

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  
October 11, 2016  
Municipal Center

- Call to Order                   The Champlin City Council met in Regular Session and was called to order by Mayor ArMand Nelson at 7:00 p.m.
- Pledge of Allegiance        The Pledge of Allegiance was recited.
- Roll Call                      Present were Mayor ArMand Nelson and Councilmembers Eric Johnson, Ryan Karasek and Bruce Miller.
- Excused Absent: Councilmember Kara Terry.
- Also present were City Administrator Bret Heitkamp, City Engineer Tim Hanson, Assistant City Engineer Todd Tuominen, Park Facilities Manager Charlie Lehn, City Planner Scott Schulte, City Attorney Scott Lepak, and City Clerk Roberta Colotti.
- Also Present: Ward 4 City Council Candidate Ryan Sabas.
- Approval of Agenda  
(October 11, 2016)  
Motion                        Motion by Councilmember Johnson and seconded by Councilmember Karasek to approve the agenda for the October 11, 2016 Regular Meeting as presented. Voting in favor were Mayor Nelson, Councilmembers Johnson, Karasek and Miller. Voting against: none. Motion carried.
- Approval of Minutes  
Motion                        Motion by Councilmember Johnson and seconded by Councilmember Karasek to approve the minutes of the September 26, 2016 Worksession, September 26, 2016 Regular Session, and September 26, 2016 Closed Session as presented. Voting in favor were Mayor Nelson, Councilmembers Johnson, Karasek and Miller. Voting against: none. Motion carried.
- Approval of Bills  
(October 11, 2016)  
Motion                        Motion by Councilmember Johnson and seconded by Councilmember Karasek to approve the bills as submitted for payment on October 11, 2016. Voting in favor were Mayor Nelson, Councilmembers Johnson, Karasek and Miller. Voting against: none. Motion carried.
- Announcements              Mayor Nelson made the following announcements:
- Council Worksession – Monday, October 24<sup>th</sup> at 5:45 p.m. in the Council Conference Room.
  - City Council Meeting – Monday, October 24<sup>th</sup> at 7:00 p.m. in the Council Chambers.
  - Join us for the last Farmers Market of the season tomorrow, October 12<sup>th</sup> from 9:00 a.m. to 1:00 p.m. in the Ice Forum parking lot.
- Appointment of Election  
Judges  
Motion                        Consent Agenda  
Motion by Councilmember Johnson and seconded by Councilmember Karasek to approve the list of Regular & Student Election Judge candidates to be appointed to serve at the General Election on November 8<sup>th</sup>. Voting in favor were Mayor Nelson, Councilmembers Johnson, Karasek and Miller. Voting against: none. Motion carried.
- Appointment of Ice Forum  
Maintenance Supervisor  
Motion                        Motion by Councilmember Johnson and seconded by Councilmember Karasek to appoint Nathan Miller to the Ice Forum Maintenance Supervisor position at Step 2, subject to the successful completion of a pre-employment physical and drug screen and criminal background check with an anticipated start date on or around October 24, 2016. Voting in favor were Mayor Nelson, Councilmembers Johnson, Karasek and Miller. Voting against: none. Motion carried.
- Resolution No. 2016-68  
Approve the Hennepin  
Youth Sports Program  
Grant Application for  
Andrews Park Baseball      Councilmember Johnson introduced the following resolution and moved its adoption:
- Resolution for the City of Champlin Andrews Park Field #5 Lighting Improvement Project

Field Lighting  
Improvement Project  
Motion

The motion for the adoption of the resolution was duly seconded by Councilmember Karasek, and upon vote being taken thereon, the following voted in favor thereof: Mayor Nelson, Councilmembers, Johnson, Karasek and Miller, and the following voted against the same: none, whereupon said resolution was passed this 11th day of October 2016.

Open Forum

No comments.

Public Hearing

Resolution No. 2016-66  
Adopting the Assessment  
Roll for South Diamond  
Lake Road, Depue Drive,  
Mississippi View Estates,  
and Dayton Road  
(Improvement Project No.  
20813)

The City Engineer stated that on October 13, 2015 the City Council held a Public Hearing for South Diamond Lake Road, Depue Drive, Dayton Road, and Mississippi View Estates, Improvement Project No. 20813. Plans and specifications preparation was authorized on October 26, 2015. Construction plans and specifications were approved on February 22, 2016. The project was advertised, bid, and a construction contract was awarded on April 11, 2016.

