

## **MINUTES OF THE REGULAR COUNCIL MEETING**

**Date November 8, 2012**

The Council Meeting was called to order by Mayor John Schaaf at 7:01 p.m. at the Community Meeting Room, 100 Village Center Drive, Suite 150, City of North Oaks, Minnesota. Present were Council Members Gregg Nelson, Marty Long, Bruce Ackerman, Tim Dunleavy and Mayor John Schaaf. Also present were City Administrator Melinda Coleman, City Attorney Dave Magnuson, Recording Secretary Linda Hanson, and Videographer Kevin Scattum.

### **Pledge of Allegiance**

### **Approval of Agenda**

Council Member Marty Long moved to approve the agenda with the addition of one item under New Business. The motion was seconded by Council Member Gregg Nelson and passed unanimously.

### **Citizen Comments**

The Mayor acknowledged that three seniors (Rachel Pederson, Alex Vanel, and Danielle Olson) from Centennial High School were sitting in on the meeting.

No Citizen comments

### **Consent Agenda**

1. Minutes of the Regular Council Meeting of October 11, 2012 for approval.
2. Planning Commission Minutes of October 25, 2012 for approval
3. Licenses for Approval:
  - Mechanical Contractors:** Custom Air Heating & AC, Palen Kimball, LLC, St. Paul Plumbing & Heating, Five Star Heating & AC
  - Plumbing & Heating:**
  - General Contractors:** Classic Construction of Cedar MN, Inc
  - Arborists:**
  - Sewer/Water Installation:** Classic Construction of Cedar MN, Inc.
4. Claims for Approval: Checks # 10240-10307

Council Member Long moved to accept the Consent Agenda and Claims for Checks # 10240-10307. The motion was seconded by Council Member Bruce Ackerman and passed unanimously.

### **Petitions, Requests & Communications**

None

### **Unfinished Business**

None

## **New Business**

### **1. Canvas 2012 Election Results**

Council Member Tim Dunleavy gave a report on the election results for the General Election on November 6<sup>th</sup>, 2012.

The total voters registered as of 7:00 AM were 3,427 with an additional 258 registering on voting day for a total of 3,685 registered voters. The total number who voted was 3,313. Absentee votes were 18% from Precinct One and 15.28% from Precinct Two. A total of 89.09% from the City of North Oaks voted in the election.

The Mayor won a third term with a total of 53.73%. Joe O'Brien received 25.32% with the remaining votes either write in's or left blank. The two spots on the Council were filled by Mike Egelston with a total of 51.95% and incumbent Marty Long with 57.20%.

Council Member Dunleavy congratulated the three candidates.

On a motion to accept the election results made by Council Member Nelson and seconded by Council Member Ackerman, the motion carried unanimously.

### **2. CUP 12-12 St. Paul Water Services for Replacement of Aeration System**

City Administrator Melinda Coleman gave an overview of the request for a CUP. This permit would allow a structure and equipment in a recreational district to replace the former aeration system. It would involve removing the current larger brick building on the site and replacing it with a diffuser system using a horizontal liquid oxygen tank and extensive screening to hide the system as much as possible.

The City Staff reviewed the application and visited the site a number of times. With the exception of the 12 x 12 pad, all equipment remains in the original footprint of the existing building.

Ms. Coleman gave a brief history of the Water Service's use of the land on the south side of Pleasant Lake. In 1898, they had a presence even before North Oaks was a City. In 1934 they built the compressor building and at that time there were no codes established for use of this land. In 1976 the recreational district was established and in 1991 the former aeration system was put into place along with an addition to the compressor building. In October of 2012 an amendment to the Zoning Ordinance was approved allowing for a CUP for essential services to build a structure on recreational land.

St. Paul Water Services provides water to 400,000 residents in twelve communities. The vaporizer will be 18.5 feet tall and the tank will be 12 feet high. The applicant has taken steps to minimize the aesthetics, noise and delivery impacts to the area.

Dave Schuler gave a short history of the St. Paul Water Services presence on the Lake at the public hearing on October 25<sup>th</sup>, 2012. Prior to that, Ms. Coleman sent out notices to 28 residences within 1000 feet of the property along with notices to the North Oaks Golf Club, NOHOA, and the St. Paul Water Services. Also a notice was published in the Shoreview News. Ms. Coleman received three comments. One was from the residents at 1 East Pleasant Lake Road who were concerned about the noise. Once they learned that the new system should be quieter, they seemed satisfied. One email stated a desire to keep the current brick building if possible. It appears that this is not a possibility, but a brick wall may still be used. A comment from Bob Tipler, 2 Evergreen Court, expressed support for the project, but was concerned about open water in the winter. Since the system will be shut down in October of each year and not run in the winter, it will not create open water. The North Oaks Golf Club is also in support of this system. At the public hearing the concerns expressed were on the aesthetics and screening, safety, and desire to consider another site. Also, there were comments on support for the health of the lake. St. Paul Water Services is willing to work with the City to screen the equipment and minimize the impact. Safety issues were addressed and this does not appear to be an issue. The other suggested site does not meet the needs for this system.

The St. Paul Water Service has been working with the City since March of 2010. A public meeting with residents was held at that time. Since then several discussions and studies have been done.

