

**CITY OF PARK RAPIDS
CITY COUNCIL MEETING
NOVEMBER 13, 2012, 7:00 PM
Park Rapids Public Library-Lower Level
Park Rapids, Minnesota**

1. CALL TO ORDER: The November 13th, 2012 Regular Meeting of the Park Rapids City Council was called to order at 7:00 p.m. by Mayor Nancy Carroll, and everyone present recited the Pledge of Allegiance.

2. ROLL CALL: Present: Mayor Nancy Carroll, Councilmembers Dave Konshok, Patrick Mikesh, Sue Tomte, and Paul Utke. Absent: None. Staff Present: Administrator John McKinney, Treasurer Angela Brumbaugh, Police Chief Terry Eilers, Liquor Store Manager Scott Olson, Public Works Superintendent Scott Burlingame, Planner Dan Walker, and Clerk Margie Vik. Others Present: Rod Nordberg, Dick Rutherford, Tony Walzer, Bev Hallaway, Jan Rumpza, Alan Zemek, Cynthia Jones, Scott Wilson, Ken Grob, and Sarah Smith from the Enterprise.

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

4. APPROVAL OF MINUTES:

4.1. City Council Regular Meeting Minutes-October 9, 2012: A motion was made by Mikesh, seconded by Konshok, and unanimously carried to approve the October 9th, 2012 City Council Regular Meeting minutes as presented.

4.2. City Council Regular Meeting Minutes-October 23, 2012: A motion was made by Tomte, seconded by Mikesh, and unanimously carried to approve the October 23rd, 2012 City Council Regular Meeting minutes as presented.

5. FINANCE:

5.1. Payables & Prepaids: A motion was made by Konshok, seconded by Utke, and unanimously carried to approve the payables in the amount of \$41,478.72, and the prepaids in the amount of \$2,115,474.09, for a total of \$2,156,952.81.

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

- 6.1. **Approve Plumber's Permit to Work in the City of Park Rapids in 2012 for Lindow Plumbing.**
- 6.2. **Approve Backhoe Operator's License to Work in the City of Park Rapids in 2012 for Ralph Sanquist Construction Inc, and Pickett's Excavating.**
- 6.3. **Resolution #2012-171 Accepting Donations for the City of Park Rapids.**
- 6.4. **Approve Transient Merchant License for Charles M. Peterson d.b.a. Oakwood Studios LLC for November 3rd, 2012 (double fee applied due to late submission).**
- 6.5. **Resolution #2012-172 Approve Temporary On-Sale Liquor Licenses for the Park Rapids Chamber of Commerce in the City of Park Rapids.**
- 6.6. **Approve Public Facilities Use Permit for Uzi Monka d.b.a. Park Rapids Downtown Business Association for the Second Street Stage Events, on Second Street West between Main Avenue and Park Avenue, on Thursdays, 6-20, 6-27, 7-4, 7-11, 7-18, 7-25, 8-1, 8-8, 8-15, 8-22, all in 2013, from 2:30 p.m. to 9:00 p.m.**
- 6.7. **Approve Public Facilities Use Permit for Uzi Monka d.b.a. Park Rapids Downtown Business Association for the Bite of Park Rapids/Arts & Crafts Show, on Second Street West between Pleasant Avenue and Park Avenue, on Sunday, July 14th, 2013, from 7:00 a.m. to 5:00 p.m.**
- 6.8. **Approve Multi-Vendor Transient Merchant License for Uzi Monka d.b.a. Park Rapids Downtown Business Association for Sunday, July 14th, 2013 for an Arts & Crafts Show on Second Street West.**
- 6.9. **Approve Change Order #2 for the Irrigation System for the Airport Terminal Area in the Amount of \$679.58.**
- 6.10. **Resolution #2012-173 Accepting the Resignation of Volunteer Firefighter Kris Holman for the City of Park Rapids.**
- 6.11. **Resolution #2012-174 Appointing Jeremiah Tinker to the Position of Volunteer Firefighter for the City of Park Rapids.**
- 6.12. **Resolution #2012-175 Approving a Leave of Absence for Full Time Rapids Spirits Liquor Store Clerk Cindy Horton.**

- 6.13. **Approve Canceling the Second Regular City Council Meeting in December, which is scheduled for December 25th, 2012.**
- 6.14. **Approve Purchase Order for the Public Works Department in the Amount of \$4,978.32 for Smith and Lovelace Impellers and Parts from Electric Pump.**
- 6.15. **Approve Purchase Order for the Public Works Department in the Amount of \$2,180.00 for Hydraulic Dump Box Repairs to Darchuk's Fabrication and \$2,379.04 for Generator Maintenance to Cummins NC Power.**
- 6.16. **Approve Pay Request in the Amount of \$3,825.00 to Applied Concepts for Radio Equipment for the Police Department, using the Forfeiture Fund 115-19000-36700.**
- 6.17. **Approve Pay Request in the Amount of \$2,390.00 to Miller McDonald for the Fire Relief Association 2012 Audit Report.**
- 6.18. **Approve Pay Request in the Amount of \$17,837.50 to Kitchigami Regional Library for the Second Half Payment of the 2012 Library Levy.**
- 6.19. **Resolution #2012-176 Authorizing Proper City Officials to Execute the Shared Road Maintenance Agreement by and between Todd Township and the City of Park Rapids.**
- 6.20. **Approve the Low Bid for the Purchase and Installation of a New Furnace for the Fire Hall, at a cost of \$2,507.50 from Brian Ellenson, plus any applicable taxes.**
- 6.21. **Approve Pay Request in the Amount of \$30,213.00 for HRDC, Mid-Sota Builders, Samuelson-Laney, Hansen Avenson Electric, Covenant Log Homes, and G&J Awning and Canvas for Services Associated with the Small Cities Development Program Grant.**

