

## CITY COUNCIL

7:00 P.M.

March 17, 2008

Present: Scott M. Johnson  
David Gustafson  
Steven Marolt  
Pat Kelley  
Amber Dow  
Wayne G. Johnson, City Attorney  
Gary Brumberg, Interim City Administrator

Also attending: Annette Fischer, Tim Bjella, Marie Frey, Jerry Stauss, Tom Lovdall, Richard DeRosier, Patrick Ramsdell, Gary Thompson, and Jim Rich

Mayor Johnson called the meeting to order at 7:00 p.m.

**CONSENT AGENDA** – Motion P. Kelley, second S. Marolt to approve the consent agenda. THE MOTION CARRIED

### **PETITIONS, REQUESTS & COMMUNICATIONS –**

LETTER FROM SYCHAR LUTHERAN RE: GOOD FRIDAY -Letter was received from Sychar Lutheran Church regarding the city policy on Good Friday closure. Motion D. Gustafson; second A. Dow to allow Silver Bay employees to take time off the afternoon of Good Friday to attend church services, if they wish (not to exceed 2 hours at one time). THE MOTION CARRIED. S. Johnson said that the City Office would not be closed. D. Gustafson requested the existing policy be researched; G. Brumberg will do so.

LEAGUE OF MINNESOTA CITIES' ANNUAL CONFERENCE IN ROCHESTER, JUNE 11-13 – A. Dow expressed an interest in attending this conference. Motion P. Kelley; second S. Marolt to allow attendance with the usual expenses paid. THE MOTION CARRIED.

Notice was received from the Legislative Conference for Cities, Counties, Schools and Townships Apr 9&10.

JIM RICH, BUILDING OFFICIAL, DISCUSSION ABOUT MARY MAC BUILDING CONCERNS – Jim Rich stated that he has some concerns the council needs to address.

1. Fire Suppression System – Jim Rich referenced a report from August, 2005 which was presented to the City Administrator and also an architectural report from May 21, 2007; both addressed the requirement to have a fire suppression system in this building. He surveyed the cost of such an installation and it is approximately \$3/sq.ft.for installation costs within the building. This issue has been addressed since the city took it over. When the use of the building is changed, the building must be brought up to code standards. As long as there is one entity rented in the building, the entire building is required to be sprinkled.

2. Water Service - The existing water service to the building is not large enough to support a sprinkler system. With this in mind, this project would start by open cutting the street with possible sidewalk removal or boring in order to bring in a 6" water line. The pharmacy was allowed building occupancy with the understanding that the city would be installing a sprinkler system. The requirements for compliance are the same whether it is a private citizen or the city. The requirement to sprinkle the entire building was discussed including concealed spaces in the roof system. The estimated cost would be \$120-150K plus the cost of street utilities.
3. A report from Wayne Dahlberg, architect, covered upgrades to windows; entrances including doors, etc which would make the outside shell structure of the building weather tight carries an approximate cost of \$1M.
4. If you choose to develop the property the zoning should be reviewed. Is it zoned for retail, wholesale, professional, industrial, commercial, or manufacturing? If you invest funds in the building, you need to determine what the current zoning allows.
5. Parking – Does zoning require dustless surfaces? Most commercial facilities are required to provide dustless surfaces as a consideration to the neighborhood.
6. Building Accessibility – If this building is fully developed, there will be an increased requirement for handicapped entrances, toilets and parking. This will result in a need for more area needed for parking.
7. Delivery/Loading Dock – The legal parameters of the property must be identified. Will there be issues with having the loading dock such as proximity to property lines, the effect it will have on the neighbors and the noise ordinance and with deliveries early or late in the day. More building code issues will come up with the loading dock being in a common area rather than directed to one tenant's usage. Walls may have to be constructed to support warehousing space. There will be a need to have professional architectural and engineering involvement due to load bearing capacity of the floor and fire code issues.
8. Legal Issues – Rental rates, leases, insurance, tenant requests for remodeling, maintenance and liability issues will be addressed by W. Johnson. The building does not comply with building code requirements; compliance is required before we are able to issue a certificate of occupancy. There may be liability issues with having occupied the building without a certificate of occupancy.
9. Maintenance – A typical budgeted cost for a building such as this would be \$1 to \$1.20 per sq. ft for light duty cleaning supplies. These costs as well as cost of plowing, shoveling, salting, and mowing should be divided between the tenants through rent collection. The ability to ascertain budget estimates for these and other costs is available upon request. As the building develops, more toilet rooms will have to be created; the corridors will have different code ratings; the gymnasium and any other public spaces, which we would then consider common spaces will have to be addressed differently. There will be additional costs involved for doors, heating/ventilating, dampers, sprinklers, changes in maintenance, etc.

