

**CITY OF SHOREVIEW
MINUTES
REGULAR CITY COUNCIL MEETING
October 4, 2010**

CALL TO ORDER

Pursuant to due call and notice thereof, a regular meeting of the Shoreview City Council was called to order by Mayor Martin on October 4, 2010, at 7:00 p.m.

PLEDGE OF ALLEGIANCE

The meeting opened with the Pledge of Allegiance to the flag.

ROLL CALL

The following members were present: Mayor Martin; Councilmembers Huffman, Quigley, Wickstrom and Withhart.

APPROVAL OF AGENDA

Mayor Martin noted that immediately following the regular meeting, the Council will hold a special workshop meeting.

MOTION: by Councilmember Withhart, seconded by Councilmember Huffman to approve the September 20, 2010 agenda as submitted.

VOTE: Ayes - 5 Nays - 0

PROCLAMATIONS AND RECOGNITIONS

There were none.

CITIZEN COMMENTS

There were none.

COUNCIL COMMENTS

Mayor Martin:

The indoor playground is now open after a 3-week closure for repairs and cleaning.

The Farmer's Market continues for three more Tuesdays. All are encouraged to take advantage of it.

The Economic Development Commission (EDC) and Councilmembers have been meeting with key businesses as part of the City's expansion and retention program for Shoreview businesses. Discussion has focused on business issues and expansions.

Councilmember Withhart:

Expressed his appreciation that concrete pavement is now being poured for the Hawes, Demar, Rustic Place project.

Councilmember Quigley:

Noted the high amount of participation for the garage sale and truck event.

The Fire Department Open House will be Saturday, October 9, 2010, from 11:00 a.m. to 2:00 p.m. at the Fire Station on Lexington Avenue and County Road I.

Councilmember Quigley asked about participation in Cleanup Day. City Manager Schwerm reported that there was good participation. There is not a vehicle count yet, but typically in the fall there are 600 to 700 vehicles. Traffic moved smoothly. Consideration is being given to using the Ramsey County Public Works site as a permanent site for Cleanup Day because cars in line for service do not block driveways and traffic on a busy street. Hazardous waste drop-off was also very busy.

Councilmember Wickstrom:

Expressed her appreciation for the new plantings in front of the Community Center.

On Saturday, October 9, at 9:00 a.m. to noon, the Buckthorn Bust will take place at the shelter on Mound Avenue behind the Community Center. Anyone interested is welcome to help.

CONSENT AGENDA

Mayor Martin noted item No. 11, a resolution regarding the scheduling of the Rice Street/I-694 Interchange improvements. County Commissioner Tony Bennett has encouraged municipalities to support this resolution to try to speed up the project before its scheduled time in 2020.

The following items were pulled for separate discussion:

Councilmember Wickstrom requested the following changes to Item No. 2, City Council Minutes, September 20, 2010:

Page 8, in the second sentence of the first paragraph, insert the words "to end" between the words "contracts" and "in warm weather...".

Page 9: References to LED certification should be spelled LEED.

Item No. 12, Rain Garden Agreements: Councilmember Wickstrom noted that on the second page of the agreement the spelling of Minnesota should be corrected.

Item No. 13, Special Event Liquor License: Councilmember Wickstrom requested that St. Odilia be advised of the City's regulations banning any sale of liquor to minors. Mr. Schwerm responded that information will be included in the letter of approval to be sent to St. Odilia.

MOTION: by Councilmember Huffman, seconded by Councilmember Wickstrom to adopt items on the October 4, 2010 Consent Agenda, approving the necessary motions and resolutions for item Nos. 1 through 13, excluding item No. 2 because he was not present at the September 20, 2010 City Council meeting;

1. September 13, 2010 City Council Workshop Meeting Minutes
3. Receipt of Committee/Commission Minutes:
 - Economic Development Commission, August 17, 2010
 - Public Safety Committee, September 16, 2010
 - Environmental Quality Committee, September 27, 2010
4. Verified Claims in the Amount of \$637,416.31
5. Purchases
6. License Applications
7. Declaration of Intent to Bond for Project Costs
8. Appointment of Election Judges for November 2, 2010 General Election
9. Request to Rescind Variances - Mark and Kay Christopherson, 400 Horseshoe Drive
10. Developer Escrow Reduction
11. Resolution Requesting the Programming of Rice Street/I-694 Interchange Improvements
12. Rain Garden Maintenance and Agreements--Hawes/Demar/Rustic Reconstruction Project, CP 10-01
13. Approval of Special Event Liquor License - St. Odilia Catholic Church

Discussion:

Mayor Martin offered an amendment to the motion to include the correct spelling of the person who spoke during Citizen's Comments in Item No. 2, Minutes of the September 20, 2010 City Council meeting. The last name should be spelled Goiffon.

VOTE: Ayes - 5 Nays - 0

MOTION: by Councilmember Withhart, seconded by Councilmember Quigley to approve item No. 2, September 20, 2010 City Council Meeting Minutes as corrected.

VOTE: Ayes - 4 Nays - 0 Abstain - 1 (Huffman)

PUBLIC HEARINGS

There were none.

