

Minutes of the Proceedings of the City Council of the City of Champlin in the County of Hennepin and the State of Minnesota
Pursuant to Due Call and Notice Thereof

Regular Session
April 12, 2010
Municipal Center

- Call to Order The Champlin City Council met in Regular Session and was called to order by Mayor Mark Uglem at 7:00 p.m.
- Pledge of Allegiance The Pledge of Allegiance was recited.
- Roll Call Present were Mayor Mark Uglem, Councilmembers Eric Johnson, ArMand Nelson, Greg Payer and Julia Whalen.
- Absent: no one.
- Also present were City Administrator Bret Heitkamp, Deputy City Administrator John Cox, City Engineer Tim Hanson, City Attorney Darrell Jensen, City Planner Scott Schulte, Assistant City Engineer Todd Tuominen, Parks Facilities Manager Dan Masloski, Building Inspector Jerry Hart and City Clerk Roberta Colotti.
- Approval of Agenda
(April 12, 2010)
Motion The City Administrator requested to add Item 9A, Establishing an Executive Session Immediately Following the Worksession to Discuss Employee Contract Negotiations and Condemnation Hearing Proceedings.
- Motion by Councilmember Johnson and seconded by Councilmember Whalen to approve the agenda for the April 12, 2010 Regular Meeting as amended. Voting in favor were Mayor Uglem, Councilmembers Johnson, Nelson, Payer and Whalen. Voting against: none. Motion carried.
- Approval of Minutes
(March 22, 2010
Worksession and Regular
Meetings)
Motion Motion by Councilmember Payer and seconded by Councilmember Whalen to approve the minutes of the March 22, 2010 Worksession, March 22, 2010 Regular Meeting and March 22, 2010 Executive Session as presented. Voting in favor were Mayor Uglem, Councilmembers Johnson, Nelson, Payer and Whalen. Voting against: none. Motion carried.
- Approval of Bills
(April 12, 2010)
Motion Motion by Councilmember Whalen and seconded by Councilmember Nelson to approve the bills as submitted for payment on April 12, 2010. Voting in favor were Mayor Uglem, Councilmembers Johnson, Nelson, Payer and Whalen. Voting against: none. Motion carried.
- Announcements Mayor Uglem made the following announcements:
- Local Board of Appeal and Equalization – Wednesday, April 21st at 6:30 p.m. in the Chambers.
 - Committee-of-the-Whole Meeting – Monday, April 26th at 5:45 p.m. in the Council Conference Room.
 - City Council Meeting – Monday, April 26th at 7:00 p.m. in the Council Chambers.
 - Economic Development Authority Meeting – Monday, April 26th after the Council meeting, in the Chambers.
 - The City Council and Environmental Resources Commission invite you to join us on Earth Day, April 22nd as we work to clean-up the City’s parkland and open space. The event headquarters will be at Veteran’s Memorial Park, beginning at 4:30 p.m. and ending at 7:30 p.m. If you are interested in volunteering you are asked to call the City Clerk at 763-923-7111.
 - Every household in Champlin should have received their 2010 Census form. We encourage all residents to return their 2010 Census form as soon as possible. To see how many Champlin residents are responding to the 2010 Census, log on to the Census Bureau’s “Take 10 Challenge Map” at <http://2010.Census.Gov/2010Census/Take10Map>
 - The City of Champlin will host the 19th Annual City Wide Garage Sale, April 22nd – 24th from 9:00 a.m. to 5:00 p.m. Families, clubs, and organizations are invited to participate. The City will advertise each garage sale by printing a list of the garage sales on a detailed map. One general ad will be placed in the *Champlin Dayton Press*, *Anoka County Shopper*, and the *Brooklyn Park Sun*

Post.

Consent Agenda

Mayor Uglem requested that Item 8, (Proclamation Designating May 1, 2010 as Josephine Nunn Day in the City of Champlin), be pulled from the Consent Agenda so that it could be read into the record.

Councilmember Whalen requested that Item 6, (Ice Cream Vendor License for Faysal Hasan), be pulled from the Consent Agenda.

Councilmember Payer requested that Item 1, (Approve Electrical Services Contract), be pulled from the Consent Agenda.

Approve Electrical
Services Contract

Councilmember Payer stated that he believed the Electrical Services Contract comparisons to be incomplete and requested further information.

The Parks Facilities Manager advised of the items included in the RFP and further explained the details of the proposed contract with Killmer Electric including a total term of four year, automatically renewed on an annual basis with an option to terminate each year.

