, and we can explore more. The reason we are here is to encourage you guys to look into this and help Burlingame with this step that he has taken and make it happen.

Carroll questioned you said if we did everything right now we'd qualify for \$50,000.00 in rebates, but how much would we spend, \$70,000.00 to \$80,000.00? Tanuj

Gulati stated that's just the material costs. Minnesota Power is not in the business of selling products. These are rough estimates that we got from market. When you start getting materials then you also take into consideration what are the labor costs. I don't know if we take the fixture down, what's behind it, and how much time it would take to install a new one. These are things to start you thinking, like street lighting, which is your biggest user. What can you do to make better lighting for the people? Then go from there. These numbers that we are giving you, rebate numbers you can count on, but material and labor costs are tricky. I'm not selling products.

Campbell stated these are the fixture costs. We recommend asking for bids to give you a better scenario of what the payback would be of the actual project. You also have to look at how much money you have been spending on maintaining these lights.

Carroll questioned where the city would start. Burlingame stated the street lights, parking lot lights, and outside lights on buildings, would probably be a good place to start. Campbell stated we've brought some examples of the kind of lights that we're looking at. Konshok questioned this is if we start before December 15th and as long as we keep going then we'll lock into the rebate? Is there an ultimate sundown date that we have to complete it by? Gulati stated we'd like to work with you so flexibility will be part of it.

Tanuj Gulati stated the way these programs work is everybody that lives in the State of Minnesota and pays an electric bill, pays a certain amount in for energy conservation. You are paying into the program. We want our customers to do projects that make them energy efficient and as a bonus, get a rebate back. If you're not going to take it, another city will. You are talking about all these different things that can be done in the city, and water is an issue, but what can you do to make this city friendly, to do things that stand out when customers and tourists come here and they can see all these LED lights. A regular fixture uses 460 watts. You can get down to 100 watts with LED that you won't be touching for twenty years. You won't be running it all the time. If it says 100,000 hours, that doesn't mean that the light will be on 100,000 hours. In a year the street lights are only on 4,000 hours. So that's twenty years of life in which you won't have to touch that light for maintenance, using 100 watts compared to 460 watts. I can tell people what's happening and what they should be doing.

Carroll stated the prices for LED lights are coming down. Tanuj Gulati stated yes they are, but you have to be careful. There are a ton of different manufacturers that have these products. They will tell you that they will give you a twenty year warranty on their product, but if you have a problem, these manufacturers are not in the picture. What Minnesota Power did in International Falls is studied seven different LED major manufacturers that have been around forever. Then they brought in the lineman and asked which of these fixtures is easiest to work with. Now we have brought that list down to four or five manufacturers. Yes, you might pay \$100.00 more for a fixture, but you know they will be around, Phillips, GE. They will be around forever. They will be behind that warranty. That's why we are telling our customers to go with LEDs.

Carroll questioned are CFLs a thing of the past? Tanuj Gulati stated CFLs are still a good option. I'm not saying you shouldn't be installing them because a regular LED lamp that can replace a CFL is still \$30.00 or \$40.00. Why pay that when you pay \$1.00 for a CFL. Are CFLs good? Yes. Do people say CFLs have mercury in them? A can of tuna has more mercury than a CFL.

Utke stated at this point Burlingame can bring us back information and some quotes so we can have something tangible to look at. Konshok stated we need an implementation

schedule. Where do you want to start and how many do you want to swap out per month. This would be an out of cycle funding so we'll have to look at that also.

10.2. Approve Hiring Traci Ryan with David Drown Associates to Review City's TIF Districts and Provide a Management Letter: McKinney stated this was predicated upon some discussions we had with Traci Ryan. We took advantage of that information and determined that she had an alternative offer which we would recommend substituting for the one in the packet. Ryan is proposing to do an audit and give us a letter, and for another, \$4,500.00, she will also prepare the reports and filings that we are required to do. We feel that is a good option, so we are recommending that the Council authorize us to do that.

Ryan stated it would be \$4,500.00 for the report and completing your 2012 TIF reports. If issues come up that need to be addressed, and it's going to take more work, I'll address that with staff and Council before I move forward. That should get us to where everybody knows what's going on and your reports are completed and updated for the year end 2012. McKinney stated it's important that we nail down these numbers and that would be her job to help us do that. Carroll stated I think this has been a missing piece. It will be very good information for us moving forward.