The City Engineer stated that the project consisted of sanitary sewer, water main, storm sewer, street lights, and street improvements. The streets in which the improvements were complete are South Diamond Lake Road, Depue Drive, Dayton Road, Oakwood Terrace, Mississippi Lane, and West River Parkway.

The City Engineer reported that construction work began the first week of April, 2016. Substantial completion is scheduled for November 15, 2016.

The City Engineer stated that the Feasibility Study identified Assessment of Benefit for the infrastructure improvements as a means of funding the project costs. Assessments are proposed as identified in the City's Assessment Policy and as identified in the projects feasibility study. The proposed assessments to developed lots are by the unit (parcel) utilizing the 2015 Typical Lot Fee Schedule for improvements adjacent to existing parcels.

The City Engineer stated that the City's Assessment Policy for new lot development is to assess the total cost of the improvements to the lots. There are ten potential lots that can be created adjacent to the northwest end of Depue Drive. Depue Drive is also adjacent to six existing lots for this segment of roadway. The unit assessment amount was determined by dividing the cost of the Depue Drive improvements by sixteen (16) lots and assessing the potential lots the resulting per unit amount.

The City Engineer reported that the City's Assessment Policy for multi-family development is to assess the entire cost of the improvement adjacent to the parcel. The multi-family parcel was previously served with sanitary sewer, water infrastructure, and storm sewer. The improvements that are assessed are streets and street lighting.

The City Engineer reviewed the cost recovery for the improvements by assessment and City funds.

The City Engineer stated that the proposed assessments for each parcel are identified on the Assessment Roll within the Assessment Report. Terms and interest rates vary depending on the size of the assessment.

The City Engineer reported that property owners that chose to have fees or additional work assessed to the parcel have completed a Waiver of Assessment and Waiver of Appeal for the fee or work completed. The Waivers are included in the Assessment Report.

The City Engineer stated that all existing lots have active assessments. Eight potential lots adjacent to Depue Drive have deferred assessments. The deferred assessments are deferred for a 30-year term and become due upon reaching the end of the term or upon subdividing the parcel into lots and blocks. The deferred interest rate is 4.5%.

The City Engineer reported that a neighborhood informational meeting on the proposed assessments was held on Wednesday, October 5, 2016. Twenty (20) residents representing eighteen (18) parcels attended the informational meeting.

The City Engineer stated that it is recommended that the presented resolution "Adopting the Assessment Roll for South Diamond Lake Road, Depue Drive, Dayton Road, and Mississippi View Estates, Improvement Project No. 20813", be approved.

The City Engineer stated that any appeals must be received at or prior to the assessment hearing. Property owners have 30 days to perfect the appeals with Hennepin County.

Mayor Nelson opened the public hearing at 7:18 p.m.

Dave Henningsgaard, 109 Mississippi Lane, noted that he submitted a written appeal to the City Clerk prior to tonight's meeting. He stated that last fall he expressed his opposition to the project. He stated that the assessment is a lot of money for his family for services that he already had, noting that he believed the roads, sewer and water services were adequate prior to the project. He believed that the City is coming out pretty well on the deal with the land swap and development of the lots on Depue, noting that in order to supply water to those lots the services had to go through his development. He believed that the storm sewer should have been assessed at a rate of 50 percent, as there was already a storm sewer system in place that was designed and built in 1968 and served its purpose. He argued that the storm sewer should be assessed at a rate of 50 percent and asked the Council to consider assessing those improvements at a rate of 50 percent.

Dave Yager, 1121 Depue Drive, stated that the project was supposed to be finished this fall and now the City is calling the project "substantially complete" with items yet to be completed. Assessments are scheduled to start November 11<sup>th</sup>. He asked how assessments could start before the project was totally complete. He asked when the new lights would be turned on. He stated that he lives at the end of the road and believed that those homes are being treated as such, asking when sod would be installed for those homes. He stated that it will begin to frost and therefore the sod may not take when it is installed. He asked if the sod would be replaced in the spring if it does not take because of the late installation.

Michael Franzen, 909 West River Parkway, recognized Mayor Nelson and Councilmember Karasek for their assistance with the wall, however, he had several concerns with the project. He stated that he was disappointed in the project communication. He stated that his sod has not been installed and yet they are being assessed for the project. He noted that there is still garbage in his yard that needs to be picked up from the project. He was very disappointed in the process and that the City is proposing assessment for a project that is not yet done. He suggested a partial assessment until the project is completed.