Councilmember Payer stated that in this market he believed more competitive rates could be obtained, especially in regard to the annual adjustment to the rate, determined by using the Consumer Price Index for all Urban Consumers (CPI-U) U.S. City Average, All Items, otherwise known as the CPI.

The Parks Facilities Manager reported that in the opinion of staff Killmer possessed the lowest rate bid and advised that 12 companies submitted responses to the RFP.

Mayor Uglem advised that the Council did not have to approve the contract tonight and could instead return to the bidding companies and ask for lower rates.

Councilmember Payer questioned if the bidding process that had been started could be thrown out and whether staff could go back to Killmer and attempt to negotiate further.

The City Attorney advised that the City did not have to go through the bidding process at all and would not be bound to any decision from that process.

The Parks Facilities Manager stated that others in that field of work have already said that the bid from Killmer is very low; but offered that staff could attempt to negotiate further.

The City Attorney advised that the agreement could be renegotiated every year.

Motion to Table

Motion by Councilmember Payer and seconded by Councilmember Whalen to table the Electrical Service Contract, and direct staff to further negotiate the terms with Killmer Electric. Voting in favor were Mayor Uglem, Councilmembers Johnson, Nelson, Payer and Whalen. Voting against: none. Motion carried.

Temporary On-Sale
Liquor License for Anoka
Area Chamber of
Commerce Event on May
5, 2010
Motion

Motion by Councilmember Johnson and seconded by Councilmember Payer to approve the Temporary On-Sale Liquor License requested by Quad Cities Community Cable, as a member of the Anoka Area Chamber of Commerce, for their event to be held on May 5, 2010 at their facility located at 12254 Ensign Avenue. Voting in favor were Mayor Uglem, Councilmembers Johnson, Nelson, Payer and Whalen. Voting against: none. Motion carried.

Massage Therapist
License for Jian Ying Wei
at Han Spa and Body Care
Motion

Motion by Councilmember Johnson and seconded by Councilmember Payer to approve the massage therapist license for Jian Ying Wei to work at Han Spa & Body Care located at 500 Jefferson Highway North. The license shall be valid from April 12, 2010 to December 31, 2010. Voting in favor were Mayor Uglem, Councilmembers Johnson, Nelson, Payer and Whalen. Voting against: none. Motion carried.

Massage Therapist
License and Business

Motion by Councilmember Johnson and seconded by Councilmember Payer to approve the massage therapist license and business license for Danielle Anderson, Shenti Massage, located at 11041

