

**North Oaks City Council
Meeting Minutes
North Oaks City Council Chambers
September 10, 2020**

CALL TO ORDER

Mayor Nelson called the meeting to order on September 10, 2020 at 7:00 p.m.

ROLL CALL

City Councilmembers and were present in the City Council Chambers or participated **by telephone or other electronic means** pursuant to Minn. Stat. § 13D.021. Residents can view the meeting on the cable access channel and through the website portal just like other public meetings.

Present: Mayor Gregg Nelson, Councilmembers Rick Kingston, Marty Long, Kara Ries, and Sara Shah.

Staff Present: Administrator Kevin Kress, Attorney Bridget Nason and Administrative Assistant Gretchen Needham.

Others Present: Videographer Maureen Anderson.

A quorum was declared present.

PLEDGE OF ALLEGIANCE

Mayor Nelson led the Councilmembers in the Pledge of Allegiance.

APPROVAL OF AGENDA

Administrator Kress asked for one addition to the Agenda: New Business 9f, Resolution 1398 Appointing Planning and Zoning Commission Member.

MOTION by Ries, seconded by Long to approve the agenda. Motion carried unanimously by roll call.

CITIZEN COMMENTS

Mikeya Griffin, Executive Director for North Oaks Home Owners' Association (NOHOA), said tonight the City Council will discuss a proposed ordinance regarding lot line adjustments. Due to the short notice period to review the ordinance, the NOHOA Board has not had the opportunity to develop written comments; however, they will do so. Tonight, Ms. Griffin would like to address in particular Provision E approval that states "Upon receipt of the completed application and after review thereof, the City Administrator shall either approve or deny the application for lot line adjustment. The City Administrator's approval or denial of the property resulting in a lot line adjustment shall be in writing." Ms. Griffin said while this provision seeks to place the authority for administrative lot line approval with the City Administrator, pursuant to

NOHOA Deeds, Declaration and Covenants, this authority lies with NOHOA within NOHOA boundaries. In particular, the Declaration in Covenants Restrictions & Easements dated May 9, 1995 in particular states: “Any law conveyed by deed to an individual by one deed or any two or more lots so conveyed to an individual by one deed but designated on said deed as separate lot or held as vacant land, shall not be subdivided into any greater number of residential lots nor unto any residential lot or lots of smaller size than originally conveyed by such deed without the written consent of the Home Owners’ Association.” Ms. Griffin said NOHOA welcomes the opportunity to work with the City Staff to create a robust process that would provide written consent from NOHOA prior to the City approving any sub sub-division within NOHOA’s boundaries. She stated NOHOA will provide written comments later and thanked the Council for their time.

CONSENT AGENDA

a. Mechanical Licenses for Approval: Majestic Custom Heating & Air; Professional Mechanical Services; Riccar Heating & Air; Woodland Way, Inc.

Arborist License for Approval: Latchkey LLC

Checks for Approval: #13668 - 13698

b. Pollinator Award - Eslinger

c. Approval of Resolution 1395 LJFD Land Purchase agreement

d. Approval of Meeting minutes of August 13, 2020

e. Approval of JPA with CTV

Administrator Kress said this agenda does not have the accounts payable on it.

Mayor Nelson stated they have Checks for Approval #13668 – 13698.

Administrator Kress replied that is correct.

MOTION by Ries, seconded by Shah, to approve the Consent Agenda with the addition of the Checks for Approval. Motion carried unanimously by roll call.

PETITIONS, REQUESTS & COMMUNICATION

a. Deputy Mike Burrell Report

Deputy Burrell said the last month has been very busy, he has talked with several Councilmembers and the City Manager regarding some of the things that have been happening. To recap, he has been busy on the trails riding his bike; many residents complain about fishing and there have been a few trespassers or people who don’t have business being on the trail and that is more of the focus as opposed to the occasional kid caught fishing. Deputy Burrell

received word about two months ago that someone was caught on the trail and had an extensive criminal record, an 8-10 time convicted felon who had several stints in prison and he was out fishing on Pleasant Lake. That person was busted and there were some other things involved which resulted in additional felony-level charges for the gentleman. He said that was one they definitely wanted to get off Pleasant Lake and the North Oaks Trail. Deputy Burrell noted there was a car chase in North Oaks, a gentleman who was in North Oaks for work and didn't want to stop when Deputy Burrell tried to pull him over. Apparently, the gentleman said he's going back to prison and after the brief car chase he tried to get out and run, and he was quickly apprehended after that.

Mayor Nelson said the man was apprehended by Deputy Burrell and he should take credit for that.

Deputy Burrell replied yes, he apprehended the man who is in jail after the car chase.

Councilmember Long asked to interrupt for a second and said Council and most of the public knows that the incident is one of several they've had to deal with over the years, tied to the very same property owner. He knows Administrator Kress is aware of it and he asked to get a sense from the Council on how long until they take action, as they've sent some letters and Councilmember Long talked to the Sherriff who says it's a City issue. The Sherriff had the same problem with the same resident when he was mayor of Vadnais Heights, noting they had him removed and he left behind a very large clean-up bill for the City. Councilmember Long said he knows they've been very busy with other things, but this is important.