END OF CONSENT AGENDA

7. COMMENTS FROM CITIZENS: There were no comments.

8. PLANNING:

8.1. Approve Final Design Considerations for the New DNR Heartland Trail Bridge and Authorize the DNR to Submit the Final Design for Review to the Army Corp of Engineers: Walker stated city staff, officials, the chamber, and others have

been working with the Minnesota DNR over the past year on plans for a new Heartland Trail Bridge to replace the existing Red Bridge, which is owned by the City of Park Rapids. Over the past year, we have negotiated many design considerations, which cumulated with a public open house, which was held on October 17th, 2012. We had about fifty people turn out for the event. The DNR was there to gather information and take comments and answer questions for final design consideration.

Walker stated we held one other meeting on October 31st for final consideration and a recommendation from the DNR. The DNR is recommending to replace the existing Red Bridge and to facilitate the Heartland Trail Extension, a 180 foot maintenance free cor-ten arched steel truss bridge at a maximum height above the water surface at the existing 7.5 feet, with an unpainted, oxidized surface treatment with steel lead-in hand rails for a total cost of \$425,745.90, with the cost of this option being funded completely by the DNR. You can stamp the concrete base so that it looks like fieldstone, but that hasn't been decided yet.

Walker stated as part of the project, the DNR would also remove the steel trestle train bridge and the Red Bridge at their expense. The DNR has been receptive to the community's desire to retain the old bridges in some capacity and to assist the City in reusing or relocating the bridges as feasible. City staff will be gathering community input over the next few months on the community's desire for the future of those structures and will make a recommendation to the City Council and the DNR in the spring. At this point no decisions have been made. We'll discuss it this winter.

Walker stated over the course of the meetings between the city and DNR staff, other design options were reviewed and cost estimates were prepared for consideration. During the course of the negotiations, the DNR has agreed to include any of the additional design criteria the city may want, but the cost of those additional design features would be the full responsibility of the City of Park Rapids. Through the negotiations and with public input, four additional final design elements were left for consideration. They are shortening the proposed span from 100 feet to 140 feet or 60 feet, increasing the clearance above the river from the existing 7.5 feet to 10 feet, using a bowstring arch instead of a gradual arch, and the possibility of painting the cor-ten steel. The additional options and the additional costs have been provided.

Walker stated for the optional features the 60 foot span bridge would cost an additional \$40,000.00. A shorter bridge span was more expensive because it costs more to shore up the abutments. Most of that cost goes into additional concrete. That's the same thing with the 140 foot span bridge at an additional \$38,000.00. Increasing the maximum clearance above the water to 10 feet would be an additional \$45,000.00. The Bowstring Arch Design which is due to the increase in steel is \$20,750.00. Having a 180 foot span bridge painted red on the maintenance free cor-ten is an estimated \$60,000.00 plus the additional cost of maintenance over the period of its life span.

Walker stated at this time, the DNR is looking for approval of the bridge design, including any of the additional options, so they can submit the plans to the Army Corps of Engineers for a permit to cross the navigable water channel. Once the design is submitted, the approval takes approximately sixty to one hundred and twenty days. This would allow the DNR to possibly bid the bridge and begin construction in July of 2013, depending on funding. The project would be done in conjunction with the city's trailhead and infrastructure project in the area.

Walker stated the city and the county will also need to join into a Joint Powers Agreement with the DNR to accommodate the new bridge and Heartland State Trail across Red Bridge Park. Upon the approval of the final bridge design, we will bring the Joint Powers Agreement for City Council approval, preferably at the November 27th, 2012 meeting. We have a copy of that agreement that I will send out to the Councilmembers for review. The agreement explains who maintains things over the course of the agreement.

Walker stated staff will also be holding a workshop with the City Council on December 11th to discuss the options for the trailhead and utility project. City staff and the DNR recommend the approval of a 180 foot maintenance free cor-ten arched steel truss bridge at a maximum height above the water surface at the existing 7.5 feet, with an unpainted, oxidized surface treatment with steel lead-in hand rails for a total cost of \$425,745.90, and to authorize the DNR to submit this design to the Corps of Engineers for approval. The City Council may also consider any of the other design options provided by the DNR, with the entire cost of those additional improvements to be covered by the City of Park Rapids.

Tony Walzer stated when working with the structural engineer I was advised that the shorter the bridge and higher costs. There's less steel but there's so much more that goes into the retaining walls, especially when you have to excavate while you're pouring concrete. That's what makes the difference. On the west side of the bridge, the abutment will stay where it is. The east side will go out farther and be excavated out that way.