<p>License for Danielle Anderson of Shenti Massage Motion</p>	<p>Wisconsin Avenue North. The license shall be valid from April 12, 2010 to December 31, 2010. Voting in favor were Mayor Uglem, Councilmembers Johnson, Nelson, Payer and Whalen. Voting against: none. Motion carried.</p>
<p>Ice Cream Vendor License for Faysal Hasan Motion</p>	<p>Councilmember Whalen stated that she and Councilmember Nelson saw an ice cream truck driving around Champlin within the past week and noted the license plate number. She wanted to confirm whether this applicant was the person driving the truck. She reminded the Council that a similar violation had taken place the prior year regarding the applicant.</p> <p>Councilmember Nelson stated that he requested that the driver show him his license and the driver stated that he did have one but did not present it to him. He then advised the driver that there was an application set to go before the Council for that type of license at the upcoming meeting and the applicant then acknowledged that he did not yet have the license. He did acknowledge that it is difficult for the applicant to gauge when the weather is going to warm up.</p> <p>Motion by Councilmember Whalen and seconded by Councilmember Nelson to direct staff to contact Faysal Hasan to confirm if he was selling prior to issuance of the license and if so to bring this item back for further consideration at the April 26th meeting and if it was a different vendor to issue the license as requested. Voting in favor were Mayor Uglem, Councilmembers Johnson, Nelson, Payer and Whalen. Voting against: none. Motion carried.</p>
<p>License Application for the Sale of Consumer Fireworks for Rademacher Companies Inc. (d.b.a. Bill's Superette) Motion</p>	<p>Motion by Councilmember Johnson and seconded by Councilmember Payer to approve the application for a license for the sale of consumer fireworks submitted by Rademacher Companies, Inc. (d.b.a. Bill's Superette) for their business located at 10917 West River Road for the period June 14, 2010 to June 14, 2011. Voting in favor were Mayor Uglem, Councilmembers Johnson, Nelson, Payer and Whalen. Voting against: none. Motion carried.</p>
<p>Proclamation Designating May 1, 2010 as Josephine Nunn Day in the City of Champlin Motion</p>	<p>Mayor Uglem requested that May 1, 2010 be designated as Josephine Nunn Day in the City of Champlin as a way to honor the many community-oriented accomplishments of this wonderful woman. He reported that Josephine Nunn died peacefully on March 13, 2010. He stated that she had served as a member of the Champlin City Council and was Mayor from 1971 to 1983. She was also an active 4-H leader and member of the Champlin Historical Society, Champlin Garden Club and Friends of the Champlin Library.</p> <p>Councilmember Whalen read the proclamation designating May 1, 2010 as Josephine Nunn Day in the City of Champlin.</p> <p>Councilmember Whalen announced that the family would be holding a memorial event at Josephine Nunn Park on May 1, 2010 at 2:00 p.m. and extended an invitation to Champlin residents to attend.</p> <p>Motion by Councilmember Johnson and seconded by Councilmember Whalen to approve the Proclamation designating May 1, 2010 as Josephine Nunn Day in the City of Champlin. Voting in favor were Mayor Uglem, Councilmembers Johnson, Nelson, Payer and Whalen. Voting against: none. Motion carried.</p>
<p>Resolution No. 2010-29 Establishing State Aid Route on 120th Avenue Motion</p>	<p>Councilmember Johnson introduced the following resolution and moved its adoption:</p> <p>Resolution Establishing Municipal State Aid Street Designation for 120th Avenue from Winnetka Avenue to Kentucky Avenue.</p> <p>The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Payer, and upon vote being taken thereon, the following voted in favor thereof: Mayor Uglem, Councilmembers Johnson, Nelson, Payer and Whalen, and the following voted against the same: none, whereupon said resolution was passed this 12th day of April, 2010.</p>
<p>Resolution No. 2010-30 Establishing State Aid Route on Business Park</p>	<p>Councilmember Johnson introduced the following resolution and moved its adoption:</p> <p>Resolution Establishing Municipal State Aid Street Designation for Business Park Boulevard from</p>

Boulevard
Motion

114th Avenue to 117th Avenue.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Payer, and upon vote being taken thereon, the following voted in favor thereof: Mayor Uglem, Councilmembers Johnson, Nelson, Payer and Whalen, and the following voted against the same: none, whereupon said resolution was passed this 12th day of April, 2010.

Resolution No. 2010-31
Revoking State Aid Route
on Xylon Avenue
Motion

Councilmember Johnson introduced the following resolution and moved its adoption:

Resolution Revoking the Municipal State Aid Street Designation of Xylon Avenue from 117th Avenue to Business Park Boulevard.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Payer, and upon vote being taken thereon, the following voted in favor thereof: Mayor Uglem, Councilmembers Johnson, Nelson, Payer and Whalen, and the following voted against the same: none, whereupon said resolution was passed this 12th day of April, 2010.

Establish an Executive
Session Immediately
Following the
Worksession to Discuss
Employee Contract
Negotiations and
Condemnation Hearing
Proceedings

Motion by Councilmember Johnson and seconded by Councilmember Payer to approve establishing an Executive Session immediately following the Worksession to discuss employee contract negotiations and condemnation hearing proceedings. Voting in favor were Mayor Uglem, Councilmembers Johnson, Nelson, Payer and Whalen. Voting against: none. Motion carried.

Open Forum

No one was present for Open Forum.

Unfinished Business

First Reading of
Ordinance Regarding
Private Swimming Pools
and an Ordinance
Regarding Chapter 22
Fees

The City Planner reported that in May 2009, the City Council tabled an ordinance regulating private swimming pools and directed staff to provide comparison data from adjacent cities including information on standard depths for the fencing requirement. The Council also expressed concerns with the regulations impact on "season" swimming pools.

The City Planner stated that the codification of swimming pool regulations is necessary for two reasons:

1. They do not exist in current code; and
2. With the recent adoption of the International Residential Code (IRC), the State chose not to adopt the appendix regulating private swimming pools. Currently, swimming pools are regulated via administrative policy.

The City Planner stated that a permit and fencing is required for any swimming pool capable of holding 30 inches of water. For above-ground pools exceeding 48 inches, the fence requirement is waived, as the pool wall itself acts as the safety deterrent.

The City Planner presented a survey of eight area communities. In summary, permits are required by all; though depths vary from 18 inches to 30 inches with 24 inches being predominant. Also a majority of cities exempt pools under certain sizes from permit (ranging from 75 square feet to 200 square feet).