Administrator Kress said he'd like to take it offline with Attorney Nason to pursue some options. In the meantime, he said they did get a commendation for Deputy Burrell and he'd like to read it for the record:

To Whom it May Concern: I'd like to give a commendation to Deputy Mike Burrell for his handling of an incident which occurred on September 1, 2020 on Otter Lake Road in White Bear Township. Deputy Burrell displayed amazing patience and restraint in dealing with an aggressive and combative suspect. Deputy Burrell gave the suspect every opportunity to comply and was forced to use his Taser only after it was clear that his own safety was in jeopardy. My family and I are truly grateful, thank you Deputy Burrell, James P. Cody, the Cody Law Group.

Mayor Nelson said he knows Mr. Cody and thanked Deputy Burrell for helping him out and thanked him for his service, congratulations and the people say thanks.

Councilmember Long said very nice.

Councilmember Ries said Deputy Burrell did a good job.

Deputy Burrell thanked the Council and noted beyond that, there have been a few instances with that problem property and they can talk later about how to deal with that. There have been a lot of speed complaints, which is something that has been happening for months now and is something Deputy Burrell will work on and there are some enforcement measures they can take. He said if there are people requesting either himself or a traffic deputy to be in their driveway, that is one option, and noted with COVID-19 there has been some limited traffic enforcement over the last several months, but they will still be issuing tickets. People can email Deputy Burrell or contact the City about those traffic concerns.

Mayor Nelson thanked Deputy Burrell for taking care of the incident in North Oaks as well as the incident outside of the City.

UNFINISHED BUSINESS

a. Discussion on CARES Funding

Administrator Kress said starting on page 57 of the attached CARES Act document, there is a list of Tiers that the City would essentially reimburse itself for, if the Fire Department were to go out and purchase these based on the Joint Powers Agreement (JPA) which they just saw in the Consent Agenda with the same formulas. He is looking for feedback from the Council if they were to move forward on some of these purchases, if they would support Tier I, Tier II, or Tier III. Mr. Kress said Shoreview and Arden Hills are doing the same thing and he hasn't received feedback from them, but generally they were all comfortable with Tier I and Tier II, however they were a little more "iffy" on Tier III, but wanted to bring it to the attention of the Council.

Mayor Nelson said for the residents, the CARES Act is the state grant the City received as the result of the COVID-19 pandemic.

Administrator Kress answered that is correct and the City received approximately \$400,000 of CARES Act Funding and they can use it for reimbursable expenses, for Police, Fire and a few other items. This is one of the recommendations Staff worked on offline and will bring back to the Fire Board and allow them to give the recommendation.

Mayor Nelson said this would be one way of using some of the money.

Administrator Kress answered that is correct.

Mayor Nelson asked if this is a fairly non-controversial path to take.

Administrator Kress replied they feel the list is pretty non-controversial, they are all directly related to medical expenses the Fire Department plans to incur.

Mayor Nelson asked if the total on Tier I, \$53,000, is North Oaks' share.

Administrator Kress noted that would be all three Cities combined, so it would be based on the City's percentages. He said it would be pretty minimal and because the City would have a tough time spending the \$400,000 they'd probably even be comfortable with Tier III but wanted a general sense of the Council.

Councilmember Shah asked to talk about it a bit more, as when they met in August, they were trying to look at possibilities for the CARES Act funding and it's hard to make a decision without prioritizing against some of the other suggestions.

Administrator Kress said it's been very slow, especially for North Oaks as they don't have an in-house Fire Department or Police Station. He said he and Attorney Nason keep coming to the same fork in the road and every time they think they have an opportunity it gets shot down by an auditor or the League of Minnesota Cities. One thing he would recommend, given North Oaks' uniqueness, it may make sense to contract with Briggs & Morgan, Springsted, or Ehlers to look at what options are available considering they don't have an Economic Development Authority (EDA). His recommendation to the Council is to consult with a qualified financial institution.

Councilmember Long said last time they discussed something regarding infrastructure for internet.

Administrator Kress noted that was shot down and was determined not to be a qualifying expense.

Attorney Nason looked into it and one of the challenges is that the Treasury keeps issuing different guidance and narrowing down some of the categories that the money can be spent on. She noted it didn't appear that was an eligible expense. The other issue is that the costs and expenses have to be incurred and paid by November 15, 2020 so anything that could take additional time isn't going to be a viable option. As Administrator Kress mentioned, a number of cities are doing things like small business grants but the recommendation from the League and what Attorney Nason has advised some of her other clients is that it needs to run through the EDA because there is a question of the statutory authority of a statutory City to give out business grants and non-profit grants. She said there is a converse argument that the CARES funds come from the Federal government and you could make an argument that it's not city funds. The recommendation is to run those through the EDA if a city has one and frankly, it is a lot of work. The Cities that are setting those up either have a robust EDA with a dedicated director or are hiring out to **Ehlers** or other consulting firms to provide those services. The City is ultimately on the hook if they misspend those funds, and if it was determined that it was an improper use of funds, the City will be writing a check and that would be the least of its problems at that point to pay back the money. She noted most Cities are approaching this cautiously so as to not find themselves in a situation down the line. Attorney Nason said there are some things the City has purchase such as PPE, sanitizer, plexi-glass and some things that can be done in Council chambers but it won't get anywhere near what the City has been allocated.

Mayor Nelson noted that \$400,000 is a lot of money to this City and many of the cities with EDAs had grants in the millions and they can work with that money perhaps a bit more easily as North Oaks doesn't have the facility or the amount of money to make use of it very efficiently, noting that is one of the problems.

Councilmember Long had a conversation with a former City Administrator Melinda Coleman and asked Administrator Kress if she had any ideas.