Utke questioned what is maintenance free cor-ten? Walzer stated there are other bridges around here like that, one in Akeley where the old trestle was replaced. There is one over the Shallow River. It's a steel that oxidizes. The US Steel Building in Pittsburgh was constructed with cor-ten and it oxidizes to a rust brown. Utke stated its steel made with a different recipe. There isn't any type of coating. Konshok questioned does that oxidation rub off? Walzer stated I've not seen that. It's not extensive if it does.

Utke questioned is it welded or bolted in? If it's bolted you could use stainless steel, but if it's welded they'll rust like normal. Walzer stated it is welded in a lot of places. For that span there will possibly be three pieces that will be put together and then bolted.

Tomte questioned under the bridge it's currently what? The water under the bridge is going to change from where it is now to much wider? Walzer stated to 180 feet. Tomte stated that really changes the topography of how the river flows. Carroll questioned is that correct? It's going to change the flow? Walzer stated I don't know how fast the river flows through there but I don't think that it will have a negative impact for the dam or the river. Mikesh stated the dam controls the flow. Tomte stated it just changes the topography of it. Konshok stated we'll have slower water flow.

Walzer stated it was mentioned about removal of the railroad trestle and the red bridge itself. The railroad trestle would be a separate project after the bridge project was completed. The retention of the Red Bridge would be part of the bridge replacement project. We could move it within the park some place or even some place that's temporary. That would be part of the bridge replacement project. The trestle will be a separate project shortly after that. We'll have to see how it will work out. There will be no trestle bridge anymore, but to have abutments for either viewing or maybe a fishing platform. We don't have all of those details worked out yet. We do know that we would have to put up a safety barricade to keep people out. Carroll questioned we'll continue to work with you on that? What kind of timeline do you see working on the rest of the trestle bridge? Walzer stated

that would probably be next spring, or possibly in the fall. We'd have it taken out of there by the winter if everything goes well.

Carroll questioned you're not going to start until after the Fourth of July? Walzer stated depending upon funding, that's the new state fiscal year and other funds become available. There's a good possibility we could get started before, June or May. We'd need all of our approvals. I have to submit the final bridge plan to the Corp of Engineers, and to our division of waters. We may be the DNR, but we still have to get those permits too. If we get all those permits, bid it, award it, then we're ready to go. Carroll stated we have a huge community celebration on the Fourth of July. Walzer stated if that's the case then we would have to make that adjustment. I doubt that we could be done by that date so we'd have to wait until after that. If we push it back, we'd have to see if all of that timing would work out with the project. Carroll questioned would it be a couple of months to take the old one out and put the new one in? Walzer stated our engineer said sixty to ninety days if everything goes well.

Utke stated I was wondering about the cor-ten. Walzer stated it's been used extensively on our bridges where we've replaced trestles. We put some in twenty years ago, and they're just fine today. They work good in the landscape too, if anything is worn, it's the surface, probably because we've used wood in the past. Now we use either concrete or pave over it. It would not be a wood surface. This one will be paved with bituminous.

Mikesh questioned do we have any idea of where to put the Red Bridge? Walker stated we've taken some comments. There are some things being considered with the other project like a retention basin for storm water in the Beach Road area. That may be a location where you can include it into that feature, or maybe on the peninsula where it goes down into the Heartland Trail on the county side. These are things we'll have to take a hard look at. The most important thing is if we can actually move that as one piece. That's the first step. Burlingame stated we're going to have some design considerations. If you're going to do that, you're going to have people walking on it. It's going to have to be built to specs like it is now. Did we really save anything? Maybe use it as a concept but not something that they can walk on. I'm concerned about costs. Konshok stated the options are we can move it as a whole or just part of it. On the trestle bridge we were talking about just preserving a part of it and putting an interpretive display sign on it. We all agreed on the Red Bridge, if they're just moving it in the park or on the Heartland Park side as part of the crane operation then it's part of the project. If we want it moved farther than that then that's the city's responsibility. We're looking at keeping it in fairly close proximity to where the current bridge is at. I think you could fit it in either one of those spaces if you wanted to. It's a question of what it's going to look like afterward. We may decide after we move it that it's not as pretty as it once was.

Tomte questioned how important is the difference of the 7.5 feet versus the ten feet of clearance? Will that make a huge difference? Should we be considering the future that we ought to have ten feet of clearance? Dick Rutherford stated they're not going to go any farther than the highway anyway. Tomte stated but with the trestle bridge gone and a fishing pier there, should we be looking at that? Utke stated it would only be pontoons with the big canopies. Rutherford stated people get through there with pontoons all the time. Considering the money, I don't think it's worth it. Utke stated there would be limited use.

Carroll stated it was said that newer pontoons have a mechanism to lower their canopies. Konshok stated sometimes they do. Of the different options, that was the option

that garnered the most positive interest, increasing the span height up to the ten feet off the water versus the current 7.5 feet. It still qualifies as an obstruction at this point. Raising it up would be the best preserving option for both of those two bays. I heard from folks that they definitely don't want to repeat the Highway 34 mistake. As someone who lives below the Highway 34 bridge I know what they're talking about. You can only get limited boat traffic, fishing boats or low speed boat traffic down into the final Mill Pond. I think it's worth considering increasing that clearance on this bridge to avoid making that same mistake. We don't know what kind of development we're going to see in the future on that. There's a fair amount of waterfront on those two bays and I wouldn't want to base our decision on what is on that as far as development right now. I think we want to leave out options open. I do think that's an option worth considering, to increase the clearance up to ten feet. The bow string design and painting it, there were mixed reviews on those. Folks were looking for something that looks good but also has good economics. Everybody talked about on the painting that it sounded great until we talked about the maintenance costs. At that point support for that fell away. Increasing the water clearance to ten feet is worth consideration.