Dave Schuler, chief engineer from the St. Paul Water Authority, addressed the Council. Preliminary plans are now done to improve the water quality of Pleasant Lake. Pleasant Lake is one of three primary reservoirs (Pleasant, Sucker and Lake Vadnais) used by the St. Paul Water Service. The plan is to replace the former aeration system to provide oxygen to the lower lake as it is called. Twelve billion gallons of water a year pass through these reservoirs. This causes organic material to settle on the bottom of the lake and then feed bacteria. The bacterium consumes the oxygen. By replacing the oxygen, phosphorus levels are kept down reducing the algae bloom and improving the overall water quality.

The former system was noisy and expensive to maintain. The new system will maintain what was formally used but be a big improvement. The lake will get much worse without an updated system. The new design delivers 100% pure oxygen instead of 30%. No mechanical parts are needed. The liquid oxygen evaporates and becomes gaseous. It is then diffused out to the east and west side of the lake. This system involves less maintenance with no divers needed like in the past. It will do a better job with more coverage but be less noisy and intrusive.

The tank will be horizontal and screened with a fence and trees. The old compressor building will have to go, and Mr. Schuler does not recommend keeping the south wall. He would like to use an aluminum woven fence on three sides, but would consider using a brick wall. He is willing to work with the City on this.

Council Member Nelson reported on the Oxygen Committee that evaluated the system and reviewed the proposal. The Committee looked at whether or not the system would work well. They hired an engineer who stated that this was a good system. They also asked for outside counsel as well as an opinion from the City Attorney Dave Magnuson on the legal rights of the City. And finally, they looked at the aesthetics of the system. It was decided that the tank should sit horizontally rather than vertically to minimize the intrusiveness of the tank. They also investigated an alternative site on the Charley Lake canal, but decided against it for a number of reasons. Outside counsel did recommend that the Zoning Ordinance be amended to allow the CUP in a recreational district which has now been done. In light of the water quality issues and the willingness of the St. Paul Water Service to work with the City on the aesthetics, the Committee made a recommendation to move forward and the request went to the Planning Commission.

Council Member Dunleavy asked if this system would change the parking lot used by many residents. It should not, but a barrier might need to be added to make room for the truck deliveries. Mr. Dunleavy also expressed his appreciation for the work done.

Council Member Bruce Ackerman also thanked Mr. Schuler for working with the City. He stated he was opposed to the site location but recognized that the system is needed. He expressed his desire to have the best screening possible and likes the idea of a 3 sided brick wall if that is easier to construct and less expensive than using a portion of the existing building as one side of the wall. He would like to see similar bricks used so that the new wall will not stand out.

Council Member Long stated that the plan shows a good amount of screening for road side views, but he has concerns about the lake side view. We would like a plan for that side as well. He also questioned if the lines carrying oxygen would be near the surface. It was explained that the lines sit two feet off the bottom of the lake. Mr. Long also questioned the color of the tank and asked if a color other than white would blend better with the surroundings. Council Member Ackerman stated that green might blend if evergreens were used for screening.

Council Member Nelson asked about the delivery schedule for the oxygen. Mr. Schuler explained that deliveries are fairly predictable about every ten days when the system is running. In three to five years, he is hoping the tank can be replaced with one half the size and deliveries might not be as often. In regards to paint color, he stated that perhaps they could paint the part that is visible since the tank will be rented until a smaller tank can be used.

Council Member Nelson made a motion to approve CUP 12-12 with the following conditions (note: corrections to the initial resolution were made with this motion):

1. The project construction shall be in compliance with the plan date stamped on file in the City Office.

2. Equipment shall not be visible to the general public. The location and screening of the equipment shall be reviewed and found acceptable to the Planning Commission and the City Council prior to issuance of a Conditional Use Permit. Screening would be on four sides of the system.
3. Complete a tree protection plan for the site, for review by the City Forester prior to issuance of a building permit. The plans must show which trees are proposed to be removed and where new replacement and screening trees will be located.
4. All trees required to remain on site, as indicated on the plans, shall be protected by fencing or other necessary measures must be taken to prevent damage during any construction activity.
5. All landscaping must be installed before final project inspection.
6. A parking lot plan shall be submitted and found acceptable for users of the NOHOA trail so that there is no net loss of parking spaces and to physically delineate the proper space needed to accommodate delivery truck movements.
7. If feasible, a 3 sided brick wall must be constructed to partially replace the walls of the existing building. This will also satisfy the requirement to fence as set forth in Section 2, except for the 4<sup>th</sup> side.
8. A lighting plan showing the fixture type, height, location and exterior lighting intensity must be submitted with building permit plans for City Administrator approval. All lighting must be directed away from the street and adjacent properties. Light sources shall be shielded from direct view and protected from damage by vehicles.
9. The street address of the building shall be displayed in a location conspicuous from the public street.
10. The project upon completion project must conform to the City's Noise Ordinance.
11. That the Final Landscape/Screening Plan be submitted to the Planning Commission and City Council for final review.
12. That all costs of screening and other conditions of approval be paid by the SPRWS.

Council Member Long seconded the motion.