Administrator Kress answered they were generally the same ideas as discussed with the cities of Shoreview, Vadnais Heights and Little Canada. Unfortunately, North Oaks is so unique compared to those cities they just aren't in the same boat. He said he thinks it would make sense to reach out to a financial consultant and if they say there's really no opportunity here then North Oaks will turn the money over to the County, and the County will then turn the money over to the hospital system.

Councilmember Kingston asked the date the money must be spent by.

Administrator Kress answered November 15, 2020.

Councilmember Kingston said he had some other ideas and he'd send them to Mr. Kress offline to see if they're viable.

Administrator Kress asked if the Council is in favor of consulting with a third party financial consultant and authorizing him to do so.

Councilmember Long asked what that would cost.

Administrator Kress noted it wouldn't cost anything because it's reimbursable with the CARES funding.

Attorney Nason reported one thing cities are doing is after they've identified these expenses they've passed a resolution adopting a CARES Act spending plan with those buckets of items. If it's determined by the financial consultant that there are some different ideas the Council could look at - part of which has to do with the audit trail requirements - the Council could then take formal action or resolution process.

Mayor Nelson said if they don't find things they can use the money for safely, they could use the CARES Act money and directly transmit it to the local Fairview hospital system rather than letting it go back to the County.

Administrator Kress agreed the financial consultant could bring that recommendation and it could be adopted by resolution. Tonight, Mr. Kress is asking for a simple motion authorizing him to choose a financial consultant. He asked if the Council had any preference on firms.

MOTION by Long, seconded by Kingston to instruct Staff, based on Administrator Kress's preference, to engage with a financial consultant.

Ries suggested looking at who the other cities are using, because when they get someone really experienced they may know many of the answers already.

SUBSTITUTE MOTION by Long, seconded by Kingston to instruct Staff to consult with other cities, and based on Administrator Kress's preference, to engage with a financial consultant. Motion passed unanimously by roll call.

Ries said she spoke with some other cities and she'd like to give Administrator Kress some further information she gathered and she could email or meet with him. She said some of the cities are following the 3 Tiers and they must be COVID related, and they're looking at any overtime budget that went to Staff for cleaning or sending out information or messaging to the community regarding COVID. They are also looking ahead and buying PPE at this time for Police, Fire, etcetera, because PPE has a fairly long shelf life so they could buy it now and use in the next year. She noted some cities have applied a formula to pay for certain services and there may be a way to look at Staffing and emergency services the City has used and pay the costs now rather than taking it out of the General Fund. Another idea would be to talk to Waverly Gardens or Ramsey County Fire Department or Police services to see if the funds can help them.

NEW BUSINESS

a. Proposed Ordinance – Minor Lot Line Adjustment

Attorney Nason said by way of background, the City had been contacted by a resident regarding a requested lot line adjustment. Essentially they wanted to move a common lot line between their property and an adjoining property to allow some type of particular use on their property. As the inquiry was received by Staff it was determined that the City doesn't really have any process for this type of application; it doesn't meet the definition of a subdivision because it doesn't result in the creation of any new lots. The process for lot line adjustment does include the subdivision of property in that there would be a deed conveying a portion of property, for example conveying 10 feet to a neighbor would have a deed to grant it to the neighbor, the neighbor would receive it and the property would become one new parcel with no new lots created. In the past it appears the process has been accomplished informally through a City Staff level approval, but again there is no process in the City's subdivision ordinance that spells out how that should work. Staff discussed what it could look like and an ordinance prepared by Attorney Nason which would amend a subdivision ordinance. While subdivision and zoning often go hand-in-hand, there are two separate chapters of the City code and the statutory requirements related to processing of amendments to a subdivision ordinance are different than that for a zoning ordinance. For example, a zoning ordinance amendment would go to the Planning Commission public hearing and a recommendation would be made to the Council which would ultimately adopt or not adopt that zoning ordinance amendment. Attorney Nason noted the process is different with a subdivision ordinance amendment. That is not to say the

Council couldn't refer this to the Planning Commission for review or public hearing. She said currently in the City's subdivision ordinance there are two processes: minor subdivision and major subdivision. A minor subdivision by definition is a lot line adjustment involving properties that have condos or townhomes or similar multi-family property/development on them. She noted there is nothing in place for a residential lot line adjustment process and the proposed ordinance is pretty straightforward and similar to ones used by other cities and is done at an administrative level, meaning the City Administrator could approve or deny the lot line adjustment. Attorney Nason said she understands NOHOA's concerns and requirements related to those private restrictions and she noted two things, first there is a referral and reference on screen under §152.041B that talks about how all parcels involved must comply with all requirements of the zoning district in the provisions of City code §152.065 which requires the property owner comply with all applicable private restrictions and covenants. She noted typically when they draft an ordinance or City permit, they don't see a referral to compliance with private restrictive covenants, noting that is outside of the City's purview. Even if the City says a property owner can do X, if it is prohibited by private restrictions or covenants, the property owner would have to deal with the repercussions and any limitations or restrictions imposed by those private restrictions or covenants. She noted the City doesn't typically get into the process of reviewing and ensuring compliance with those private restrictions and covenants. She gave the example of fencing, noting a property owner could get a permit from the City, but if the homeowners' association prohibits the construction of fences, the City isn't going to deny the fence permit but it is going to be a problem for the homeowner if they fail to comply with those restrictive covenants.