Jan Rumpza stated one problem with that is that it would be too steep for the handicapped. Konshok stated what they end up having to do is, and that's the increased cost, is they pick up the height on the retaining walls at both ends. The bridge itself doesn't look any different. It's just higher up on both ends. Tomte stated currently it's very steep. Konshok stated they would have to build up the approaches to keep the 5% grade. They're going to have to do that work anyway on the east end of it.

Tomte questioned what time of year are they counting the water level and the height above it? It changes. Burlingame stated it fluctuates between summer and winter. It's about 4/10ths higher in the summer. This summer it's a lot lower because of the drought. Konshok stated we control that height. Burlingame stated this year the dam has been closed all summer. Last week was the first time that we opened it for three months. We lower it in the winter time for the melt. Heights and elevations were set by the DNR years ago. Tomte questioned is the 7.5 feet its lowest or highest point? Walzer stated the elevation was taken last year, not this summer. We went by ordinary high, not low.

Carroll stated if raising it up to a ten foot clearance is \$45,000.00, that's a rather large amount of money that the city would have to pick up. I don't know where that would come from. Can we bond for something like that? Konshok stated we can use our discretionary funds. Brumbaugh stated it wouldn't qualify for bonding. McKinney stated for one thing it isn't ours. The bridge belongs to the DNR at the completion of the project. It would be in the form of a cost that we're going to pay someone so that we have the benefit of it, but it isn't ours, which would add some complications to the options for financing.

Walzer stated the city owns property on the west side, and the county on the east side. You'll enter into a cooperative agreement with both because both government entities have to allow us to construct the bridge and also to develop the trail through that area. If there is something that the bridge is going to be a part of that it would be included in the agreement as the city providing whatever amount that would be extra. Mikesh questioned do you think the county would pick up half? Walzer stated you know them better than I do. Konshok stated it never hurts to ask.

Carroll questioned you need an answer tonight in order to get moving with the permits? Walzer stated the longer we don't have a decision, the longer out the project would be, although you said you don't want construction prior to July 1st if we can't have it done. We do have a little bit of time. A decision would have to be made sometime soon.

Rumpza stated I did find someone who could paint it if it came in pieces. It's a self-healing paint. If you carve your initials in it, the paint heals up. Without knowing all the dimensions, he could not give me a price. Walzer stated if that was the avenue that you wanted to pursue, you would first have to contact the manufacturer to see if they would even allow that type of treatment. We'd want to have their approval. Our estimate to paint was \$60,000.00. I've never heard of self-healing paint. Rumpza stated it's very new.

Dick Rutherford stated I contacted Continental Bridge, which is one of the two contractors that they use, Wheeler is the other one. I asked him about painting bridges and he said no. He also said that he would not recommend it because of the amount of maintenance. The DNR is not going to pay for that. Carroll stated there was an example given of a bridge that was painted and all the paint fell off. Walzer stated of all the cor-ten bridges that we have out there, only two have been painted. One was down in the cities and one in Bemidji. We didn't recommend that it be painted, but the city wanted it. They also agreed to take over the responsibility.

Rod Nordberg stated I like the idea of the ten foot clearance and particularly down the road. But the pictures that have been shown at the public meetings show that the approaches also have to be raised, you don't just put more bow in it. The approaches with all of the concrete look obnoxious when you raise them two and a half feet and each side and put enough concrete to hold it in place. It didn't look nice. But the ten feet, looking ahead, is likely to be useful.

Carroll questioned what kind of boats do you bring in with an additional two and a half feet? Walker stated that was one of the things that we considered. It's been noted before there's not a lot places to go. They're either going to be in there or coming out of there. That's not a place that you're going to recreate when you have Fish Hook Lake right up the river. People aren't actually going to be using that in any sort of capacity for recreational purposes. Konshok stated I disagreed with that. People go up and down the river for the purpose of going up and down the river. It's a strong asset of ours to get people down in that area. I watch a number of pontoons approach that seven and a half foot bridge and back away from it. If it's a mental obstruction as it exists, it does effect the river navigation. Carroll stated it's also narrow through there. Konshok stated that's part of it. This will be a larger opening. The larger opening, bigger bridge is probably going to be more intimidating. Tomte stated I would think it would be shallower. Konshok stated in the exact center they are going to make the river bottom what it is currently, which is not that deep.

Rumpza stated we do the flotilla every year. We go down around the sunken island and come back out. We've never gone under the Red Bridge. Konshok questioned why is that? Rumpza stated we have twenty-five boats. You don't have as much room to turn around in the secondary bay. Konshok stated I wonder if there's also some question about who is going to fit under that. There's the optical illusion part of it, which is a consideration. I hate to think of us choking of those two bays. This is a permanent decision. We're not going to come back in our lifetimes and replace that bridge.