A motion was made by Konshok, seconded by Mikesh, and unanimously carried to hire Tracy Ryan to do a TIF audit and the 2012 TIF reports, in the amount of \$4,500.00.

10.3. Request to Waive Mandatory Water/Sewer Connection for Donna Petty and Donna Lord- tabled September 11, 2012, and September 25, 2012:

McKinney stated the Council directed staff to prepare an analysis of what criteria might be available looking at these properties compared to other properties in the project and elsewhere. In the criteria presented there are some distinctions between these and other properties, should you wish to do that. It's not a matter of policy. What we are talking about here is an end to the completion of the project, the property owner who come within two-hundred feet of the water and sewer lines that are constructed, they have three years to hook up to those. That's not a policy, it's an ordinance. There are no exceptions provided for in the ordinance. Should you wish to give relief, you need to address the ordinance, not the policy. We've been loosely using the term policy at one point. If you wish to change the ordinance we would need to be directed to do that.

McKinney stated we also suggest there are some criteria that these properties would satisfy that seem to be unique to that particular project, whether or not they're unique to other projects in the past, I don't have the history to know. We're talking about properties that have a residential use, so they're non-conforming in a commercial district. They are properties that were not hooked up to sanitary sewer or water before the project went through. That's to distinguish them from properties that had water/sewer under the old system. They had water/sewer before. These did not. They have compliant systems at this point. That's the kind of criteria that if you wanted to amend the ordinance to provide exceptions on that basis. That would cover the properties with the two particular requests. They would satisfy those criteria if the ordinance were amended, and if you adopt an exception of some sort or another.

McKinney stated the ordinance provides that after three years and the properties do not hook up, the Council may take appropriate action to have them comply and charge it

against the property, payable as an assessment. "May" is an undefined term. Should you deny these requests in all likelihood, the Council would direct us at some point to implement the ordinance. To do that we would have to get someone to do that work if they did not do it. That wouldn't happen this year anyway. We're talking about action, even if we didn't amend the ordinance wouldn't have a practical conclusion until next spring.

Carroll stated amending the ordinance with these criteria would provide for an exception. McKinney stated what I would expect that you do is provide a provision in the ordinance that would allow for an extension if approved by the Council if it meets the criteria, like a conditional use permit in a way. There might be other ways to do it, but we're trying to identify the issues that have been raised so far.

Donna Petty questioned are the properties on the west side zoned B-1 like we are? Carroll stated yes, all along that Highway 34 corridor. Businesses are conforming, houses are non-conforming. McKinney stated I was told there weren't any other residential uses in commercial property which would be non-conforming on the west end of the project. You're unique in that respect. Konshok stated it's B-1, not R-2. What is Highway 34 West along the project? Walker stated the length of Highway 34 is B-1. There's different classifications on Highway 71. McKinney stated that raises the point that if we were to make an exception it would be generic so if another project came along it would apply as well. Carroll stated we've been considering this for some time.

Konshok stated at one point there was a question regarding a stipulation that if they sell as residential would that trigger an immediate hook up? McKinney stated that could be a criteria. I didn't address that. Petty stated you mentioned that last time. McKinney stated we can criteria it anyway you want. These criteria are the ones that have come up most often in the discussions. Carroll stated you could call it a trigger. One criteria refers to having a compliant sewer and water service, so if things went out of compliance that would be another trigger. McKinney stated other reasons for the Council to say okay is that there are services that are being provided through private systems and they would have to agree that they would keep those in compliance. If they didn't that would be cause for us to say hookup to the city water and sewer. In the first place, the purpose of the ordinance should not get lost, it's to get people on private systems onto the public system. There's a three year period.

Konshok stated what we have is a conflict of two ordinances. We have our water/sewer hookup policy ordinance, but we also have a zoning ordinance. This zoning district is B-1 which clearly signals our intent that that's the way we want it to go. We have a separate ordinance that ordering residential improvements. We have a conflict of ordinances there. Which one takes precedence? I would say the zoning ordinance. What we envision for Highway 34 is complete business. I want you to use your property as long as you want to, but when it eventually turns over we clearly think of that area as business. You'd be allowed to sell the property as residential. You're grandfathered in, but if you did that, the new owners don't get the exception that you would. They'd have to hook up.

Mikesh stated in any other project we made people hook up. They got three years and that was it. We went in, hooked them up, and put it on their taxes. Donna Petty said at the last meeting, "I don't care if it's six months or six years, I'm not paying for it". What makes you think that in three years it will be different?