10. Illegal Construction/Remodeling - Since the building is city owned property, the city needs to be concerned about liability. If you are going to allow an independent contractor to work on the building, a certificate of insurance and performance bond should be required prior to start of work. The example was given was: If a contractor delivered the materials and determined it not to be profit generating and walked off the job, the suppliers of materials could legally place a lien on the city's building. A recommendation had been made early after acquisition that the city obtain a commercial appraisal and establish market rate rental costs. If the city's intention is to be "upside down" in order for economic development then a long term plan for return on investment should be prepared. A decision needs to be made whether the building is worth spending the money on by analyzing the original cost; cost of improvements needed to meet code requirements; and what the financial limits are to determine return on investment. Additionally, the terms of the lease need to address relocation of tenants other than at city expense, should the city decide to close the building.

11. Roof – The building needs a new roof. It has three sections; the newest section is a 10-15 year roof installed in 1995 and has been repaired at the joint each of the last three years. Complete roof replacement is estimated to cost \$700K.

P. Kelley asked if there is a danger that the County would require closure of the building because it is so far out of compliance and that there is a health and safety issue. J. Rich replied that the county has passed the occupancy for the building to the Building Official for this community. The church meeting there, however, is considered a large assembly and the State Fire Marshall has jurisdiction in that case. J. Rich stated that closure of the facility is not the intent; but a plan is needed to be consistent with the other members of the community, to evaluate long term liability, and to enjoy the appreciable savings in insurance premiums by having a building with a fire suppression system.

The need for a master plan to follow and its implementation flexibility was discussed. It could be a phased five-year plan or it could be development driven; but a plan is imperative. J. Rich said that the areas occupied by the Pharmacy and Wilderness Family Natural Foods should be sprinkled immediately and further thought should be given to a loading dock before acting on it.

RICHARD DEROSIER & TOM LOVDALL, LAKE CO. HOUSING AND REDEVELOPMENT AUTHORITY (HRA) – Due to the Lake County/Cook County successful combined request for grant funds; they are expected to be available in six houses in Silver Bay, Two Harbors and Grand Marais for this summer.

A countywide study costing \$16K is being prepared to help Lake and Cook Counties with a collaborative effort in order to request additional grant funds for 2009. Funding assistance from Silver Bay is requested for the study. By Lake and Cook County has sharing resources and combining needs during the request process of writing grants, it puts us in a better position for grant fund approval; the funds granted are then separated for expending the funds.

There are homes in Silver Bay where the occupants need help correcting water and sewer problems that are located under the slabs of their homes that a grant could assist with correcting. S. Marolt asked whether the other effected communities would be asked to

donate funds and T. Lovdall said that funds were received from Two Harbors during the last phase of the study; he would be making presentations for Finland, and perhaps Fall Lake. . Motion P. Kelley; second A. Dow to help with this study by donating \$2K. THE MOTION CARRIED. Discussion ensued about where the funds for this donation would come from; it was decided that it should be EDA, which will then be in deficit spending and require a transfer of funds. Funds for expenditure on specific homes are applied for and award is based upon household and family size. Twelve applications were approved in Silver Bay and Two Harbors this year and it is hoped there will be 24-30 next year; with more applications, the chances are better of more approval of funds.