Mayor Nelson said he'd be inclined to table this for a month, let NOHOA review it and satisfy themselves just as a matter of courtesy with the understanding that the ordinance probably doesn't need to be changed at all as it incorporates their interest as well.

Administrator Kress said he is fine with that and there is just the one property owner that they don't have any criteria to authorize.

Mayor Nelson asked if they are waiting.

Administrator Kress said they would need approval from NOHOA at this point as NOHOA has sole discretion for lot splits.

MOTION by Ries, seconded by Shah, to table Proposed Ordinance – Minor Lot Line Adjustment until the next City Council meeting on October 8, 2020. Motion carried unanimously by roll call.

b. Discussion on Civic Plus Website Roll Out and Live Date Proposal/Process

Mayor Nelson apologized to the residents of North Oaks as last Friday the website that is under development under direction of Councilmember Ries and Administrative Assistant Needham was taken live without the direction of Administrator Kress or the direction of the City Council.

The old website was removed and no longer available and he is sorry because it caused considerable consternation of those looking for the City Council website as the new website was incomplete and unsatisfactory and didn't have much of the data on the current website. It was eventually taken down and the old website was put back up. Administrator Kress checked into it and one of Mayor Nelson's concerns was that the IT people seemed to accept direction from someone other than Mr. Kress and City Council and put up a live website without consultation or a motion by City Council or testing or evaluation of the website. He said neither the Council nor Mr. Kress have seen the website other than Councilmember Ries and Ms. Needham. He is very concerned about this development and he is glad they were able to remedy it in short order. He would like a path forward that is not as embarrassing and said this never should have happened.

Administrator Kress clarified they did have a couple of opportunities to view the website but did not get to view it before it finally went live.

Mayor Nelson noted he hasn't seen the website.

Administrator Kress said the rest of the Council hasn't seen the website in static form and that is why they put the old website back so they can bring it to the Council's attention to see how many want to see it in static form. He said the Council can pick a day and Staff can notify the public for the site to go live.

Mayor Nelson wants to be clear that when City Council directs a Councilmember to work with Staff to develop a website it doesn't mean they are authorized to go live with the website whenever they see fit. He said to develop and put up a website that is incomplete is so far outside of the bounds of normal process, he was really shaken by it and very irritated, noting it is an important website for residents and it should never happen.

Councilmember Ries asked if Administrator Kress agrees with that assertion by the Mayor.

Mayor Nelson stated Ms. Ries is not challenging the correct person; he is telling her she didn't have the authority to go live with this and she did. He would like her answer on why she did this and why she thought she was entitled to disregard City Council again, as she frequently does, and go live with a website no one had seen or vetted and was missing much of the current information.

Councilmember Ries asked Mayor Nelson to keep his temper in check during meetings, saying they must remain professional.

Mayor Nelson said the City is embarrassed by this and asked why did she did it.

Councilmember Ries explained that the website was initially approved about 6 months ago.

Mayor Nelson said the approval was to move forward and develop a website.

Councilmember Ries said the Council approved a motion to work with Civic Plus and go forward with spending the money to work with them months ago. She was involved only at the very beginning and her involvement was just to understand some of the options Civic Plus offers to those who contract services or buy packages with them. She said there are 2-3 main providers of city websites and Civic Plus is one of them, noting they did Maplewood's website, which is a very robust site. The website design is done internally with Civic Plus as their people and coders work on content. From that point on, Councilmember Ries dropped out of the project about 3 months ago because at that point Staff such as Ms. Needham, and Ms. Breen perhaps to some degree also, were handling the day-to-day because at some point it turns to a Staff development issue. She thinks Ms. Needham was reporting to Administrator Kress in weekly meetings regarding the progress and questions during development. The development presentations were done at Staff meetings and Councilmember Ries said she wasn't part of those, so her role ended about three months ago after Civic Plus had taken it.

Mayor Nelson noted she threw all three Staff members under the bus and Councilmember Ries isn't taking any responsibility for it even though she was directed to develop a website with Gretchen Needham.

Councilmember Ries said one other point is that they have a new domain name: NorthOaksMN.gov and it was discussed right when Administrator Kress started and she remembers having discussions. The website is on that domain name so people can go into the internet and check it out. When one person, and not with the City but in general, when one develops a website and launches it, it is still is a sort of beta-testing mode, you fill the content and have people test it and work with the site. When creating a website there isn't a final, finished product, they're constantly updating content, constantly looking at how to develop the site with the needs this week or next year. She said development of a website is a constant, ongoing process and this is something that is done at a Staff level, it is not City Council stuff. She said if there is a new committee formed, the Council could weigh in but it's really a Staff thing to handle the content every day.

Mayor Nelson said Councilmember Ries is woefully misinformed about how a website is developed and when it goes live. He would entertain a motion to restructure the development team for this because it can't happen again. The site should never go live until it's ready to go live, there is no such thing as developing a website after it's live, he said you get it right the first time and add to it over time, but you don't throw up something that is incomplete.

Councilmember Ries said in the conversations they had with Maplewood and Shoreview and other cities, it was immediately apparent that you must update different software packages that interact with your website, update the content constantly on the website. She wants to reiterate that the structure of the website is static, which is what the developer offers, then the Staff must then take on that burden, and it is a pretty big burden, to update content on a website. The idea of the type of website that Burnsville, Wayzata, Shoreview and Maplewood have is to lower that burden and take off all the content right when you go into the domain initially and there are some

other levels that people can click to. That way the initial home page is more “static” but they still need to constantly update the content.