The City Planner stated that currently City policy has defined a swimming pool as that capable of holding at least 30 inches of water. Upon review it is recommended that the depth be reduced to 24 inches. It is further recommended that pools under 150 square feet be exempt from permitting and fencing. At 150 square feet, any swimming pools less than 13 feet in diameter would not need a permit or a fence.

The City Planner stated that swimming pools capable of holding at least 24 inches of water and with a surface area greater than 150 square feet must be surrounded by a fence or wall not less than four feet in height. Fence provisions include criteria to deter climb-ability with self-closing and self-latching

gates.

The City Planner stated that the City currently charges a flat rate of \$30 for above-ground pools and \$40 for in-ground pools. The surveyed communities all charge permit fees based on valuation. To account for plan review and multiple inspections, it is recommended that permits for in-ground pools be based on valuation. For above-ground pools, the \$30 permit is recommended.

Councilmember Johnson reviewed different criteria for above-ground pools that would not require a fence to be installed. He questioned whether this information would be included in the City newsletter, so residents could be made aware of the ordinance prior to the summer season.

The City Planner stated that an article could be included in the next issue of the *Champlin Chronicle*.

Councilmember Whalen asked for further clarification, specifically to the language that fencing must lock and self-latch, as most residents would install a chain link fence that has a latch but does not self-latch, and also does not lock.

The Building Inspector confirmed that a typical chain link fence would be considered self-latching and a padlock could be used when the area is not in use.

The City Planner advised that the language could be changed in the ordinance to remove “self” from the latching requirement.

Councilmember Payer stated that he is not in favor of ordinances that will be violated by a large number of the population and provided examples from the proposed ordinance, which he felt would be heavily violated. He believed that most of the swimming pools purchased by residents would need to follow the proposed regulations, including fencing; and also had concern that residents may be charged a fee every year, as most people re-install their pool each summer.

Mayor Uglen stated that the City has a duty from a health, safety, and wellbeing standpoint to enact an ordinance in this regard. He stated that swimming pools are an attractive nuisance and believed that the City should pass an ordinance to help protect children within the City. He agreed that the ordinance may not be perfect, but stated to avoid negligence the City should have these regulations in place.

The Deputy City Administrator requested that the Council pass the first reading tonight and advised that changes could be made before the second reading is conducted. He advised that most cities have ordinances in this regard and reviewed where the survey information was gathered from. He also noted that with the approval of the first reading tonight, information could then be put into the City newsletter advising residents of the item prior to the summer season.

Councilmember Johnson advised that during the previous discussion on this ordinance he proposed splitting the ordinance between seasonal and permanent pools, as those two types of pools are very different.

The City Planner stated that staff could address the issue of repeat fees with seasonal pools to ensure that residents would not be charged a permit fee every year. He stated that staff did not see a need to separate the ordinance between permanent and seasonal pools.

The Building Inspector advised that a discount fee could be charged to renew a permit and also advised that staff could use their discretion when inspecting pools.

Councilmember Nelson suggested including real-life examples of the types of pools that would be exempt, and also requested clarification regarding what constitutes a pool repair.

Motion

Motion by Councilmember Whalen and seconded by Councilmember Nelson to approve the first reading of an ordinance regarding private swimming pools and direct staff to review what constitutes repair, clarification of excavation of soil, language regarding barriers not being readily climbed by children, self-latching gates, examples for square footage, and exemptions for reinstalling pools on an annual basis. In addition to give first reading to an amendment to Chapter 22 Fees. Voting in favor were Mayor Uglen, Councilmembers Johnson, Nelson, Payer and Whalen. Voting against: none.

Motion carried.

New Business

Resolution No. 2010-32
Approving a Variance to
the Elm Creek Business
Center Planned Unit
Development Permitting a
Detached Monument Sign
Adjacent to Highway 169
for Culver's Restaurant:
John O'Sullivan (Project
2010-03)

The City Planner provided background information regarding the Culver's site and existing monument sign, as well as the Elm Creek Business Center Planned Unit Development. He advised that John O'Sullivan is requesting a variance, under hardship, to allow a monument sign adjacent to Highway 169 for Culver's Restaurant. He then reviewed the hardship variance criteria and staff findings for the Council. He stated that a public hearing was held on March 15th, where the applicant spoke and the Planning Commission recommended unanimous approval of the request.