Donna Lord questioned can you just let it go until spring? Mikesh stated I'd be willing to let it go until spring. What I'm saying is you've had three years, if we give you another six months, then another six months. Petty stated mainly we were asking at least

not now. I plan, I promise, I will sign a notarized statement, to put up my property for sale in the next year. I just can't do it right now. I'd hoped the market would come up, and I hope it sells commercial since the one on the corner already is commercial. Somebody would be missing the boat not to come in and buy all three, if Donna Lord ever decides to sell. We wouldn't be here if Lord had agreed to sell when Wal-Mart came in. Lord stated we have another neighbor next door that wouldn't want to sell either. We've been neighbors for fifty-three years.

Konshok stated the intent isn't to force any kind of sale here. Lord stated you kind of are. Konshok stated what we are trying to do is acknowledge that the property will turn over. Petty stated you can do it now, or the next year, or the next year, I can't afford it. It's just not possible for me to save that much money. Konshok stated if we said we're not going to require you to do it because you can't afford it, that's an entirely different can of worms and there are a lot of people in that boat. We can't use that as the reason for not doing this. Petty stated I'm not asking for that to be the reason. I'm just saying that I can't do it this fall. Carroll stated if cost is the determining factor we need to think about the application process that I gave you last time from the Hubbard County HRA. Petty stated you have to earn \$17,000.00 or less. I'm poor but not that poor.

Lord stated all the trees will die that I have now. You killed all of them when you put the lines past my house, which was \$8,600.00. Then the trees were so uprooted that the tornado didn't have any trouble tipping them right over because there were no roots on one side of those trees. Now you're going to do a water thing and kill the rest of them.

Utke stated at some point the property might go to a different use, but it needs to be done. It can go on forever. Other people have had to play by the same rules. I just don't want to see you spend good money and then things change in a year or two. But we have to know what the end is. Lord stated what if I keep my property and I say to you if something goes wrong with it, I'll try to conform, even if I go in debt. But you're going to kill my lawn, and if this house and the one on the corner is sold commercially, there I'm sitting. Nothing's going to be there except my house. The other people next door don't want to move either. I just can't do it this fall. Carroll stated the island keeps getting smaller.

Carroll stated we talked about the possibility of an exception within the ordinance that would have an annual review. McKinney stated that would be one of the criteria. Carroll stated at that time you could show that you're still compliant with the septic and that your water is testing well. McKinney stated we could have annual reviews as part of that also.

Carroll stated the residential use in a commercial zone really limits it. It makes it a very small group of properties that might qualify. It's not across the board exemption. It's a very narrow window. I do agree with Konshok about the conflicting ordinances. It's really hard to figure out what to do with a non-conforming property. If you want to sell it, and it goes twelve months without being occupied does it lose its status? Walker stated it depends on if the intent is there. Obviously, with the market the way it is, if they have it listed residentially we would allow them to continue as residential. Carroll stated if that's the way it's listed for sale, you would continue the non-conformity. Walker stated it would be occupied. If they're selling their house they probably are still going to be living there. If the move out and it's completely vacant the clock would start ticking, yes. Petty stated I can't afford to do that either. I'd have to make payments on it and pay rent somewhere else. I'm certainly not going to lose the equity that I have in it.

McKinney stated at this point according to the procedures that we have in effect, you sent a letter to all the property owners that the three years on that project have terminated and to proceed to get it done. If they didn't, the ordinance would be in effect. The ordinance says, if they don't comply the Council may, if we follow the historic procedure here we would go out and get somebody to hook them up. That probably won't happen until spring. If you decide you don't want to do that, which means you are exercising "may" in some way that you need to define for staff. Carroll stated the term to hook up expires on November 1st. McKinney stated by the time that expires we aren't going to get any contractors in there to do anything. Even if we didn't get any different directions from you, nothing is going to happen until next spring. Sooner or later, if you don't change things, we will proceed. That's what the ordinance tells us to do. Before you now are two or three requests to waive that requirement. That's what you tabled.

Carroll questioned are we going to consider exemptions for all properties within this area that have received letters, or just the ones that have asked for an exemption, the ones that are non-conformities? Or we cannot address it at all and let the chips fall. Konshok stated if we're going to amend an ordinance we want to make it as clear as possible. The four criteria plus the one I mentioned about the stipulation that if it sells residential immediate hookup is required. The sixth one would be its subject to annual review. It's a very specific case.