Mayor Nelson asked if there is a motion to reorganize this so the City can have a website that is developed properly and reviewed by the City Council before it goes live.

Councilmember Shah asked to chime in before a motion and noted she'd like to see some best practices with launching. She said generally with any deployment of a website, leadership or stakeholders should be approached and at that point going through some key criteria would've been useful and more transparent. Moving forward, Councilmember Shah would like to see that so everyone is comfortable before they move forward with the launch. She stated the City doesn't have many venues for communicating with residents and she would argue that websites are probably the number one place where residents go. She thinks looking at some best practices to launch would be an improvement for everyone.

Mayor Nelson agreed.

Councilmember Ries said she thinks it would also be a good idea to ask Ms. Needham, Ms. Breen, and Administrator Kress to have them present on the work they've done with the developer because they must understand the relationship and contract of working with the developer and what creative opportunities they have. She suggested they do a presentation to show what the City can and cannot do as it was an issue with the website from 5-10 years ago, noting the developer was very stringent on what could be changed and what couldn't.

Mayor Nelson noted that is what should've happened and that Councilmember Ries was in charge of that. He asked Administrator Kress if he wants to take charge of this so it's done right from now on.

Administrator Kress said Staff needs to know when the Council wants to make the site live. He said the Council could look at the site individually, hold a special work session to walk through the current build-out of the website and from there the Council could set the public presentation date and it would be put into the E-Blast and be ready to go.

Mayor Nelson stated when he's developed websites he's always been provided the website in its draft form several times and each time there are comments and then the site is improved and it goes through that before going live. He thinks the Council should have at least one opportunity to do that and he'd like Staff to review this and make sure the new website is at least as good as the old one, rather than taking a step backwards. He asked Mr. Kress to be in charge of that from now on.

Administrator Kress replied yes, and he thinks they have the understanding now that it's not approved unless designated by the City Council down to himself.

Councilmember Shah said she's hearing two opportunities here, 1) there may be a potential gap in delta to the functionality they have and if that's the case they should hear about it sooner rather than later and 2) the readiness and appropriate timing to deploy the website.

Mayor Nelson asked if they should appoint a new City Councilmember to oversee it.

Administrator Kress said he thinks they'll do some kind of Council interaction where they can look at it separately and bring it back up to the Council's attention to see if there are any high-level concerns. He stated there was significant time spent by Staff but the problem was in the final stages when it was launched, basically the misinterpretation was that the site was ready to go on their end but on our end it was never authorized to go.

Mayor Nelson noted someone authorized it to go and that is the problem.

Administrator Kress said they really need to take a final look at the website, get the blessing from the Council, notify the public and launch the site.

Mayor Nelson clarified it would be with approval of the City Council by vote.

Administrator Kress answered in the affirmative.

Councilmember Long said mistakes happen and it is Administrator Kress's Staff, he is in charge and he needs to make sure this is handled correctly next time.

Mayor Nelson said he's not blaming Administrator Kress because these activities took place without his permission and without his direction and without direction from City Council.

Administrator Kress said he understands that and he won't get into the details of their personnel. His recommendation is they review it independently or the Council schedules a work session.

Mayor Nelson said he thinks the site should be available to the Council, not live but static.

Administrator Kress said yes they can handle that and they just need the blessing of the Council.

c. Approve Resolution 1396 Setting Preliminary 2021 Budget and Levy

Administrator Kress invited Stephanie Marty to be a panelist in the meeting as a lot of her work is involved with the budget. They did a couple renderings of the budget and made a change today that doesn't impact the tax levy but changes the way the structure of the budget is, which is minor. He said essentially tonight the Council will be setting the tax levy. He showed the most recent rendering on screen, which he noted is different than in the Council packet, and showed the high-level overview of the City's expenses in the budget which are \$2,672,720. He noted they balanced out the budget to \$2,672,720 which leaves the same tax levy of \$1,974,877. The newest items incorporated into the budget were Capitals and \$50,000 is appropriated to Fire

Capital and Police Capital. One reason they put \$50,000 in Fire Capital is because at some point there will be a new fire station build-out and they just spent unbudgeted dollars as part of the land purchase, so he is direct levying to the fire fund to reimburse themselves so the City isn't taking dollars off the bottom line.

Ms. Marty said the taxes payable in 2021 will be \$1.974 million, which is actually a 6.1% increase from last year's amount and last year they were at 9.6%, so they are actually going down percentage-wise, even though property taxes are still going up. She said the City's tax rate in 2020 was 11.94% and for 2021 will be 12%, which is pretty low considering the neighboring cities, it is a pretty low tax rate.

Administrator Kress noted if they adjust things in the budget, the first thing he would target are the Capital Fundings, maybe not the Fire as he'd like to leave some funding in there, but if they took out \$50,000 it would probably drop the tax levy approximately 5%. Basically, they built a budget that is sufficient enough so if they need to rearrange before December, they have that opportunity. If funding needs to be reallocated somewhere else, they don't run the risk of not having enough tax levy to make the rearrangement. He said if there are no further questions on the budget, he would ask that the Council entertain the resolution that encompasses the tax levy and sets the Truth in Taxation meeting on December 10, 2020.

Attorney Nason recommended the resolution be amended to include the language regarding the Truth in Taxation hearing.

Mayor Nelson noted this is the preliminary tax levy, not the final tax levy.

Administrator Kress said that is correct, the final tax levy is set in December which means that the tax levy cannot go higher than \$1,974,877.