Council Member Ackerman wanted to know what the process would be for a plan to watch the screening and for working with the St. Paul Water Service. Mayor Schaaf stated that issues would best be dealt with through the Planning Commission and that Mr. Ackerman could attend the meetings. Council Member Ackerman stated that he would like to work with City Administrator Coleman. The Mayor stated that the applicant is entitled to come to the Planning Commission and the City Council is not allowed to influence the Planning Commission or applicant. Mayor Schaaf stated that caution should be considered.

Council Member Ackerman wanted to add that the City Council also has approval rights for any final landscape/screening plan. An amendment to the above motion was made by Council Member Nelson and was seconded by Council Member Long and passed unanimously.

Council Member Ackerman also addressed number seven and wanted more specificity. He would like to have a brick wall. He is not in favor of an aluminum wall. He would like to see a three sided brick structure built. City Attorney Dave Magnuson changed the language to read "if feasible, a three sided brick wall must be constructed to partially replace the walls of the existing building. This will also satisfy the requirement to fence as set for in Section 2 except for the fourth side. Council Member Nelson moved to recommend this amendment to include the new language above and Council Member Long seconded the motion.

Mayor Schaaf had a concern about how the tank could be then removed if the three walls were brick and a lot of foliage was around the system. His suggestion is to allow the design to go through the Planning Commission process and that the engineers should come with a final plan. Council Member Ackerman wanted specific language as he is concerned about the beauty of the site. Dave Schuler stated that he would like to see this left open so that the issue could be looked at. Mr. Ackerman wanted it settled at the meeting. The language will include the three sided brick wall and the City Council will have final approval. Also in number two the Planning Commission and City Council will also have final approval.

Once the above language was crafted, a motion by Council Member Nelson and seconded by Council Member Ackerman was made to add this language and the motion carried unanimously.

A vote was taken on the motion to approve the main motion with the amendments and it also carried unanimously.

### **3. Resolution #1266 Authorization of Bond Sale for Lake Gilfillan Water Augmentation Project**

City Administrator Coleman introduced Doug Greene and Nick Dragasich from Springsted. Doug Greene stated he was at the meeting to pass Resolution 1266 to set the sale of the improvement bonds to refund the construction loans from U.S. Bank. If the market changes in the meantime, the sale can be delayed. He gave the Council two documents. The first was a presale report. The sale is set for December 13<sup>th</sup>, 2012 at 10:30 AM. He expects good reception for this sale from local underwriters even though it is a small bond sale. At the December 13<sup>th</sup> City Council meeting he will bring the results of the sale.

A second document dealt with the option for the City to seek a credit rating. This rating gives an opinion about the issuer's ability to repay the obligation in a timely manner. The rating is done by Moody's or S & P based on a number of things including the finances, the size, the debt, and market values of the City among other things. If the City does get a credit rating, the interest rate would be based on this rating, but it would not amount to much money saved. It would cost the homeowners involved \$8,500 to get this rating and take about 5 hours of Ms. Coleman's time. The rating would be used for this sale only. Each property would

save approximately \$37.00 per year. Council Member Dunleavy stated that it does not make sense to pursue this since the cost is about the same as the savings and if a credit rating was needed in the future this credit rating would have to be reissued for an additional cost.

Council Member Nelson made a motion to pass on the credit rating option as it has no economic benefit to the homeowners. Council Member Ackerman seconded the motion and it passed unanimously.

Mr. Green stated that the main bond will be for a \$555,000 General Obligation Funding Bond. When levied it will be 105% and the annual revenue will equal the debt service on the bonds.

The Mayor asked if the City Attorney had any issue with Resolution #1266 and he stated he did not.

Council Member Ackerman made a motion to approve Resolution #1266 Authorization of Bond Sale for Lake Gilfillan Water Augmentation Project. Council Member Nelson seconded the motion and it carried unanimously. (Attachment 1)

#### **4. Agreement for Law Enforcement Services for 2013-2015**

City Administrator Coleman presented the contract from Ramsey County for Law Enforcement Services through December 31<sup>st</sup> 2015. Few changes have been made on the contract. Only one item of significance was added which was the addition of the new position for an animal control officer serving the seven communities.

City Attorney Magnuson as well as the County Attorney had also reviewed the contract. It is a detailed contract and has been thoroughly reviewed.

Council Member Dunleavy made the motion to approve the contract with Ramsey County for Law Enforcement Services and was seconded by Council Member Nelson.

Council Member Dunleavy stated that this is a National model of communities working together for public services.

The motion carried unanimously.

#### **5. Rapp Farm Phase 3 Development Contract Agreement**

Ms. Coleman explained that the contract is for the second stage of Phase 3. Phase 1 of Phase 3 has been already approved and this development contract mimics the previous phases with the only change in the dollar amount needed from the North Oaks Company to make sure all conditions are met. The amount needed is \$231,345.

The Contract has been reviewed by the City Attorney Dave Magnuson as well as by the City Engineer, Mr. Pearson from MFRA. Ms. Coleman recommends that the City approve this contract to provide all necessary services, landscaping, streets, trails etc. Most of the work has already been done. The last amount needed to complete this phase is \$181,000 with a 105% collection amount.

Council Member Ackerman asked if this phase has already been approved. Ms. Coleman explained that the first part of Phase 3 has been approved. This contract is for the final plans of the Development Plan for the next piece of Phase 3.