Utke stated State Bank has a property with the same issue. It has been used commercially but it just doesn't make sense to throw good money to hook it up because they're all in that same boat. If we're going to do this just for the residential properties, that one should be included because why dig in a new sewer for something that's probably never going to be used? McKinney stated if we were to adopt the criteria mentioned, that one would not qualify because it's been used commercially. Utke stated it's a house like theirs are but it's had a different use. McKinney stated if you wanted to grant that request we need to talk about the residential use being a criteria. I suspect you will get other requests.

Konshok stated all up and down Highway 34 there have been residential homes converted to commercial use. In the case of that property, they're now commercial, they are conforming to the use, and they need to hookup. What we're addressing are residential properties that are still in transition. They are non-conforming to the zone that they are in. McKinney stated if we prepare an ordinance it would be addressing just these applicants. It will address the condition that may or may not exist from time to time. Carroll stated whatever modification should be citywide.

A motion was made by Konshok, to request to direct staff to prepare an amendment to the ordinance to add this criteria for a property that would be granted an exception to the water/sewer hookup ordinance, consistent with the six criteria, specific to a commercial zone.

Discussion: Utke stated you said six criteria, the four listed in the packet, we added the sixth one that if it sells as a residential use. Konshok stated and it will be subject to an annual review. Carroll questioned could it be sale of the property period for any use, or do you want to limit it to residential? Konshok stated if they were to sell their house and it went straight to commercial use, then it's commercial in a commercial zone. McKinney stated one example would be if their sewer and water were no longer compliant with the health code they would have to connect. That would be one example that would trigger it.

The motion was seconded by Utke.

Further Discussion: Utke stated in the discussion we've addressed residential properties. I'm still concerned about the corner house. It's zoned commercial but it's vacant. If that sells and gets occupied I have no problem saying that should be hooked up. As long as it's vacant, I don't think it should have to be hooked up. How does that fit this? Carroll stated maybe that's a separate category. Utke questioned are we going to force them to dig in something that is more than likely never going to be used? I don't like that side of it either. McKinney stated we could craft another criteria to cover that situation. Something like if it's non-occupied.

Konshok stated that property has been modified for commercial use. There is more parking lot than a resident would have along the back side of it. That was put in to make it conform to commercial use. Walker stated it can't be used for residential purposes anymore. McKinney stated then it wouldn't comply with the criteria that it be residential use under the criteria. Utke stated it doesn't comply with this at all. Konshok stated we could address it separately I don't think we would address it as part of this. Utke stated to put it in this ordinance, down the road it really wouldn't pertain. I would go along with addressing it separately because I think it needs to have attention. Carroll stated this could be A section, then you could have a B section with its own criteria that would be more consistent with the corner house.

McKinney stated keep in mind one of the things that gives credibility to your actions is consistency. If you start picking what you'll do and what you won't do with properties based on things that aren't clearly understood by the public, you're undermining your own credibility. Carroll questioned do you think the public would be confused by these residential uses in commercial zones, and the concept of non-conformity? McKinney stated as long as you understand that you're going to do it for everybody that meets those criteria, and you aren't going to do it for the people that don't. That's where it gets a little tough sometimes. It is a residential that's been made commercial, but it's kind of in the same lot, so we have to give to them too, then we haven't complied with the change. Konshok stated that's why I think it's important to take the somewhat drastic step of actually amending an ordinance because we want to be crystal clear at the highest level what we're talking about. Now if people understand planning and zoning ordinances, that's why we have a full time planner because it gets confusing at times. To me it's pretty clear what we're talking about. I'd much rather take a formal action, rather than we "may" take action. We could kick the can down the road indefinitely. I think that would cause a lot of confusion and heartache. Carroll stated people would think it wasn't fair.

McKinney questioned if this motion passes we would be coming back to you with a form of ordinance consistent with the discussion. It will get close to November 1st to get all of that done, so we would need direction on what you propose us to do with the letters that we have sent out for all the properties in the Highway 34 Project that would be impacted by that action. Konshok stated the first reading could be October 23rd. If we go that far and the Council adopts it, then we are on record signaling there's a change, and then that's when the "may" kicks in. They would be on hold until the resolution of that amendment. If we're going to do this we need to have something on the books by the 23rd in front of the November 1st deadline.

The vote was called.

The following Councilmembers voted yes: Carroll, Konshok, Utke.

The following Councilmember voted no: Mikesh.

The motion carried 3-1.