Carroll stated we have five options. After an informal poll, the Council eliminated the bridge with a sixty foot span and the one-hundred and forty foot span as being too expensive, as well as the bow string designed bridge and painting the bridge. The options left were the bridge with a seven and a half foot clearance or the bridge with the ten foot clearance.

A motion was made by Utke, seconded by Mikesh, to approve city staff and the DNR recommendation to construct a 180 foot maintenance free cor-ten arched steel truss bridge at a maximum height above the water surface at the existing 7.5 feet, with an unpainted, oxidized surface treatment, with steel lead-in hand rails for a total cost of \$425,745.90, and to authorize the DNR to submit this design to the Army Corp of Engineers for their approval.

The vote was called.

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

The following Councilmembers voted no: Konshok, Tomte.

The motion carried 3-2.

Discussion: Carroll thanked everyone for the good discussion, and Walker and Walzer for working on this. Walker stated we'll have some other things coming forward, like the joint powers agreement, in the next couple of weeks so we can get it done before the first of the year.

9. GENERAL BUSINESS:

9.1. Resolution Approving a Joint Application to the National Endowment for the Arts for a "Creative Place Making" Grant: Alan Zemek stated this resolution is an updated, reworked version of the one the Council adopted in January of this year. The Creative Place Making grant requires a public entity as a joint application. In January the grant application was submitted by Northern Lights Opera Company and the city was the other partner. It did not require any financial funding, other than the city's endorsement of the application and participation as the fiscal agent of the money that would come from the National Endowment of the Arts (NEA) if the application was successful. My understanding from others that worked on the grant, there were three hundred and twenty applications, about eighty of which got funded. Your odds of being funded were about one in four. We were not funded. We scored high enough on their review that they called us and said for a first time applicant, it was very interesting and showed a lot of promise. But the short answer was what else do you have. The NEA is looking for a broad community impact that really contributes to the quality of life, and as large of an impact across the community as you can devise in your grant process. They wanted to see something beyond just theatre. We also have Nemeth Art Center, Blank Canvass Gallery, the Heartland Concert Association, Jack Pine Writer's Association, Community Bank, Concert Corral Series, and the Park Rapids Lakes Area Arts Council. We've been encouraged to submit an application again. First time applicants are not generally funded. They're looking for persistence. We're asking the Council, with this resolution, it expands the roll and participation of the other arts organizations, particularly we're talking about the Armory Square and uses for the auditorium and perhaps the space below it as gallery space so we can incorporate performing arts, visual arts, and arts education. This is basically the same resolution that you approved in January, but we're broadening the arts groups' participation. The city's participation is the same. We're not asking the city to commit to any finances, but we are asking the city to give us an endorsement for the purposes of qualifying for the grant. Northern Lights Opera Company

will still be the primary partner in executing a grant if it's funded, but we've also made allowances for the other arts groups in town. We'd appreciate the Council adopting it again so we can take another run at it.

Carroll questioned when is this grant round? Zemek stated the grant applications are due before the end of the year, but the deadline is January 3rd. In February or March we'll find out if we are successful or not. Carroll stated by broadening the people involved, I hope that will enhance the grant enough.

A motion was made by Tomte, seconded by Mikesh, and unanimously carried to approve Resolution #2012-177 Approving a Joint Application to the National Endowment for the Arts for a "Creative Place Making" Grant.

9.2. Request by Hubbard County Regional Economic Development Commission for an Extension on a Park Rapids City EDA Loan: McKinney stated Dave Collins has indicated that they need more time on a \$25,000.00 loan payment which is due November 1st. With that reminder he thought he could pay it in two months so he wrote a request for an extension. He didn't make the payment on November 1st and he needs more time. We have no objection for granting that time from a staff's standpoint. Carroll stated it's taking more time to work through the process. **A motion was made by Utke, seconded by Konshok, and unanimously carried to approve an extension to pay off in full of a \$25,000.00 EDA loan, on or by January 4th, 2013.**

9.3. Request to Install Bollards in Park Rapids City Alley Right of Way: Scott Wilson stated I'd like to put bollards behind the Park Theatre, between us and the library parking lot, because the size of the parking spaces are too small for the vehicles to back up. The front end of the vehicle is parked in our stripes, and the rear end of the vehicle is parked on the cement going down the center of the alley. If another vehicle were to park next to them and back up, they hit my building until they get out. We're seeing that our doors are getting sprung. You can actually see daylight through them. You can see bumper marks on them. We're trying to figure out a solution where we can work together so we don't have these issues in the future. We looked at putting bollard posts in to try and keep people from hitting our building if they do go that far. Another option would be to look at angle parking on the side of the alley if you come in from the north, you would actually park at an angle towards the highline pole. You could park at a forty-five degree angle. If you come in from the south you park in the opposite way and back into the alley so you'd have an angle to get out rather than backing up at a ninety degree angle. It's basically six spots. I know the library needs all the parking they have, and we're not trying to minimize that at all. We're asking the city to work with us to try to figure out how we can improve the situation. It's not us moving our building into the bumpers, it's the bumpers coming into us. Our building is twenty-five feet down the alley. If they go through our building it's a huge drop because our theatre is underground in the back alley. We're asking if the city could install the bollard posts for us if we paid for the pipe.