Council Member Long mentioned that he would like to see items such as this Development Contract earlier than the day of the Council meeting. Ms. Coleman explained that the North Oaks Company was waiting on information regarding the land survey from Ramsey County for parcel numbers and due to the fact that the Council only meets once a month it is important to get Council consent on the Agreement and to not hold up the Company on a standard process.

Council Member Ackerman moved to approve the Development Contract Agreement for Rapp Farm, Phase 3. The motion was seconded by Council Member Nelson and passed unanimously.

## **Council Member Reports**

### **1. Tim Dunleavy**

#### **Finance Committee**

Council Member Dunleavy mentioned that the Finance Committee met last Tuesday and the full report on the 2013 Budget will be addressed later in the meeting.

He also stated that he and the Mayor just completed the annual review for Ms. Coleman's contract.

#### **Lake Johanna Fire Board**

The Lake Johanna Fire Board will meet on November 11 and will be his final meeting.

### **2. Bruce Ackerman**

#### **NOHOA**

Council Member Ackerman attended the NOHOA Board meeting on November 1, 2012.

City Administrator Coleman and City Forester Mark Rehder attended the NOHOA meeting to report on Emerald Ash Borer. They completed an inventory and on ten, one tenth mile segments and over 1,000 ash trees were counted with about half of them hazardous to the trails. Fewer ash trees are on the road. It is expected that about 50 trees a year will die over a ten year

span.

On the NOHOA Board there are six candidates for five positions. Three are incumbents. They also discussed the budget and ballot that will take place at the annual meeting in December. The annual dues will be going from \$840 to \$860. The West Rec Center will also be on the ballot.

NOHOA has decided to hire an executive director and an assistant director. They plan to increase the hours of the NOHOA office to 8:30 AM to 4:30 PM.

A discussion took place on the privacy of the meetings. Board Member Rux made a motion on attorney client privilege, but the motion did not pass.

### **3. Marty Long**

#### **NRC**

The NRC will meet on November 13<sup>th</sup> this month because of elections.

Council Member Long explained that when an ash tree dies, it dies from the top down and the root ball then causes the tree to topple. Most of the trees will fall into the water as they are located close to Pleasant Lake on the trail. He asked City Administrator Coleman if NOHOA understands the expense that is involved in the EAB plan. Ms. Coleman explained that NOHOA was receptive and willing to work with the City to deal with this problem.

#### **VLAWMO**

No report.

Council Member Long will be meeting with Helene Johnson from the Ramsey County League of Local Government to discuss the EAB issue and how the cities in Ramsey County can work together on this issue.

Council Member Long also questioned if a resident guide should be created. Ms. Coleman explained that she is working with the NRC to discuss what projects they should work on.

### **4. Gregg Nelson**

#### **Planning Commission**

At the last Planning Commission meeting, the focus was on the Oxygenation Project presented by the St. Paul Water Service. Since the issue has been approved, the Oxygenation Committee has disbanded.

### **Mayor John Schaaf**

No report.

## **Administrator Reports**

### **1. Status of 2013 Proposed Budget**

Ms. Coleman presented the updated Budget for 2013 with minor revisions to the latest version. Council Member Dunleavy who serves on the Finance Committee stated that they have been working on the Budget the past four months.

Ms. Coleman explained that the increase in Public Safety and the Lake Johanna Fire Department Capital requirements led to a 3% increase in the tax levy. The 2013 Budget overall is a 9% increase from 2012 due to building increases which is reflected on both the revenue and expenditure sides.

The Finance Committee began working on the Budget in August of 2012. The Truth in Taxation hearing has been set for December 3<sup>rd</sup> at 7:00 PM. The final Budget adoption is set for December 13<sup>th</sup>, but the Council has until December 28<sup>th</sup> to approve the Budget if needed.

Version 4.5 shows a tax increase of \$40,036.00 over the 2012 Budget with the assumption that building permits will be the same or higher for 2013. No fee or permit increases are planned at this time. This version also includes an increase from \$20,000 to \$29,000 for the Lake Johanna Fire Department Capital Equipment expense. A small increase in additional income of \$308 was added on line 116 due to aid received from PERA for the public retirement plan.

Total receipts for taxes and assessments are \$1,393,767 which is the same as in previous versions. Total revenue is \$1,393,767 or 62% of the Budget and \$526,817 from fees for service or 38% of the Budget for a total operating budget of \$1,920,892.

The Public Safety portion of the Budget was increased to \$850,094 for slight increases in deputies' salaries. The current Budget reflects the increase of \$29,000 for fire capital and a transfer of \$35,000 from the Building Fund and \$35,000 from the Fire Fund due to the \$170,000 request from the Lake Johanna Fire Department. This leaves a balance of \$71,000 which will be due in 2014. After 2014 the LJFD expense will go down for about three years and then will need to increase again to fund capital expenses.

The revisions on the expense side include an increase of 1% or \$1,732 for wages. Ms. Coleman is in the process of doing a salary survey and will present her findings at an upcoming Council meeting. The Budget also reflects an increase of \$2,400 for the financial consultant, Sue Iverson. In addition to the financial tasks she is currently assisting the City with, she will also save the City contract costs for the auditor services. It is estimated that the city could save \$500 or more for Auditor services.