10.4. Dead Sod at 400 & 402 Sixth Street W, and at 515 Court Avenue- tabled September 25, 2012: Burlingame stated McKinney and I went and looked at the sod at the property in question. My recommendation is still the same, denial of the request. I got an estimate of \$700.00 to redo the grass at 515 Court Avenue. It's pretty obvious that it hasn't been maintained. If we open that can of worms, there are a lot of properties in the neighborhood that we'd be doing the same thing for. It would cost the city a lot more than \$700.00.

McKinney stated \$700.00 is an example of how much it would cost to completely redo one lawn. Burlingame stated this is two years beyond the warranty, if they had come in within that thirty day period after the Council accepted the project, but it has been three years. We are also in a drought. We have to understand that grass is going to die if it's not watered. VanBuskirk stated it was dead the first year. Burlingame stated that might be but that is still beyond the warranty.

McKinney stated the obvious issue here is when we do a sod or seed project the period of time that our contracts require the contractors to take care of it is not long enough to assure that it will be forever growing grass at that location. Burlingame stated to expect the contractor to maintain a lawn for over a year is not reasonable. The project is over, they watered it, they got it to completion, they established it, it looks fine, engineer okayed it, he brings it to the Council, and then they have thirty days. Konshok stated you could put that stipulation in the contract, but I strongly suspect that it would be cost prohibitive. You're now telling the contractor that they are liable for grass for a long period of time. They're going to charge you for it. VanBuskirk stated they watered it twice, and then it snowed. The next spring it was dead.

Carroll stated is this a new thing for us? Burlingame stated we typically seed. This was a different project that we tried to see what happened. We couldn't predict the weather. Konshok stated I own property on Highway 34 that got redone. I was negligent. Now I have weeds in my boulevard that I have to mow. I'm not coming to the city to ask to replace that because it was in a very difficult spot and I just put up with it. I keep it mowed very short. There's a lot of properties on Highway 34 that get traffic and road salt, those boulevards are very hard to maintain healthy grass. Putting grass down in the fall is a common practice, as long as you get it in there, it germinates, then it goes dormant for the winter. It works and we've had it work in other parts of the city. Sod may be more delicate for that kind of operation than seed is, which we'll take as a lesson going forward. There are some properties that the sod looks great.

VanBuskirk stated it was never done properly. **A motion was made by Konshok, seconded by Mikesh, and unanimously carried to deny the request to replace the dead sod at 400 & 402 Sixth Street W, and at 515 Court Avenue, as per staff recommendation.**

10.5. Update on Downtown Camera Bids- tabled September 25, 2012: McKinney stated the chief of police and I reviewed the activity that has taken place and

determined that we had access to some information provided by Jon Olson who did that as part of the Main Street Project. We contacted him and we've scheduled a meeting on the 22nd of October. He will bring us up to date on his findings, and what course of action we could take from here on. We recommend that you table this for two weeks. It's very unclear as to what we might recommend. I've been told by people who are thinking that the city is going to offer security internally in their buildings. That is not within the scope of our intentions. We will be looking at surveillance of a different type, not private property surveillance. Carroll questioned are we focusing on the street then? Eilers stated we don't have a plan. McKinney stated the initial request seems to be focused on the street and that's what we'll pursue. We're not putting in a city wide surveillance system. **A motion was made by Utke, seconded by Mikesh, and unanimously carried to table the downtown camera issue until the November 13th, 2012 City Council meeting.**

10.6. Resolution Authorizing Proper City Officials to Execute the Paperwork Associated with the Labor Agreement by and between the Law Enforcement Employees and the City of Park Rapids:

Utke stated we have an agreement with the police union. It mirrors what we went through with the public works union. It includes an increase of 15 cents per hour in 2012, retro-active to January 1st, 2012. An increase of 25 cents per hour in 2013. It deletes the frozen wage scale for new hires, starting with the eighteen month step. The health insurance contribution will remain the same as 2011, which was \$600.00, and an amount not to exceed \$200.00 a month for dependent coverage. The health insurance for 2013 will increase by \$25.00 per month, with an additional amount not to exceed \$225.00 a month for dependent coverage. The clothing allowance will be \$425.00 for 2013. The request for compensatory time must be submitted to payroll by December 1st, previously it was December 15th. **A motion was made by Utke, seconded by Mikesh, and unanimously carried to approve Resolution #2012-163 Authorizing Proper City Officials to Execute the Paperwork Associated with the Labor Agreement by and between the Law Enforcement Employees and the City of Park Rapids.**