Mayor Nelson asked if Staff is comfortable with that number.

Administrator Kress replied they are; he and Ms. Marty had many discussions and think it's sufficient enough to rearrange if need be.

Mayor Nelson asked if, similar to last year, they anticipate non-reimbursed Legal and Other expenses related to the development.

Administrator Kress answered no, he thinks the budget is trending really well and if they follow through to the end of the year the revenues will be able to cover the expenses. He said there's been a significant increase in permits and buildings and his concerns along those lines is very limited, if anything they will increase in market value substantially.

Mayor Nelson said the increased revenue that wasn't anticipated has covered the unexpected and unreimbursed costs.

Administrator Kress noted they're sitting in a good place and the amendment tonight would be to add in the verbiage discussed earlier.

MOTION by Ries, seconded by Kingston, to approve Resolution 1396 Setting the Preliminary 2021 Budget and Levy and to give notice of a Truth in Taxation Hearing on December 10, 2020 at 6:45 p.m. Motion carried unanimously by roll call.

d. Wilkinson Villas 1A Developers Agreement

Administrator Kress said this is still in draft form and Staff had hoped to recommend approval on the developer's agreement tonight, however it's not ready at this time and needs to go back through North Oaks Company (NOC) and come back to the City Council once they've seen the draft version of Wilkinson Villas 1A Developers Agreement. Administrator Kress and Attorney Nason worked on it earlier in the day but didn't get enough traction to get it in front of NOC, so at this time he suggests tabling it until it's seen by NOC.

MOTION by Ries, seconded by Long, to table Wilkinson Villas 1A Developers Agreement. Motion carried unanimously by roll call.

Mayor Nelson asked if they'd be ready to talk about it in October.

Administrator Kress noted it would depend on whether there is any commentary from NOC.

e. Discussion and Possible Action on City Office Hours

Administrator Kress asked to have a light discussion with the Council as the internal Staff has been talking about the City's Office hours and they noticed the summer office hours worked pretty well. One concern is changing the office hours to allow for flex hours before or after the regularly scheduled work week, as one thing Staff has noticed is no matter what the hours are, they end up doing things either before or after office hours and it seems to be more efficient to do that. He is asking the Council if they'd be agreeable to leaving the hours from 9:00 a.m. - 4:00 p.m. Monday through Thursday and 9:00a.m. – Noon on Friday with the understanding that all of the Staff would be working outside hours, uninterrupted by phone calls, drop-ins, and things like that as that can be detrimental to the City's operations.

Mayor Nelson said he'd tend to defer to Mr. Kress on this, he thinks it sounds like a good idea but Mr. Kress is the Administrator and Office Manager.

Councilmember Kingston thinks it sounds like a good deal because the reality is that people are working on things throughout the day and they keep getting interrupted, especially with the published hours. He said it's a good idea to have debrief time that takes place after the office actually closes and certainly before. He said Administrator Kress has a good handle on it and the Council should give him the latitude to make the changes he thinks are appropriate.

Councilmember Ries noted they had discussed this issue with former City Manager Mike Robertson approximately three years ago and it was already discussed at Council level. She said it was declined because residents need time after work, for example, on Friday they may get off work early and come in to file something or hand deliver to the office. She said it was declined because it's a 40 hour work week and they wanted to make sure that residents have the opportunity to come in and interact with Staff. She said now they're operating on COVID-19 time where people are at home but eventually they will get back to Staff hours and full-staffing in the office and she thinks if they make the change it should only be temporary.

Administrator Kress said he understands but respectfully disagrees, noting the majority of people tend to use electronic means to submit online and he also disagrees with the Friday statement, as for most people the last place they want to go is to City Hall. He said that's been a common trend for every City around them and if North Oaks were to begin seeing complaints of not being available to the public, he would immediately bring it back to the Council's attention to change it.

Mayor Nelson noted Mr. Kress stated most people file online and aren't in-person anymore, so there is very little foot traffic. They are trying to avoid telephone requests and interruptions at the end of the day and he noted they certainly do want to be available to the residents and if that's a problem they can switch back.

Councilmember Kingston asked what percentage of people coming in to the office are contractors or tradesman as opposed to residents coming in to file or do something.

Administrator Kress replied from his perspective, he doesn't see many residents coming in, it's mainly contractors. Now that they're coming through the COVID session, many people are doing things by electronic means, especially now that people don't have to leave their home to get a permit application. He noted there is a steady decline of people coming into the City Hall or even the Chambers for a Council Meeting as they have the opportunity to do that from home.

Mayor Nelson asked if there is a motion to do this on a trial basis and see how it works out.

MOTION by Kingston, seconded by Long, to allow Administrator Kress to establish Office Hours as he sees fit, and to try it for a 6 month period; if there are citizen complaints the City Council can re-evaluate. Motion carried by roll call as Councilmembers Kingston, Long and Shah and Mayor Nelson voted for; Councilmember Ries voted against.

f. Resolution 1398 Appointing Planning and Zoning Commission Member.

Administrator Kress showed Resolution 1398 on screen which lays out the interview process and the recommendation from Chair Azman and Mayor Nelson, noting they only had one application for the seat vacated by previous Commissioner Shah who is now on the City Council.

Administrator Kress said it is recommended by both the Mayor and the Chair to appoint Grover

Sayre III with a term beginning September 10, 2020 or upon appointment and ending December 31, 2021.