An additional increase of \$8,000 for the S&S Tree contract was put back into the Budget which keeps the amount the same as in the 2012 Budget.

The 2013 Budget shows an increase of \$11,632 over the previous versions. The Budget was adjusted by taking \$1,940 out of the unallocated funds set aside and \$9,700 out of the contingency funds. The increase in building permits of \$74,000 is basically a pass through so if money does not come in, it also does not go out so it is not an adverse risk in the current Budget.

The current Budget version 4.5 shows an \$11,000 increase over the previous version and results in a lowering of the Contingency Fund from \$9,700 to \$6,300. Council Member Dunleavy explained that this fund is used for things like tax petitions and other items that may occur.

Council Member Ackerman asked what the final increase over the 2012 Budget actually was. Ms. Coleman explained that it was just over \$40,000 and of this \$29,000 went to the LJFD capital fund and almost \$11,000 for the increase in Public Safety.

The Mayor stated that we should keep a Contingency Fund. The final Budget will most likely be approved at the December 13<sup>th</sup> meeting.

## **2. Truth in Taxation Meeting Why and When**

The Truth in Taxation Hearing will take place on December 3<sup>rd</sup> at 7:00 PM. The City has followed the State legislative process. On September 15<sup>th</sup>, the Preliminary Levy was set. The Truth in Taxation hearing must take place after November 24<sup>th</sup>. The notice of the Hearing on December 3<sup>rd</sup> was published in the Shoreview Press and North Oaks News. Between November 11<sup>th</sup> and November 23<sup>rd</sup> the County Auditor prepares and sends out notices of what taxes may look like. The purpose of the Public Hearing is to allow residents a chance to comment on the proposed Budget. The final Budget must be certified by December 28<sup>th</sup>, 2012.

## **3. 2012 Planned Budget vs Actual Expenditures to Date**

City Administrator Coleman explained that the City has taken in \$1,317,976 to date. The anticipated receipts are \$1,750,704. The City is expecting \$659,000 from Ramsey County for the second half of property taxes and the recycling assessment. The City anticipates ending the year ahead of projections with income of \$1,978,077. On the expense side, some expenses are over budget mostly related to inspections. To date the total expenditures are \$1,748,573 with the 2012 Budget set at \$1,750,704. It is projected that the year will end with expenditures at \$1,890,094. The City is expecting to get reimbursed \$65,000 for the Lake Gilfillan Project once the bonds are sold as well as additional reimbursements from developers (about \$6,000) and the second half franchise cable payment of \$39,000. Ms. Coleman projects that the City will finish the year under budget. In 2011 the City was over budget due to

unexpected tax petitions.

#### **4. Pentom/Charley Lake Requested Extension**

City Administrator Coleman explained that Dan Herbst from Pentom has requested an extension of their application to January 23, 2013. This has been published in the newspaper and an email has been sent out to interested residents. The City assumes they will need to start the process over unless they stay with their original plan. They appear to be looking for new options for this property including another builder.

#### **5. 2013 Advisory Board Appointments**

Ms. Coleman asked the Council how they wanted to proceed with Board Appointments. Currently, three members of the Planning Commission have terms that expire at the end of the year. All are interested in continuing. The past practice has allowed members to stay on as long as they are serving the Community.

The NRC was established in 2011 and had six members plus one City Council liaison (currently Council Member Long). Two members had one year terms (Richard Wright and Jack Mackenzie) ending in 2012 and one vacancy for Missy Patty's term that would have ended in 2013. Ms. Coleman has a list of interested people for this committee. She is asking the Council to give direction on how the City should proceed.

The Mayor explained that in the past the Council members would forward names to the City and then the City Administrator would call each person to find out his or her interest in serving. If more names were needed, then the City would recruit using the newspaper. Council Member Dunleavy suggested that the City do an open call to see if there is interest in either serving on the Planning Commission or the NRC.

Ms. Coleman agreed to publish in the next North Oaks News the openings available. The Mayor suggests she then talk to each person to let each know the responsibility involved. At the January meeting, the final selections would be made by the City Council.

The Mayor stated that if any resident is interested in serving, he or she should contact the City Administrator as soon as possible for consideration.

#### **City Attorney Reports**

No special legal problems at this time.

## **Miscellaneous**

Next Natural Resource Commission Meeting – Tuesday, November 13<sup>th</sup>, 2012 @ 7:00 pm. in the Community Meeting Room

Next Planning Commission Meeting – Thursday, November 29, 2012 @7:00 pm in the Community Meeting Room

The Truth in Taxation Hearing for the City of North Oaks - Monday, December 3<sup>rd</sup>, 2012 @ 7:00 pm in the Community Meeting Room

Next Regularly Scheduled Council Meeting – Thursday, December 13<sup>th</sup> @ 7:00 pm in the Community Meeting Room

## **Adjournment**

On motion duly made by Council Member Dunleavy, seconded by Council Member Nelson and carried unanimously, the meeting was adjourned at 9:18 p.m.