The Coastal Program has notified us that our request for campground and wetland mapping was not successful.

There is an upcoming meeting for Area Transportation (ATP).

**DEPARTMENTS – CITY ADMINISTRATOR –CITY ATTORNEY –**

**Authorize Zoning Administrator to inspect City Liquor Store Project -** It is requested that we have G. Thompson make periodic inspections of the building not as zoning administrator but as a representative of the city. W. Johnson stated the importance for the city to have its own inspector on a project this size to protect our interests and insure that the architect and contractors are conforming to the terms of the contract agreement. G. Thompson stated that as a building inspector code requirements are enforced, but the quality of workmanship is not dictated by code. Motion D. Gustafson; second S. Marolt to allow G. Thompson to work in conjunction with J. Rich and also act as our representative in liquor store construction project. Established fee will be \$25 per inspection with records and progress photos THE MOTION CARRIED.

**Fireworks –** Call has been received from the fireworks supplier for July 4<sup>th</sup> Celebration. G. Brumberg asked permission to place an order for fireworks at the same funding level as last year. Full usage of last year's quantity was discussed. NEXT AGENDA

**Resolution on ATV Legislation -** Resolution 2008-16, Support MnUSA in the Defeat of S.F. No. 3087- Resolution was approved March 17, 2008 without the actual resolution having been written. Motion P. Kelley; second S. Marolt to authorize signature on the resolution as presented. THE MOTION CARRIED.

**Draft of Personnel Policy Manual–** Marina addressed issue that boaters docking have no way to get into the city to purchase supplies; request authorization to use city vehicle to provide transportation for this purpose. A. Gow questioned insurance liability; D. Gustafson and S. Marolt agreed that there is a commercial taxi service in the city. There are two recent amendments; and some confusion was discussed. G. Brumberg recommended writing a new policy covering all issues. After discussion it was decided to make it an item for the NEXT AGENDA.

**OLD BUSINESS;**

**Friends of North Shore Aviation –** Concerned about making the proposed project public. Silver Bay has an opportunity to build a new \$250K arrival and departure building through a FAA matching fund grant. A non-profit 501(c) 3 corporation has been established to raise private funds to offset the city's portion (\$12.5K) of the 95/5% federal matching funds.

This group has raised \$6K and another \$4K in verbal commitments with plans to raise the remainder of the city's obligation within the next year. Businesses donating were enumerated. The Council had previously failed to give approval for this project this year because they did not feel they had enough information. The Friends of North Shore Aviation would be willing to fund a preliminary design which would provide a basic footprint for the building project provided the Council remained committed to the entire project.

Recommendation to consider applying for A/D Building Design Grant - Request for this and engineering design grant for this year. It would not obligated to do the entire project. The cost would be about \$30K. G. Brumberg provided each council member a rough outline of square footage of the building and cost in order to understand what is being proposed. P. Kelley questioned the future of the old AD building and the cost of its removal, the septic system, cutting through the road, etc.; if we accept the \$250K grant, how do we fund the other issues which have not been addressed.

S. Johnson said that the Council is being asked to consider a \$40K grant application to do a study that will provide answers to the questions being addressed.

The 501(c) 3 money received could be used for the grant provided the city is committed to the total project. Deadline for this year's funds was discussed and it was affirmed that the deadline has passed. All discussion is for next year funding.....2009.

W. Johnson restated that the only item on the table is a request for the council to approve a \$40K design grant. S. Johnson stated that this approval is not a commitment to the project; but approval should be in good faith toward project approval.

Motion P. Kelley; second S. Marolt approve proceeding with a design grant for an arrival and departure building with the non-profit providing part of the matching funds. THE MOTION CARRIED.