McKinney stated it would be more efficient if you would refer this to staff and we'll look at it and could back with some suggestions. Wilson stated I'm trying to get something started so we could get it done before freeze up. I was told I could get a permit to put the posts in right away. My request is to get this resolved. Konshok questioned you have a power pole there too? Wilson stated from our building to the utility pole is seventeen feet. The alley right of way is twenty feet. Your two spots, one is sixteen feet, and one is thirteen

feet, which are two parking spaces. According to code you need twenty feet. You have thirty feet to put two spaces, which I understand, but when you take the alley and the pole then you're only seventeen feet, and if you look at my pictures if anybody parks next to that person they actually can't get out until that person moves, or they push my door to get out.

A motion was made by Tomte, seconded by Konshok, and unanimously carried to refer the issue of bollards in the alley right of way behind Park Theatre to staff for further discussion.

9.4. Request to Waive Late Fees on Water/Sewer Bill for 607 ½

Riverside Avenue: Bev Hallaway stated I own rental property in Park Rapids. I do my best to put tenants in that pay their water bills, but every once in a while you get tenants that don't. This property, a lot of bills were left unpaid. I have worked with the city. One time we shut their water off to encourage them to pay. They paid just enough to get it turned back on. This tenant is no longer in the house. I'm willing to step up and pay the \$600.00 water bill, but I'm asking the Council to remove the late fees to help me as the landlord to pay the bills that they left.

McKinney stated we prepared a memo that may need clarification. What is being asked to be waived depends on which late fees you're asking about. The total bill owed for that property is \$640.96. The penalties for this last quarter are \$58.26. The total outstanding penalties are \$178.73. Hallaway stated I am requesting to waive all of the late fees of \$178.73.

McKinney stated this request is in conformity with the existing policy of when the property being served by utilities is occupied by, but not owned by the occupants, this owner signed a waiver. Everything is in compliance with the procedures. We see nothing that would justify waiving the fees unless you want to make an exception.

Carroll stated what you just said is different than the information in our packets. McKinney stated there's nothing incorrect in what we gave you, it just talked only of the latest fees of \$58.26, and not the total fees of \$178.73. Carroll stated it was said that Hallaway was in contact with the city for some time. Hallaway stated I do that with all of my rental homes. I do property management. I keep up with who owes and who doesn't. With this client I have filed court papers to try to get some of these bills paid, but it's going to be a process. They didn't show up in court. They don't answer phone calls. It's become a legal battle to try to get some of these bills paid. They also left their rent unpaid for three months. I'm willing to pay their water bill. That's my responsibility to pay it. I'm asking for help to eliminate some of those costs by taking away the late fees.

Carroll stated if we waive the fees, what is the staff supposed to do the next time someone asks. Our policy is the late fees are part of not paying your bill on time. It puts staff in a tough spot. Hallaway stated it would help us as property owners to be able to know if there is a problem, before it becomes a huge problem. In this case they didn't pay their water bill all winter, but I was not made aware of that. You can ask them if they are paying, but they're not going to be honest with you. Carroll stated we have quarterly billing, so you not going to get a monthly update. The city only gets paid four times a year.

Utke questioned didn't we just get new software for late payments? Brumbaugh stated that was for disconnect notices. Utke questioned when is that triggered? Brumbaugh stated it will go out when an account is ready to be disconnected. It's a different program so we can print it on a disconnect page form so it's a different color than our normal bills. So that when people get it they'll realize it's different. Utke questioned

how many days does it take to trigger that? Burlingame stated thirty days. This particular account got a disconnect and were shut off. Hallaway stated we did have the water shut off. We went through it twice. The first time when they were threatened with a shut off they paid, and made an agreement with the city so that it wasn't shut off. Then they didn't fulfill their second obligation. The utility billing clerk gave me a call informing me that the city was going to shut it off. They were then evicted. Burlingame stated you were aware this process was happening. Hallaway stated yes I was. I was aware that the water bill wasn't being paid. I wasn't aware until the utility billing clerk and I sat down that the late fees were accruing rapidly.

Mikesh questioned was the utility release form signed? Brumbaugh stated it was signed. If they do not sign it we will not put the bill in the renter's name. Then it would have stayed in the owner's name. We do have landlord that take care of the utility bills, and they bring the money in for renters. The landlords get the bills. If they sign the release form it goes into the renter's name. Mikesh questioned then they have no knowledge of what's going on until there's a problem? Brumbaugh stated right, but it says on the form it's my responsibility to inquire as to whether the account is current or delinquent. They can call in and find out, but they have signed over the responsibility of the bill to the renter when they sign this. Hallaway stated I was aware of that.

Carroll stated this is the standard policy for how late fees are accumulated. Do we want to waive that or not? You were informed about everything. Staff's recommendation is to not waive the late fees. **A motion was made by Mikesh, seconded by Utke, to not waive the late fees for 607 ½ Riverside Avenue, as per staff's recommendation.**

Discussion: Tomte stated this owner was in and tried to work the whole process, shouldn't she get any bonus points for that? McKinney stated if she'd paid the bill and tried to negotiate it would have made a huge difference in the amount of late fees. By not making a payment and just asking that's what accounts for the increase in the late fees. We're trying to follow the policy that you've written. If you want to change it, we'd be glad to do that also.