10.7. Resolution Approving City of Park Rapids Full Time Non-Contract Employees Benefit and Wage Adjustments:

Utke stated this recommendation comes from the Personnel Committee. After working on the other three agreements, we now recommend that the non-contract employees, which are not included in the three previous union agreements, in the previous year and part of the year before that non-contract employees remained at a flat level. At this point we're recommending that they be brought up to the same increases approved for union employees, which would affect both their pay and the health benefits. We'll go back and follow the same steps to catch them up to everybody else. It goes through 2013 like all the other contracts. Previously it had been flat in 2011, and part of 2010 was held flat, and they didn't get the full year so we are bringing that current. **A motion was made by Utke, seconded by Mikesh, and unanimously carried to approve Resolution #2012-164 Approving City of Park Rapids Full Time Non-Contract Employees Benefit and Wage Adjustments.**

10.8. City Administrator Search Process: Carroll stated McKinney has said he would get us some information on search firms. What was provided was about Springstead. They work with cities, counties, and school districts. We can also advertise

for free on the League of Minnesota Cities website by providing a job description. McKinney stated Springstead was the only one that we could get information on without spending a lot of time and money to get. Your question was what methodologies would we follow, and the two basis ones are get a consultant to be the leader of the program, or the alternative, do it in some local fashion. There are opportunities for you to post your opening. That is something you do as a member of the League. We would have to establish some methodologies to deal with those applications.

Carroll stated we have a third option that has come up more recently. We have a proposal from the interim administrator to extend his contract. McKinney is proposing to work through the winter and spring, which would get us well past the election and to get the new Council seated. We could go forward at that time. McKinney stated if I'm going to stay longer than the present contract, which expires at the end of December, I've got to make some adjustments in our schedule and situation. I'm not willing to do that if you're going to say January 15th you're done. If we get someone who drops in on us and we're ready to go that's fine. We can adjust. I need to make some plans. Another factor is we have a great staff here. Things are working out well. It would be nice for us to have a horizon further down the road so we can really implement some stuff. Month to month isn't a good way to set up the kind of systems I think we can do.

Carroll stated I would like to see that happen. I would invite the Council to think of this as a contract extension. McKinney stated maybe you could authorize the Personnel Committee to come up with a date. I was thinking the end of June as an extension. I'm flexible on that date. Utke stated I don't think it needs to go to Personnel. The current contract is December 31st. If we added eight more months it would be the end of August 2013. Would that be acceptable? McKinney stated you could add a thirty day cancelation clause. Utke stated that way if we're well into hiring somebody new, late spring or early summer we can make those transitions. You know the drop dead date, and we also have some flexibility. Konshok thanked McKinney for offering. Historically, it's a time consuming process regardless of the process that we use. It's something that we don't want to rush, hiring your top paying official. Utke stated I fully agree. I really appreciate what you're doing so far.

A motion was made by Utke, seconded by Mikesh, and unanimously carried to extend the Interim City Administrator John McKinney's current contract for eight (8) months, until August 31st, 2012.

11. CITY ADMINISTRATOR UPDATE: McKinney stated I can't say enough about the support I'm getting from the staff. They are under appreciated, hardworking people, and I'm going to expect that they do a lot more. We're building ways to communicate with each other, and I'm very excited about it. I have to be gone five to six days over this next two week period. I will be back for the next Council meeting.

12. DEPARTMENT HEAD UPDATES: Walker stated the tree planting had a good turnout and went well. Next Wednesday, from 5:30 p.m. to 7:30 p.m. we have the meeting to discuss the Red Bridge Project. We encourage people to come and hear about the project and provide some input.

Scott Olson stated staff has finished the annual fall cleaning of the store.

Scott Burlingame stated as part of the water plan we drilled a test well. We started a pump test on that well this morning, which will continue for seven days. It looks like it will produce over two hundred gallons per minute. The aquifer has a lot of water in it. The water quality and drawdowns will also be tested. The depth of the test well is one-hundred and fifty feet. The drawdown in the first few hours was four feet, which is an indication that there's a lot of water there. That's good news. We had a water leak on Pleasant Avenue so we had to dig a hole in the street. We have it under control now.

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

14. COMMENTS FROM COUNCIL: There were no comments.

15. ADJOURNMENT: A motion was made by Mikesh, seconded by Utke, and unanimously carried to adjourn the meeting at 9:33 p.m.

[seal]

Mayor Nancy J. Carroll

ATTEST:

Margie M. Vik
City Clerk