Attest:

Respectfully submitted,

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Mayor John Schaaf

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Linda M. Hanson  
Recording Secretary

Attachment 1

EXTRACT OF MINUTES OF A MEETING  
OF THE CITY COUNCIL  
CITY OF NORTH OAKS, MINNESOTA

HELD: NOVEMBER 8, 2012

Pursuant to due call and notice thereof, a regular or special meeting of the City Council of the City of North Oaks, Ramsey County, Minnesota, was duly held at the City Hall on November 8, 2012, at 7:00 P.M. for the purpose in part of authorizing the competitive negotiated sale of the \$565,000 General Obligation Improvement Refunding Bonds, Series 2013A.

The following members were present:

and the following were absent:

Member Bruce Ackerman introduced the following resolution and moved its adoption:

RESOLUTION #1266 PROVIDING FOR THE COMPETITIVE NEGOTIATED SALE OF  
\$565,000 GENERAL OBLIGATION IMPROVEMENT REFUNDING BONDS, SERIES  
2013A

A. WHEREAS, the City Council of the City of North Oaks, Minnesota (the "City"), has heretofore determined that it is necessary and expedient to issue \$565,000 General Obligation Improvement Refunding Bonds, Series 2013A (the "Bonds") to refund the City's General Obligation Improvement Bonds, Series 2011, dated September 26, 2011; and

B. WHEREAS, the City has retained Springsted Incorporated, in Saint Paul, Minnesota ("Springsted"), as its independent financial advisor and is therefore authorized to sell these obligations by a competitive negotiated sale in accordance with Minnesota Statutes, Section 475.60, Subdivision 2(9); and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of North Oaks, Minnesota, as follows:

1. Authorization. The City Council hereby authorizes Springsted to solicit proposals for the competitive negotiated sale of the Bonds.

2. Meeting; Proposal Opening. This City Council shall meet at the time and place specified in the Terms of Proposal attached hereto as Exhibit A for the purpose of considering sealed proposals for, and awarding the sale of, the Bonds. The proposals shall be received at the offices of Springsted and shall be opened at the time specified in such Terms of Proposal.

3. Terms of Proposal. The terms and conditions of the Bonds and the negotiation thereof are fully set forth in the "Terms of Proposal" attached hereto as Exhibit A and hereby approved and made a part hereof.

4. Official Statement. In connection with the sale, the City Administrator, Mayor and other officers or employees of the City are hereby authorized to cooperate with Springsted and participate in the preparation of an official statement for the Bonds, and to execute and deliver it on behalf of the City upon its completion.

The motion for the adoption of the foregoing resolution was duly seconded by Member Gregg Nelson and, after full discussion thereof and upon a vote being taken thereon, the following voted in favor thereof: Council Members Bruce Ackerman, Tim Dunleavy, Marty Long, Gregg Nelson, and Mayor John Schaaf.

Whereupon the resolution was declared duly passed and adopted.

Adopted this 8th day of November, 2012.

STATE OF MINNESOTA  
COUNTY OF RAMSEY  
CITY OF NORTH OAKS

I, the undersigned, being the duly qualified and acting City Administrator of the City of North Oaks, Minnesota, DO HEREBY CERTIFY that I have compared the attached and foregoing extract of minutes with the original thereof on file in my office, and that the same is a full, true and complete transcript of the minutes of a meeting of the City Council duly called and held on the date therein indicated, insofar as such minutes relate to the City's \$565,000 General Obligation Improvement Refunding Bonds, Series 2013A.

WITNESS my hand on November 8, 2012.

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City Administrator

EXHIBIT A

THE CITY HAS AUTHORIZED SPRINGSTED INCORPORATED TO NEGOTIATE THIS ISSUE ON ITS BEHALF. PROPOSALS WILL BE RECEIVED ON THE FOLLOWING BASIS:

TERMS OF PROPOSAL

\$565,000\*

CITY OF NORTH OAKS, MINNESOTA

GENERAL OBLIGATION IMPROVEMENT REFUNDING BONDS, SERIES 2013A

(BOOK ENTRY ONLY)

Proposals for the Bonds and the Good Faith Deposit ("Deposit") will be received on Thursday, December 13, 2012, until 10:30 A.M., Central Time, at the offices of Springsted Incorporated, 380 Jackson Street, Suite 300, Saint Paul, Minnesota, after which time proposals will be opened and tabulated. Consideration for award of the Bonds will be by the City Council at 7:00 P.M., Central Time, of the same day.

SUBMISSION OF PROPOSALS

Springsted will assume no liability for the inability of the bidder to reach Springsted prior to the time of sale specified above. All bidders are advised that each Proposal shall be deemed to constitute a contract between the bidder and the City to purchase the Bonds regardless of the manner in which the Proposal is submitted.

(a) **Sealed Bidding.** Proposals may be submitted in a sealed envelope or by fax (651) 223-3046 to Springsted. Signed Proposals, without final price or coupons, may be submitted to Springsted prior to the time of sale. The bidder shall be responsible for submitting to Springsted the final Proposal price and coupons, by telephone (651) 223-3000 or fax (651) 223-3046 for inclusion in the submitted Proposal.