Utke stated I agree that we should follow what you're saying, but it's opened a can of worms. We have a reference here to Carl Branham. That was at the point that we would have shut them off, we couldn't find the curb stop, because of our participation we worked with him on those late fees. Staff would get bombarded if we did this. McKinney stated there was another distinction that was a contract sale. He didn't sign a release. Utke stated it would have eliminated a lot if we could have shut it off. Tomte stated it was an expensive lesson.

The vote was called.

The motion passed unanimously.

9.5. Mandatory Water/Sewer Connections for City Residents- tabled September 11, September 25, 2012, referred to staff for possible ordinance amendment on October 9, 2012, tabled October 23, 2012:

McKinney stated the problem comes about in the ordinance you have that says at the completion of a project, property owners have, if they are within a certain distance, three years to hook up to that utility. They were reminded of that three year period, in June, that they needed to be in compliance by the 1st of November. There were fourteen letters that went out. As of the 1st

of November we had a perfect record of no one having hooked up. Many have indicated that they would like to be in compliance but they had problems getting a contractor before the shutdown for winter. The ordinance says if they do not comply with the three year period then the Council may take action to remedy that situation. The problem is, what action do you want to take? If the property owner is willing, one option could be the city could have the work done by a city contractor and assess the costs as part of the taxes, which would give them a period of time to make the payments. Another option would be to disconnect the water and sewer that isn't there, so you can't disconnect it because they don't have it. But you have the option to start charging them for the water/sewer service even though they aren't using it. It's an availability charge. There are two justifications for this mandate in the code. One is that you want people to hook up because they have an existing situation that is not compliant. When there is public sewer as opposed to individual system and public water as opposed to wells, the presumption goes with the public water and sewer being preferable for the city as a whole. The second reason for the mandate is the facilities were constructed on the basis of utility fees being paid for the operation and construction of the facilities. By refusal to hook up to the situation then you don't have either one of those benefits.

McKinney stated you have a lot of discretion as to what you want to do. The staff's recommendation is that the Council direct us to proceed with enforcement of the mandate, which applications couldn't be done until June 1st of next year to get it worked out. That in effect grants the request from many property owners for more time. We can't do it any faster anyway. Then you'll have to deal with the people who don't want the city to do it on their behalf and don't do it themselves, and what do we do with them. We can deal with that on June 1st. I would suggest at the very least, you start charging them the fees. No one wants to go into a private residence to do involuntary connection to the water and sewer. A third option is to challenge the occupancy of the premises based on the health code. That's not going to be fun for anybody. Those are some of the options available to you. Our recommendation is that you, to be in compliance, again with uniformity, it's been my position that sometimes even if you have unpopular policies, if you're consistent with their application it goes a long ways with building up credibility for the staff and the city. We have told people that they had until November 1st to hook up. Most of them have done that and for us to say now we didn't really mean it we were just hoping that you'd do it. That puts a terrible burden on us the next time we try to enforce these policies. If you're going to have policies then it's our mission to enforce your policies. If you don't want those policies, then change them. Your policy right now is that they have to hook up by November 1st or you may take action. You tell us what you want us to do.

Carroll questioned when would you contact all the people? McKinney stated if you accept our recommendation we would send letters out advising the people that they have until June 1st of 2013 or the city takes action. Basically, what I'd like to have the attitude of the property owners that aren't going to do it themselves, if they want some help, if they'd come and work with us, we'll negotiate a contractor to do it and give them some time to pay for it. But they have to ask us. We're not going to go out there and start digging up their basements. If they decide that it's a piece of property that they don't want sewer and water on because they're not going to occupy it, then we'll deal with that as another elective.

Tomte stated overall that's the main issue, but we also had some letters. McKinney stated at the past few meetings the Council inquired of exceptions that might be applied to

the policy of the immediate mandatory hookup. At the last meeting, we gave you some criteria that if they met might be one where we would give them. Then the question is what do we do if they do meet the criteria, additional time, how much? It seems to me if you adopt my recommendation, we're talking about June 1st. That's more than six months extension. Maybe that's the same thing as you don't need to cordon off these people. If you want to cordon off those separately treated, you need to tell us how you want to treat them differently, not mandate them to hook up at all, or not forever, for a year? You recall the criteria where that it had to be residential, had to be occupied by the owner, had to be in a commercial zone. It was only for a period of one year with that criteria. Carroll stated you could accomplish the same amount of time by not amending the ordinance. McKinney stated it's a little cloudy once you start making exceptions to ordinances. It's better to work out a policy amendment, than an ordinance. The two people that attended the last meeting, one implied it was her ability to pay the cost, the other one didn't want her property disturbed by the construction.

Carroll stated the June 1st extension gets us through the winter when we're not going to be able to do any digging. There are several letters in our packet from business owners or residents that are affected, and a number of them are saying we can get this done in the spring, but the contractors are saying they are too busy to do it now. By then we'll have freeze up conditions. I would be in favor of the new deadline of June 1st. McKinney stated my intent is not to give them any more time. It would be to give us the time to get it done to be consistent with the ordinance. The property owner would be notified if the Council decides to direct staff to take action, as a practical matter, we're not going to take that action until June 1st, 2013.