A representative of the applicant reported that Culver's features a Flavor of the Day and customers frequently make comment that they are unable to see the sign and what the featured flavor is. He reviewed the profits and losses at this location over the past seven years and stated that they hoped that the added advertising would result in at least a four percent increase in custard sales alone.

The City Planner confirmed that the current sign would be removed and advised that the applicant did request that the existing sign base be left for landscaping purposes, where flowers could be planted.

Councilmember Payer stated that he did not believe that all of the variance criteria had been met and found it very difficult to be equal to business owners. Referencing the Edina Realty sign, he stated that he did not know how some businesses slip through the cracks and are allowed to have signs that other businesses are not allowed to have.

Mr. Johnson, General Manager of the Champlin Culver's location, reported that the restaurant has attempted to gain a spot on the larger sign that advertises multiple businesses but has been unsuccessful because of the other interior businesses already advertise on this sign. He advised that the current location of the sign is not highly visible from the roadway.

Mayor Uglem stated that Culver's has been a contributor to the City and has recently suffered a misfortune with the fire. He advised that he would be in favor of the request, especially as it is projected to improve sales in the tough economy.

Mr. Johnson reported that if the weather holds out and the construction continues on schedule, Culver's would be open to the public the first week in May 2010.

Resolution 2010-32

Councilmember Johnson introduced the following resolution and moved its adoption:

A Resolution Approving a Variance to the Elm Creek Business Center Planned Unit Development Permitting a Detached Monument Sign Adjacent to Highway 169 for Culver's Restaurant John O'Sullivan (Project 2010-03).

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Whalen, and upon vote being taken thereon, the following voted in favor thereof: Mayor Uglem, Councilmembers Johnson, Nelson, Payer and Whalen, and the following voted against the same: none, whereupon said resolution was passed this 12th day of April, 2010.

Resolution No. 2010-33
Approving a Conditional
Use Permit to Modify an
Existing Electronic
Message Sign at Holiday
Stationstore
Located, 12024 Champlin
Drive: Holiday Companies
(Project 2010-02)

The City Planner reported that Holiday Companies is requesting to modify their existing electronic message sign at the Holiday Station Store located on Champlin Drive, to include a portion to the sign which would display the current gas price. He advised that when the sign was first installed there were some issues but noted that the issues were addressed and corrected immediately, and no issues have been presented since that time. He advised that monument signs are now required to have a masonry base and explained that with the requested changes Holiday would also be required to change the base of the sign to a masonry type base within the next 12 months. He reported that a public hearing was held on March 15, 2010 and the Planning Commission recommended unanimous approval of the request.

Resolution No. 2010-33

Councilmember Whalen introduced the following resolution and moved its adoption:

A Resolution Approving a Conditional Use Permit to Modify an Existing Electronic Message Sign at

Holiday Stationstore, 12024 Champlin Drive.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Johnson, and upon vote being taken thereon, the following voted in favor thereof: Mayor Uglem, Councilmembers Johnson, Nelson, Payer and Whalen, and the following voted against the same: none, whereupon said resolution was passed this 12th day of April, 2010.

Resolution No. 2010-34
Accepting the Feasibility
Study and Ordering a
Public Hearing for the
Reconstruction of Douglas
Drive, from Douglas
Court to West River Road
(Improvement Project No.
20701)

The City Engineer advised that this issue had been previously discussed in detail by the Council during the Committee-of-the-Whole meeting and provided a brief summary of the item. He reviewed the proposed work area and asked that the Council accept the feasibility study and order a public hearing for the reconstruction of Douglas Drive, from Douglas Court to West River Road.

Resolution 2010-34

Councilmember Payer introduced the following resolution and moved its adoption:

A Resolution Accepting the Feasibility Study and Ordering a Public Hearing for the Reconstruction of Douglas Drive, from Douglas Court to West River Road (Improvement Project No. 20701).

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Nelson, and upon vote being taken thereon, the following voted in favor thereof: Mayor Uglem, Councilmembers Johnson, Nelson, Payer and Whalen, and the following voted against the same: none, whereupon said resolution was passed this 12th day of April, 2010.

Recess to Executive
Session

The Champlin City Council recessed the regular meeting to an Executive Session at 8:07 p.m.

Reconvene

The Champlin City Council reconvened the regular meeting at 9:45 p.m.

Adjournment

The Champlin City Council adjourned the regular meeting at 9:45 p.m.

Mark W. Uglem, Mayor

Attest:

Roberta Colotti, CMC, City Clerk