**OR**

(b) **Electronic Bidding.** Notice is hereby given that electronic proposals will be received via PARITY<sup>®</sup>. For purposes of the electronic bidding process, the time as maintained by PARITY<sup>®</sup>

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\* Preliminary; subject to change.

shall constitute the official time with respect to all Bids submitted to PARITY®. *Each bidder shall be solely responsible for making necessary arrangements to access PARITY® for purposes of submitting its electronic Bid in a timely manner and in compliance with the requirements of the Terms of Proposal.* Neither the City, its agents nor PARITY® shall have any duty or obligation to undertake registration to bid for any prospective bidder or to provide or ensure electronic access to any qualified prospective bidder, and neither the City, its agents nor PARITY® shall be responsible for a bidder's failure to register to bid or for any failure in the proper operation of, or have any liability for any delays or interruptions of or any damages caused by the services of PARITY®. The City is using the services of PARITY® solely as a communication mechanism to conduct the electronic bidding for the Bonds, and PARITY® is not an agent of the City.

If any provisions of this Terms of Proposal conflict with information provided by PARITY®, this Terms of Proposal shall control. Further information about PARITY®, including any fee charged, may be obtained from:

PARITY®, 1359 Broadway, 2<sup>nd</sup> Floor, New York, New York 10018

Customer Support: (212) 849-5000

## DETAILS OF THE BONDS

The Bonds will be dated January 1, 2013, as the date of original issue, and will bear interest payable on February 1 and August 1 of each year, commencing August 1, 2013. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

The Bonds will mature February 1 in the years and amounts\* as follows:

2014	\$55,000
2015	\$55,000
2016	\$55,000
2017	\$55,000
2018	\$55,000
2019	\$55,000
2020	\$55,000
2021	\$60,000
2022	\$60,000
2023	\$60,000

- \* *The City reserves the right, after proposals are opened and prior to award, to increase or reduce the principal amount of the Bonds or the maturity amounts offered for sale. Any such increase or reduction will be made in multiples of \$5,000 in any of the maturities. In the event the principal amount of the Bonds is increased or reduced, any premium offered or any discount taken by the successful bidder will be increased or reduced by a percentage equal to the percentage by which the principal amount of the Bonds is increased or reduced.*

Proposals for the Bonds may contain a maturity schedule providing for a combination of serial bonds and term bonds. All term bonds shall be subject to mandatory sinking fund redemption at a price of par plus accrued interest to the date of redemption and must conform to the maturity schedule set forth above. In order to designate term bonds, the proposal must specify "Years of Term Maturities" in the spaces provided on the Proposal Form.

### BOOK ENTRY SYSTEM

The Bonds will be issued by means of a book entry system with no physical distribution of Bonds made to the public. The Bonds will be issued in fully registered form and one Bond, representing the aggregate principal amount of the Bonds maturing in each year, will be registered in the name of Cede & Co. as nominee of The Depository Trust Company ("DTC"), New York, New York, which will act as securities depository of the Bonds. Individual purchases of the Bonds may be made in the principal amount of \$5,000 or any multiple thereof of a single maturity through book entries made on the books and records of DTC and its participants. Principal and interest are payable by the registrar to DTC or its nominee as registered owner of the Bonds. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC; transfer of principal and interest payments to beneficial owners by participants will be the responsibility of such participants and other nominees of beneficial owners. The purchaser, as a condition of delivery of the Bonds, will be required to deposit the Bonds with DTC.

### REGISTRAR

The City will name the registrar which shall be subject to applicable SEC regulations. The City will pay for the services of the registrar.

### OPTIONAL REDEMPTION

The City may elect on February 1, 2021, and on any day thereafter, to prepay Bonds due on or after February 1, 2022. Redemption may be in whole or in part and if in part at the option of the City and in such manner as the City shall determine. If less than all Bonds of a maturity are called for redemption, the City will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to

be redeemed and each participant will then select by lot the beneficial ownership interests in such maturity to be redeemed. All prepayments shall be at a price of par plus accrued interest.

## SECURITY AND PURPOSE

The Bonds will be general obligations of the City for which the City will pledge its full faith and credit and power to levy direct general ad valorem taxes. In addition, the City will pledge special assessments against benefited properties. The proceeds will be used to refund the City's General Obligation Improvement Bonds, Series 2011, dated September 26, 2011.

## BIDDING PARAMETERS

Proposals shall be for not less than \$557,090 and accrued interest on the total principal amount of the Bonds.

No proposal can be withdrawn or amended after the time set for receiving proposals unless the meeting of the City scheduled for award of the Bonds is adjourned, recessed, or continued to another date without award of the Bonds having been made. Rates shall be in integral multiples of 5/100 or 1/8 of 1%. Rates are not required to be in level or ascending order; however, the rate for any maturity cannot be more than 1% lower than the highest rate of any of the preceding maturities. Bonds of the same maturity shall bear a single rate from the date of the Bonds to the date of maturity. No conditional proposals will be accepted.

## GOOD FAITH DEPOSIT

Proposals, regardless of method of submission, shall be accompanied by a Deposit in the amount of \$5,650, in the form of a certified or cashier's check, a wire transfer, or Financial Surety Bond and delivered to Springsted Incorporated prior to the time proposals will be opened. Each bidder shall be solely responsible for the timely delivery of their Deposit whether by check, wire transfer or Financial Surety Bond. Neither the City nor Springsted Incorporated have any liability for delays in the transmission of the Deposit.

Any Deposit made by **certified or cashier's check** should be made payable to the City and delivered to Springsted Incorporated, 380 Jackson Street, Suite 300, St. Paul, Minnesota 55101.