**Mary MacDonald** – P. Kelley questioned the city's and council members' liability with the operation of the Mary MacDonald Center with code violations and inability to obtain a certificate of occupancy without expensive repairs. W. Johnson stated that the city has liability exposure, which is covered by insurance; there is also a statutory limit for exposure liability of \$300K. If there were a catastrophe, insurance would cover individuals acting for the city; they would not have individual liability. S. Marolt suggested a moratorium on new leases. Motion S. Marolt; second D. Gustafson for a Special Council Meeting at 3:00, Monday, March 25. THE MOTION CARRIED.

**Dumpsters on City Property** – Roll off dumpsters full of garbage on boulevards on Charles Circle and various other locations need to be followed through by the Police Department. G. Thompson said that it is not uncommon for roll off dumpsters to be used during construction, but there are some that are being used for general refuse year around. M. Frey questioned the definition of temporary. G. Thompson said that they are reviewing a code from another city for possible adoption. G. Brumberg suggested that this would be a worthy issue for inclusion in the upcoming newsletter.

## **NEW BUSINESS**

**Professional Assessment for Airport Septic System** – It is believed that the septic system does not work properly due to the need for frequent holding tank pumping. Request that a professional assessment be conducted on the system. P. Kelley said that if we are moving in the direction of facility replacement perhaps the funds for an assessment are better not to be expended. T. Bjella said that it is an old system; pumping can vary from weekly to monthly depending upon weather conditions. No action taken.

**Advertising Request for Fall Fly-in** – Request \$250 to assist with advertising for pilots out of the area for this event. Advertisements could be in the MN Flyer and/or Midwest Flyer depending upon cost. It is hoped that locals as well as pilots out of the area come to see what we have to offer. Fly-in is scheduled for Sep 26 with a rain date schedule of Sep 27. S. Marolt asked if the Fly-In generates revenue. T. Bjella said that they may serve food and have fuel sales; but amount of revenue depends a lot on the weather. P, Kelley urged that the Fly-In also be advertised in the local paper. Motion P. Kelley; second A. Dow to provide \$250 to help with advertising. G. Brumberg asked where the money would come from; after discussion it was decided to be taken from the Airport Fund. S. Marolt suggested that this event be included in the Airport Budget for future year. A. Fischer suggested that discount meals, hotels, and taxi service might be a draw to the event.

**CITY ADMINISTRATOR POSITION** – M. Frey asked what the plan is for a new city administrator since the position was declined by the selected person. S. Johnson said that they will re-interview a fourth person for the position but not re-advertise at this time. S. Marolt said that if more interviews were to be conducted that more than one person should be interviewed like perhaps three; A. Dow agreed. P. Kelley stated that the whole list should be re-evaluated in light of having changed the parameters. Removing criteria would create a need to re-assess; he suggests re-advertising. S. Johnson said that he would like to interview this one person; scoring and hiring practices were discussed. D. Gustafson expressed the concerns of the interim administrator. A. Dow stated that she would like to be a part of the selection but will be unavailable until April 7. A. Dow would like to interview three people from the non-interview selected list. After considerable discussion it was decided that the person was contacted and has purchased an airline ticket in anticipation of an interview Mar 31, Apr 1 or 2. Motion P. Kelley; second S. Marolt to interview April 2 at 3:00 p.m. Two additional individuals will be chosen for interviews as well. S. Johnson said that his schedule will have him out of the area as well. Taping the interviews was discussed; W. Johnson said it could be taped but it would be private data. THE MOTION CARRIED. Review of applicants will be completed by Friday, March 21.

**Reroute of Water Line** – No reply has been received.

**CLAIMS** – Motion D. Gustafson, second P. Kelley to approve payment of unpaid claims. THE MOTION CARRIED

**ADJOURNMENT** - Motion S. Marolt, second A. Dow to adjourn at 8:45 p.m. THE MOTION CARRIED

Minutes taken by Mabel Tarlton

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Scott M. Johnson, Mayor

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Gary Brumberg, Interim City Administrator