John Wingard, 1109 Depue Drive, stated that he has been a resident of Champlin for 51 years and is very disappointed in the progress of the work. He stated that he put in a driveway apron and the contractor cracked and it hasn't been fixed yet. He stated that a piece of machinery was left outside his home for over a week along with a large pile of dirt. He stated that between his private driveway and water lines and public project assessment these improvements will cost him in excess of \$50,000 and he will have nothing to show for it.

Dennis Decker and Marsha Christianson, 1328 Dayton Road, stated that they are one of the proverbial last houses in Champlin and have been treated as such in this project. He asked how many of the property identification numbers listed are for the new homes that will be constructed on Depue Drive and whether those homes will be assessed.

Mayor Nelson stated that those homes will be assessed at a rate of 100 percent of the cost.

Ms. Christianson stated that notice of a grant program for financial assistance was included in the assessment letter and he asked if there are funds available. She stated that the letter also references a handicap deferred assessment program, noting that Mr. Decker collects SSDI and asked if that would be considered a handicap.

Mr. Decker referenced the street lighting and asked if that would be included on Dayton River Road, as the only lighting is near the park entrance. He asked if the lighting would be added later or whether that would be omitted.

Mary Jo Franzen, 909 West River Parkway, echoed the comments that this project has been very stressful and very disappointing. She stated that there have not been clear expectations from the beginning. She stated that the whole project has been frustrating and now they are being assessed when the project is not even finished. She stated that there has been a communication breakdown, noting that her emails have not been returned. She stated that there were huge gaps with nice weather where no work was being done. She stated that the landscaping company, Village Green, has been very frustrating to work with. She stated that the City should be able to fire the subcontractor that has not been doing a good job rather than stating that they are under the control of the General Contractor.

Motion by Councilmember Miller and seconded by Councilmember Johnson to close the public hearing at 7:35 p.m. Voting in favor were Mayor Nelson, Councilmembers Johnson, Karasek and Miller. Voting against: none. Motion carried.

The City Engineer referenced the storm sewer and rate of assessment, stating that the residents in Mississippi View Estates are being assessed 55 percent of the cost of the improvements and not 100 percent. He stated that while he would like to have the project completed, projects can be assessed before completion as project completion is not a prerequisite for assessment. He explained the reasoning for the timing of the assessments, noting that the recommended date is as late as they could go to allow people to pay without interest. He stated that street lights have been installed for Mississippi View Estates and they are waiting for Anoka Electric to energize them. He stated that the intent is to complete the bituminous paving this year, at a minimum with the base course with the wear course to be installed this fall/next spring based on the weather. He stated that the road would be drivable with the base course. He stated that some of the areas that were not sodded had unique items, such as cable that needed burying or drain tiles. He advised that sodding is scheduled for this Friday. He apologized if the communication has been lacking, noting that he has been sending weekly updates but noted that it is difficult to obtain schedules from contractors when there is rain in excess of one inch every six days. He stated that he can provide information on the financial assistance grant program to the interested residents. He stated that the park entrance light will be reinstalled within the next week or so. He agreed with the residents that Village Green has been a frustrating subcontractor to work with because of their changing schedule; however the finished product has meet standards.

Councilmember Miller asked if there is anything that the City can do to monitor or have penalties for subcontractors to avoid this type of frustration in the future.

The City Engineer stated that although their schedule has been frustrating and a bit in the air, the finished product has been good. He stated that staff will be taking comments from this evening and work to improve the process.

Councilmember Karasek asked who is responsible for the vetting process when it comes to subcontractors.

The City Engineer stated that a general contractor is hired for the project and that contractor hires subcontractors to complete the work that they do not do in-house. He noted that the City contract terms do apply to subcontractors as well. He stated that if there are grievances with a subcontractor, the City can specify that they do not want to work with that contractor in the future.

The City Attorney provided additional legal clarification on contractors and subcontractors, noting that if the City makes the determination that a contractor is not a responsible contractor they can then be excluded in the future from being awarded a City bid project.

The City Engineer stated that WSB reviews the work to ensure that it is completed to the specifications.

The City Administrator stated that the City can identify a subcontractor that they do not want to work with and advise a general contractor of that in the future but noted that this was the City's first experience with Village Green.