Any Deposit sent via **wire transfer** should be sent to Springsted Incorporated as the City's agent according to the following instructions:

Wells Fargo Bank, N.A., San Francisco, CA 94104

ABA #121000248

for credit to Springsted Incorporated, Account #635-5007954

Ref: North Oaks, MN Series 2013A Good Faith Deposit

Contemporaneously with such wire transfer, the bidder shall send an e-mail to [bond\\_services@springsted.com](mailto:bond_services@springsted.com), including the following information; (i) indication that a wire transfer has been made, (ii) the amount of the wire transfer, (iii) the issue to which it applies, and (iv) the return wire instructions if such bidder is not awarded the Bonds.

Any Deposit made by the successful bidder by check or wire transfer will be delivered to the City following the award of the Bonds. Any Deposit made by check or wire transfer by an unsuccessful bidder will be returned to such bidder following City action relative to an award of the Bonds.

If a **Financial Surety Bond** is used, it must be from an insurance company licensed to issue such a bond in the State of Minnesota and pre-approved by the City. Such bond must be submitted to Springsted Incorporated prior to the opening of the proposals. The Financial Surety Bond must identify each underwriter whose Deposit is guaranteed by such Financial Surety Bond. If the Bonds are awarded to an underwriter using a Financial Surety Bond, then that underwriter is required to submit its Deposit to the City in the form of a certified or cashier's check or wire transfer as instructed by Springsted Incorporated not later than 3:30 P.M., Central Time on the next business day following the award. If such Deposit is not received by that time, the Financial Surety Bond may be drawn by the City to satisfy the Deposit requirement.

The Deposit received from the purchaser, the amount of which will be deducted at settlement, will be deposited by the City and no interest will accrue to the purchaser. In the event the purchaser fails to comply with the accepted proposal, said amount will be retained by the City.

#### AWARD

The Bonds will be awarded on the basis of the lowest interest rate to be determined on a true interest cost (TIC) basis. The City's computation of the interest rate of each proposal, in accordance with customary practice, will be controlling.

The City will reserve the right to: (i) waive non-substantive informalities of any proposal or matters relating to the receipt of proposals and award of the Bonds, (ii) reject all proposals without cause, and (iii) reject any proposal that the City determines to have failed to comply with the terms herein.

#### CUSIP NUMBERS

If the Bonds qualify for assignment of CUSIP numbers such numbers will be printed on the Bonds, but neither the failure to print such numbers on any Bond nor any error with respect thereto will constitute cause for failure or refusal by the purchaser to accept delivery of the Bonds. The CUSIP Service Bureau charge for the assignment of CUSIP identification numbers shall be paid by the purchaser.

#### SETTLEMENT

Within 40 days following the date of their award, the Bonds will be delivered without cost to the purchaser through DTC in New York, New York. Delivery will be subject to receipt by the purchaser of an approving legal opinion of Briggs and Morgan, Professional Association, of Saint Paul and Minneapolis, Minnesota, and of customary closing papers, including a no-litigation certificate. On the date of settlement, payment for the Bonds shall be made in federal, or equivalent, funds that shall be received at the offices of the City or its designee not later than 12:00 Noon, Central Time. Unless compliance with the terms of payment for the Bonds has been made impossible by action of the City, or its agents, the purchaser shall be liable to the City for any loss suffered by the City by reason of the purchaser's non-compliance with said terms for payment.

#### CONTINUING DISCLOSURE

Participating underwriters need not comply with the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the "Rule"), because the offering is in a principal amount less than \$1,000,000. Consequently, the City will not enter into any undertaking to provide continuing disclosure of any kind with respect to the Bonds.

#### OFFICIAL STATEMENT

The City has authorized the preparation of an Official Statement containing pertinent information relative to the Bonds, and said Official Statement will serve as a nearly final Official Statement within the meaning of Rule 15c2-12 of the Securities and Exchange Commission. For copies of the Official Statement or for any additional information prior to sale, any prospective purchaser is referred to the Financial Advisor to the City, Springsted Incorporated, 380 Jackson Street, Suite 300, Saint Paul, Minnesota 55101, telephone (651) 223-3000.

The Official Statement, when further supplemented by an addendum or addenda specifying the maturity dates, principal amounts and interest rates of the Bonds, together with any other information required by law, shall constitute a "Final Official Statement" of the City with respect to the Bonds, as that term is defined in Rule 15c2-12. By awarding the Bonds to any underwriter or underwriting syndicate submitting a proposal therefor, the City agrees that, no more than seven business days after the date of such award, it shall provide without cost to the senior managing underwriter of the syndicate to which the Bonds are awarded 25 copies of the Official Statement and the addendum or addenda described above. The City designates the senior managing underwriter of the syndicate to which the Bonds are awarded as its agent for purposes of distributing copies of the Final Official Statement to each Participating Underwriter. Any underwriter delivering a proposal with respect to the Bonds agrees thereby that if its proposal is accepted by the City (i) it shall accept such designation and (ii) it shall enter into a contractual relationship with all Participating Underwriters of the Bonds for purposes of assuring the receipt by each such Participating Underwriter of the Final Official Statement.

Dated November 8, 2012

BY ORDER OF THE CITY COUNCIL

/s/ Melinda Coleman

City Administrator