Mayor Nelson noted while they had only one application, that applicant was incredibly qualified. Mr. Sayre has been in real estate development, he is an attorney, has a wealth of knowledge regarding real estate transactions, PDAs, and is familiar with the process as he's appeared before many City Councils and Planning Commissions. Mr. Sayre has not served on a governmental board before but he is looking forward to his service and Mayor Nelson thinks they are lucky to have him.

**MOTION by Kingston, seconded by Ries, to approve Resolution 1398 as presented.
Motion carried unanimously by roll call.**

COUNCIL MEMBER REPORTS

Councilmember Shah was able to meet with Tim, the Fire Chief and his crew, they were very informative, gave her a tour of the three stations and she saw the plans for the future station. They also talked about the purchase agreement for the 4 acres of land, which is expected to be solidified by September 21, 2020. She said they also talked about how COVID-19 has impacted their department, and they normally get about 4,000 calls per year and they are about 30% down, noting that's also true for surrounding communities. Their day-to-day procedures are also impacted by COVID and they must assume when they arrive on a call that someone is infected. Councilmember Shah said they're trying to mitigate their exposure and risks, and talked about how the community spaces need to be sanitized, training sessions are impacted, and there are many changes happening. She noted they have a Fall Open House, which is usually highly attended, and they will most likely not be able to do that but are trying to get creative. They are doing new things, such as drive-bys with the truck for birthday parties or retirement parties. Tim asked Councilmember Shah to give a shout-out to the Ralph Reeder Food Shelf, as they're trying to get one more big push of food before winter comes and if residents want to make a difference, they can donate. Councilmember Shah thanked Councilmember Ries for transitioning her and giving her all the information necessary for the Fire Department.

Councilmember Long said he earlier mentioned the problem neighbor with Deputy Burrell and he will work with Administrator Kress as it's a City issue rather than a Police issue. He hopes to bring something to Council's next meeting to get a sense. He is looking into conflict of interest with *North Oaks News* and having a City Staff Member, as this is the third time they've had something like this. Karen and Kathy were both City Staff – and this is an Administrator Kress issue, so he hopes to work with Mr. Kress on this. Councilmember Long said with the City newspaper, editor and staff, he sees it as a conflict and he's had some residents calling him with complaints so he will report back next month.

Councilmember Ries said in transition she provided Councilmember Shah an explanation of her experience on the Fire Board, the involvement she had on the contract for the land purchase agreement and the work the Fire Board has done and it was fun to talk about that. She said CTV

has been very busy lately with the NSCC, they are rebranding right now and have been very busy with the political and community events. Their website traffic has been very high so that is a very positive thing, as well and they're looking forward to the fourth quarter. Councilmember Ries contacted a few of the Cities to see what they are doing with the CARES Act Funding to get some ideas on what might be applicable for North Oaks. She said many of the cities have spent a lot of time speaking with financial consultants and have done a lot of research so she wanted to brainstorm and see what information they had received. She noted Mr. Eslinger who received the Pollinator Award had over 200 species of pollinator flowers in his garden and to capture that in media, as she believes he is creating a video to share with the community to encourage and inspire people, especially during wintertime of all the garden work he has done, with hopes that other gardeners would follow suit. She noted she calls in to the VLAWMO Tech Committee meetings and the water research at Wilkinson is ongoing and there is another meeting tomorrow morning about that.

Councilmember Kingston has been continuing to look into options for buckthorn and invasive species mitigation and he is hopeful for some novel approaches that they can talk about in the coming meetings. Secondly, he has been trying to keep up in monitoring the Planning Commission meetings as the City Liaison.

Mayor Nelson said Councilmember Long mentioned the concerns he has about the *North Oaks News* and its recent addition and Mayor Nelson has some concerns about that, as well. He said the City Council was forced to address a complaint by a developer that arose out of the June meeting and since that time the Council has come under fire. In the North Oaks Newspaper, Mayor Nelson had submitted an article to them (this is the second or third time it's happened) where they have rejected it and told him he couldn't include the facts, they just want him to write a very brief article which really can't include facts, it's so brief. He said he wrote a very brief article, submitted it and it was published; it simply referred residents to the City Council website so they could review the videos of what actually transpired relative to this developer's complaint and what had caused that complaint to be promulgated. Mayor Nelson is concerned about this because following the submission of his article after re-drafting, he assumes his article remains private until published and that it goes to the editor and no one else. He said it's really a cardinal rule of newspapers that they don't share articles with others before their publication because it gives others an unfair advantage to respond to those articles. After Mayor Nelson submitted the article, Administrator Kress received a call from Councilmember Ries in which she noted she had the article and was upset by it, and this was before it was published. Mayor Nelson noted Mr. Kress hadn't seen the article as the Mayor doesn't share the articles with him or anyone else before publication, he only sends it to the editor of *North Oaks News* - he doesn't even title them as he leaves that up to the editor for the most part. Regarding the article, he said Councilmember Ries was concerned about the title and the content and Mayor Nelson was surprised by that when he found out from Administrator Kress. In subsequent publication, they have seen a number of letters to the editor that Mayor Nelson believes were all carefully curated and no letters to the editor to the contrary; and of course they don't know what letters are sent to the editor or how they were curated or selected. In reading Mayor Nelson's article, it suggests residents go to the

website to look at the streaming video and decide for themselves what happened. He noted the website was then suddenly taken down, and was put back up after a few days. Mayor Nelson is very concerned on what exactly is going on. He knows a resident running for office tried to place an ad in the paper last month, paid for the ad, was told it would appear and then it simply did not appear. He said yesterday or today a four-page special edition of the paper came out with advertising and political advertising, despite the fact that in the last paper, they indicated there was some new rule about political commentary. Mayor Nelson and other members of the City Council have been subject to personal attacks because of what they had to do in light of the behaviors of a City Council person, instead of defending on the merits and saying there was reason to do it, they were attacked personally and are unable to respond to it because the newspaper doesn't want to hear it. He is very irritated by that and thinks they need some answers to it as they now have four full-page ads by Councilmember Ries and her mentors/group running for office. He can see the paper seems to be thwarting the efforts of other individuals to express their opinions and he wants people to know he is concerned about that. It is a small newspaper and it may seem like a small issue but it can be significant.