The City Attorney provided additional details on responsible bidders and the City's right to refuse if a bidder is found not to be responsible.

The City Engineer stated that the cracked apron reported by John Wingard, 1109 Depue Drive, is scheduled for repair within the project schedule.

Councilmember Johnson asked if there is a guarantee on the sod that will be installed later this fall.

The City Engineer confirmed that there is a guarantee on the sod and if it does not take it will be replaced. He stated that in his experience with the right weather, sodding can occur up until Thanksgiving and will still take.

Councilmember Karasek stated that there has been a reoccurring theme among the comments this evening of a lack of communication on the project. Recognizing that the City Engineer provides the City with excellent service overall, he asked why communications was an issue on this project.

The City Engineer stated that this was a good sized project that had some challenges with the volume and frequency of rain events which impacted the project schedule. He stated that most questions during the project related to scheduling and he did not have a solid schedule from the contractor to convey to the residents.

Councilmember Karasek asked if the City Engineer would choose the same contractor if the project were done again.

The City Engineer stated that the scheduling issues with the subcontractor do not put them in favor; however, he would have no issue with working with the general contractor again in the future. He noted that property acquisition also took additional time and impacted the final schedule and that combined with the rain volume/frequency there is no question that the project would still be this far along with this or a different general contractor.

Councilmember Miller asked for information regarding street lighting on Dayton River Road.

The City Engineer replied that the lighting would be installed at the intersection as that is a rural section of road, noting that should be installed in the next week or so.

Councilmember Miller stated that perhaps a Work Session could be scheduled to debrief on this process and determine what could be done to improve future projects.

Councilmember Karasek asked when the final project work would be completed. He noted that residents would most likely not be paying the assessment until the following spring and asked if the project would be completed at that time.

The City Engineer reviewed the project schedule, noting that weather may impact the final schedule.

Councilmember Johnson thanked the residents for their patience during construction and continued patience as the project is finished. He expressed appreciation for the comments given this evening and stated that they will be used to improve the City's processes.

Mayor Nelson asked if the City Engineer could send a follow-up letter to the residents with the schedule for the sod, electric and blacktop as well as the grant program.

The City Engineer noted that a notice was sent out today with that information.

Resolution 2016-66

Councilmember Johnson introduced the following resolution and moved its adoption:

A Resolution Adopting the Assessment Roll for South Diamond Lake Road, Depue Drive, Mississippi View Estates, and Dayton Road (Improvement Project No. 20813)

The motion for the adoption of the resolution was duly seconded by Councilmember Karasek, and upon vote being taken thereon, the following voted in favor thereof: Mayor Nelson, Councilmembers, Johnson, Karasek and Miller, and the following voted against the same: none, whereupon said resolution was passed this 11<sup>th</sup> day of October 2016.

#### New Business

First Reading of Zoning Ordinance Amendment to Section 126-269 Regarding the Commercial and Industrial Performance Standards for Noise: City of Champlin (Project 2016-21)

The City Planner stated that in July the Planning Commission reviewed a Conditional Use Permit for El Toro regarding an outdoor patio. He explained that a code provision was identified that sets a noise level of 40 decibels at the property line, which is quite low and it was determined that standard was antiquated and needed to be replaced. He stated that staff is recommending to delete that language and instead adopt the State standards. He stated that the State standard identifies 65 decibels during the daytime and 55 decibels during the evening hours. He advised that there is a duration period included in the standard and provided additional details. He stated that an informative guidebook was included in the Council packet which was developed by the MPCA. He recommended that the rules be adopted by reference. He stated that enforcement would entail purchase of a noise meter, noting that neighboring communities own the same equipment and use the same standard. He stated that staff is not aware of the any existing situations which would exceed the standard. He advised that El Toro has rescinded their application and may resubmit in the spring. He stated that the Planning Commission held a public hearing on this matter and recommended unanimous approval as presented.

Councilmember Miller stated that he recognizes the benefits and asked if there were any downsides other than the cost to purchase the meter.

The City Planner stated that this may bring the issue to the attention of more people and therefore

enforcement may come into play but felt that this standard is more reasonable and widely accepted.

Mayor Nelson asked who would be taking readings in the evenings, which are the most likely time for a noise complaint.