A motion was made by Carroll, seconded by Mikesch, and unanimously carried to follow the staff's recommendation to implement a June 1st, 2013 deadline for the mandatory sewer/water connections, and to contact all of the effected property owners.

9.6. Aquatic Invasive Species Funding-discussed October 23, 2012:

McKinney stated the Council requested staff explore the city's participation in the amount of \$2,000.00 for the program to control and eradicate aquatic invasive species (AIS). After checking with the city attorney we feel that we can come up with some approach that would meet that end, although it would not be a donation. We do not have the authority to make a donation. We have the authority to contract for services to protect an asset that we have. We think that is a defensible position. We could make that kind of arrangement if the Council desire to do so, a contract for services for a public purpose. If you want to proceed with that, then we have to talk about where that money would come from.

Utke stated we all understand the problem. I'm wondering if \$2,000.00 really helps. We could do more by going to St. Paul and work to get money funded the right way. Carroll stated you have a good point, but it's going to take a while to get that kind of impact with the legislature. How quickly would they move on funding it? Would this get us through one season of boating? Utke stated we are only one small speck. As a whole, outstate Minnesota has power if we get organized. It has to start somewhere. That's the only way there's going to be results because it's such a massive undertaking. \$2,000.00 is like throwing a pebble in a lake.

Ken Grob stated the key thing in dealing with the townships and lake associations is getting matches. \$2,000.00 leverages another \$2,000.00. Our target is to fund one full time

person, which is about \$7,500.00 a year. That goes a long way. It is important and it does give you a lot of leverage. It brings the willingness of lake associations to contribute. It will take a few years to get St. Paul squared away. The DNR's strategy is very clear. The legislature tells them what to do with their \$8 million. 85% of that is going into containment on already infested lakes. They are asking counties and lake associations that don't have it to do their best to shield against it until they can deal with it. \$2,000.00 will buy you a lot more protection than you're giving it credit for. We did five thousand inspections this summer. About 3% of those boats that were inspected had just come from a zebra mussel infested lake. \$2,000.00 is worth one hundred and fifty hours of inspection time. The more money I can get, the more leverage I will have to get the county to put some skin in the game.

Carroll questioned isn't Hubbard County COLA lobbying with the legislature? Grob stated the Minnesota COLA Collaborative, which holds together all sixteen COLA around the state. We have a lobbying connective through MSRPO that works directly with the DNR and legislators. Some of the legislation that has gone through has been a direct result of that. The core of the problem is sustainable funding long term. The biggest source of potential sustainable funding is the Legacy Fund. A lot of us voted for it. Not one penny of the Legacy money has gone for AIS. It's one of the major lobbying issues for legislature is to change that. If we want to protect Hubbard County as best we can, we have to leverage our assets.

Carroll questioned if there are legislative changes directing the DNR to fund AIS and everything went smoothly, how long would it take to go into effect. Konshok stated it won't affect 2013. Grob stated it's a two year process. I don't know how long, but if you don't do anything we will be impacted. Carroll stated if we could help for a couple of years locally maybe that will protect us until the state kicks in.

Konshok stated the state needs to take this on and solve it. I differ on the \$2,000.00. I think that actually gives us more leverage to go to the state and says this is how serious we take it. It's an indication of the level of seriousness that we have here by taking this out of our hard pressed funds at a time when the state has cut back a lot of our funding. I'll say we decided to appropriate a onetime fund because we see this as critical. They need to solve the Legacy Amendment, which they know, but they have been slow at taking action. It has to happen, and the DNR is correct when they say they can't change course without legislative action. There is a large fund that is available that hasn't been tapped into because of the technicality that proper legislation hasn't been passed, and that's just ridiculous. They need to solve it this year, but it won't take effect in 2013. The \$2,000.00 will get inspectors out on the river and the lake, and it gives us leverage with the state.

A motion was made by Konshok, seconded by Tomte, and unanimously carried to sign a contract for services for the year 2013, in the amount of \$2,000.00, with the Soil and Water Conservation District, out of liquor reserves to honor the connection between boaters/fishermen and the liquor store.

9.7. Downtown Camera Update-tabled October 9th, 2012: McKinney stated there is little for us to report at this time. We'd like to refer this to a committee of two, Eilers and myself, to work on this and get back to the Council later. **A motion was made by Utke, seconded by Konshok, and unanimously carried to refer the Downtown Camera Issue to staff for a future report.**

10. CITY ADMINISTRATOR UPDATE: McKinney stated the city clerk did a lot of work last week on the election and should be thanked.

11. DEPARTMENT HEAD UPDATES: Eilers stated the used car sales are done as of last Friday. We deposited \$11,000.00 into the forfeiture fund as a result of the sale.

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

13. COMMENTS FROM COUNCIL: There were no comments.

14. ADJOURNMENT: A motion was made by Mikesh, seconded by Utke, and unanimously carried to adjourn the meeting at 8:40 p.m.

[seal]

Mayor Nancy J. Carroll

ATTEST:

Margie M. Vik
City Clerk