Councilmember Ries said she called Administrator Kress to talk about a *Star Tribune* article, not the *North Oaks News* article and she never, ever saw the *North Oaks News* article prior to publication. She said there is a repeated pattern that has occurred over the past year where there are derogatory things said during meetings and an editorial article is published on the heels of the meeting. This is not anything new to the community, it's just a pattern of behavior and it's very foreseeable that residents watch meetings and they express their opinion.

Mayor Nelson noted COVID-19 has made it difficult for local mayors to get together and he appreciates Administrator Kress keeping up with the sister Cities as close as possible, especially regarding the CARES Act.

CITY ADMINISTRATOR REPORTS

Administrator Kress spoke with the DNR Fisheries division about fish sampling, traditionally they've done it every two years so that will be very soon and he may participate with them in that, it's electric net shocking.

He noted some concerns over the Nord parcel grading and will be looking at the site tomorrow with the North Oaks Company to verify that they're in alignment with what was previously adopted by the City Council.

He said he cannot go into any detail on interactions with City Staff, when he interacted with Councilmember Ries, he disagrees with her and stated their discussion was on the *North Oaks News*. He said he asked her specifically the Tuesday of the discussion what paper they were talking about and Councilmember Ries indicated it was the *North Oaks News*, and Administrator Kress then went to the respective City personnel and discussed the issue. He says there are some inconsistencies there and if she'd like to further clarify he would offer the opportunity but that is not what their discussion was.

Councilmember Ries thanked Administrator Kress for the ability to clarify and noted Mayor Nelson was suggesting that the article was perhaps given to her before publication and she had not seen the article before publication. What she talked with Administrator Kress about before the publication of *North Oaks News* was concern about the *Star Tribune* article that mentioned her name and she said she usually gets the *North Oaks News* the day of the Planning Commission Meeting and it was after publication, later, that she had commented about Mayor Nelson's editorial. She said there was no communication about the article that was shared, just a concern about Minnesota Statute and publishing articles of this type. Before publication, Councilmember Ries said she and Administrator Kress had only talked about the *Star Tribune* article and that is the clarification.

Administrator Kress added that is still inconsistent with his interactions with the City Staff, unfortunately. He is aware that there was a discussion the Sunday prior to the *North Oaks News* publication and their discussion had taken place on Tuesday. Beyond that, he is not willing to provide any more feedback on it, he will address it with the City Staff, and Council can regulate themselves on this matter.

Mayor Nelson said he had to bring it up and he apologized to Administrator Kress.

Administrator Kress asked for a sense of the Council on what they'd want to see moving forward for discussion purposes with North Oaks Company (NOC).

Mayor Nelson asked about the timeline.

Administrator Kress said he intends to have a discussion with Mark Houge based on the work session as there were a number of options there and he can get Mr. Houge's feedback and bring it to the Council.

Mayor Nelson said relative to Attorney Nason's report, he would like to find out what they intend and they should schedule a special meeting if they need to address it one way or another.

Administrator Kress noted he'd be on site with NOC tomorrow to check out the grading, so he would check in with them then and get it in front of the Council, noting if there are concerns he'd like to know now so he can let the Company know.

Mayor Nelson said they could schedule a special meeting after talking with NOC regarding the condominium unit-count issue.

Mayor Nelson noted they have a rebuttal to the letter Councilmember Ries' attorney drafted that was a direct attack on Councilmember Kingston and he directed Administrator Kress to put that letter on the website.

a. Pollinator Resolution – Annual Report

CITY ATTORNEY REPORTS

Attorney Nason said she's been busy working with Staff on a number of issues, in particular they received the two preliminary plan applications as well as the revised concept plan, and some of the issues related to the Nord site that Staff are working on.

Mayor Nelson asked Attorney Nason if it's appropriate for the Council to have a special meeting after they hear from the NOC to determine the path forward on the issue discussed at the joint City Council/Planning Commission meeting regarding the condominium.

Attorney Nason replied yes, she thinks Administrator Kress needs to circle back with the Company and get their feedback, having attended the joint work session tonight to see how they want to proceed and the City can adjust and set up meetings accordingly. She noted the City only meets once a month so she would anticipate some special meetings at some point.

MISCELLANEOUS

a. August 2020 Forester Report

ADJOURNMENT

Mayor Nelson noted the next City Council Meeting is Thursday, October 8, 2020.

**MOTION by Kingston, seconded by Long to adjourn the City Council Meeting at 8:39 p.m.
Motion carried unanimously by roll call.**

Kevin Kress

Kevin Kress, City Administrator

Gregg Nelson

Gregg Nelson, Mayor

Date approved October 8, 2020