The City Planner stated that Community Development staff would be responsible for the measurements and noted that the MPCA specifies how to take and record measurements. He recognized that staff may need to take readings in the later hours of the day.

Motion

Motion by Councilmember Johnson and seconded by Councilmember Karasek to approve the first reading of zoning ordinance amendment to Section 126-269 regarding the commercial and industrial performance standards for noise. Voting in favor were Mayor Nelson, Councilmembers Johnson, Karasek and Miller. Voting against: none. Motion carried.

First Reading of  
Floodplain Ordinance  
Amendment to Section  
114 to Incorporate the  
Flood Insurance Study and  
Flood Insurance Rate Map  
Panels: City of Champlin  
(Project 2016-14)

The City Planner stated that there is a brand new flood insurance study for Hennepin County that will become effective November 4, 2016 and will replace the study that was done in 2004. He stated that the City needs to adopt an updated Floodplain Ordinance in line with the new regulations, noting that staff used the model supplied by the DNR. He noted that the primary objectives of this action would be to adopt the new study and the new flood map panels. He stated that there is no change for Champlin in terms of floodplain boundaries. He stated that the change is effective because of the Elm Creek Dam are not included in this and will move forward as a part of that process on its own. He stated that some housekeeping matters from FEMA are also included in the amendments. He advised that the Planning Commission held a public hearing, although it was not required, and the Commission recommended unanimous approval.

Mayor Nelson asked when the Council would be reviewing the changes for the dam project.

The City Administrator noted that will move forward with the next agenda item.

Councilmember Miller asked if this amendment would negatively impact the ability of residential properties to move off the flood insurance list from the dam improvements as planned.

The City Planner confirmed that this action would not hinder that process.

Motion

Motion by Councilmember Johnson and seconded by Councilmember Karasek to approve the first reading of Floodplain Ordinance amendment to Section 114 to incorporate the Flood Insurance Study and Flood Insurance Rate Map Panels. Voting in favor were Mayor Nelson, Councilmembers Johnson, Karasek and Miller. Voting against: none. Motion carried.

Resolution No. 2016-67  
Approving Plans and  
Specifications for Flood  
Control Berm in Three  
Rivers Park District  
(Improvement Project No.  
21609)

The Assistant City Engineer presented information on the proposed berm for the Three Rivers Park District property. He stated that there is a requirement for a trail to be placed on top of the berm as the funds secured by the Three Rivers Park District to purchase the park land specify that all the land be used for park uses. He stated that the full Three Rivers Park Commission will review this project later this month, but preliminary approval has been gained. He reviewed the proposed project schedule for 2016 and early 2017. He stated that FEMA is requiring the berm to be constructed at an 861 elevation, which is about three feet above the flood elevation. He stated that the berm construction was part of the CLMOR activities required by FEMA to submit the LOMR. He stated that the City will apply for a grant to FEMA, as that is the quickest route, and estimated that most of the work should be done by December and submit by the first of the year. He noted that FEMA is slow moving and therefore did not have a timeline for the response from FEMA for the LOMR. He stated that this is the last element that needs to be completed before the City submits the LOMR.

Councilmember Johnson referenced communication and asked if staff could place a PDF on the website that includes historical information and a proposed schedule and rough timeline, acknowledging that the City cannot anticipate the response time of FEMA.

The Assistant City Engineer noted that he has sent out recent communication and stated that he could provide a package of information that homeowners could use to negotiate with their mortgage company to reduce their flood insurance, or possibly obtain a rebate.

Councilmember Miller asked if there is a difference in cost from the original plan because of the new location.

The Assistant City Engineer stated that the cost would be higher because of the addition of the trail and estimated the difference to be about \$15,000 more.

Resolution 2016-67

Councilmember Johnson introduced the following resolution and moved its adoption:

A Resolution Approving Plans and Specifications for Flood Control Berm in Three Rivers Park District (Improvement Project No. 21609)

The motion for the adoption of the resolution was duly seconded by Councilmember Miller, and upon vote being taken thereon, the following voted in favor thereof: Mayor Nelson, Councilmembers, Johnson, Karasek and Miller, and the following voted against the same: none, whereupon said resolution was passed this 11<sup>th</sup> day of October 2016.

Adjournment

The Champlin City Council adjourned the regular meeting at 8:26 p.m.

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ArMand Nelson, Mayor

Attest:

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Roberta Colotti, CMC, City Clerk