GENERAL BUSINESS**ADOPT ASSESSMENT ROLL - WOODBRIDGE NEIGHBORHOOD RECONSTRUCTION, CP 09-01****Presentation by Public Works Director Mark Maloney**

Objections to special assessments for the Woodbridge Neighborhood Reconstruction, heard at the September 20, 2010 City Council meeting, were referred to staff for further review.

Adoption of the assessment roll must take place at this meeting in order for notice to be given to the County for the special assessments to be collected in 2011. The last date that the assessment roll can be certified to the County is November 6, 2010. The City waits until November 6, in order to allow the 30-day prepayment period without interest for residents.

Public improvements were made to Jerrold, Woodbridge, Edgewater, Soo and Owasso Lane East. The project included concrete curb and gutter, replacement of the asphalt street with pervious concrete, installation of water main services where needed and sanitary sewer installation, repair and replacement where needed.

Three objections are being considered: 1) Franklin and Norma Wymore, 3123 Woodbridge Street; 2) Matthew and Christina Skally, 3125 Woodbridge Street; and 3) Jeffrey Dimmel, 3131 Rice Street.

The Wymores object to street and storm water assessments. Mr. Wymore states that he lives on a private drive. His property drains toward the lake and he does not receive drainage benefits from this project. The City's response is that the private drive depends on access to Woodbridge Street, a public street. It is City policy that properties on private drives connecting to public streets participate in special assessments for improvements to the public street. Although the private drive was also repaved, it is not a consideration in the assessment. The private drive is used by the City as an access to a lift station in the area and was repaved at City expense. It is the City's position that all properties benefit from the drainage improvements. City policy does not consider direction of drainage flow for assessments. The assessment is consistent with how all other projects are handled in the City. Staff's recommendation for 3123 Woodbridge is to consider the assessments as proposed.

Mr. Skally objects to the street assessment because of his legal 20-foot easement access to Rice Street. The private easement is a 20-foot wide piece of property extending from the Wymore property through the Dimmel property to Rice Street. There is a house adjacent to the 20-foot easement and no driveway. The driveway that serves the Dimmel property extends from a portion of that 20-foot piece of property. It is possible that Mr. Skally has the right to access Rice Street by driving through the Dimmel property, but that would be a complicated legal discussion. The practical access to the Skally property is from the same private drive to Woodbridge as the Wymore property. The mailboxes are on Woodbridge. Staff believes the

Skally property did receive benefit and recommends consideration of the assessments as proposed for street and drainage improvements.

Staff did determine that the Dimmel property has its primary access to Rice Street. It is not a corner lot that would pay a portion of the assessment for Woodbridge Street improvements. Staff recommends that this property not be considered for a street assessment on Woodbridge. When Rice Street is improved, this property would pay its portion of street assessments. The recommendation is to continue consideration of the assessment for storm water sewer only.

Mayor Martin explained that the public hearing was held on September 20, 2010. The Council is willing to hear a question of clarification from Mr. Dimmel, but can no longer take objections.

Mr. Jeff Dimmel, 3131 Rice Street, stated that Mr. Skally does have the legal right to access Rice Street through his property. The north 20 feet that was a straight east/west access to Rice Street was relocated to the far south edge of the lot about 15 years ago because it was too close to the house. He apologized for not attending the public hearing two weeks ago, as he was out of town. He also did not think his attendance was necessary because his address is on Rice Street and the 3121 Woodbridge also accesses off Rice Street.

City Attorney Filla asked who owns 3121 Woodbridge Street. **Mr. Dimmel** answered that it is his own property that he rents out. Mr. Filla asked if Mr. Skally regularly uses the driveway through Mr. Dimmel's property. **Mr. Dimmel** answered that he uses it almost daily. He is unable to see whether he uses the private drive to Woodbridge. It is his understanding that an easement was conveyed to the Skally property for use of the driveway through his property.

City Attorney Filla stated that he preliminarily examined title to the Skally property but not to 3121 Rice Street. The Skally property has an access easement of the north 20 feet over the Dimmel property to Rice Street, which he does not use. There is no easement of record indicating legal access. **Mr. Dimmel** stated that when he purchased his property in 1979, it was his understanding that Skally has legal access to Rice Street through his property.

City Attorney Filla stated that he reviewed the title for Mr. Skally's property and the deed his mother held before him. There is an easement over the north 20 feet. Neither shows an easement over Mr. Dimmel's current driveway. **Mr. Dimmel** responded that it is his understanding that there was a court decision regarding the 20-foot easement when it was abandoned because of objections by the previous owner of his property. The easement was moved to the center of the property which touches the house and is not usable. **Mr. Dimmel** moved the easement to the south so it could be used.

City Attorney Filla stated that the most recent deed for the Skally property is dated April 16, 2010, and recorded April 23, 2010. It does not include any legal easement across the Dimmel property except the north 20 feet, which is not used by anyone.

MOTION: by Councilmember Quigley, seconded by Councilmember Huffman to make no change to the assessment for 3123 Woodbridge Street, (PIN #36-30-23-4-0049) for Franklin and Norma Wymore, Woodbridge Reconstruction, Project 09-01.

Discussion:

Councilmember Wickstrom stated that she agrees with staff's recommendations. Noting that there were no objections made for 3121 Woodbridge, she asked if there is any legal way to change that assessment. City Attorney Filla responded that objections must be sent to the City prior to the close of the public hearing. There is case law that suggests, with good reason, the Court may make an exception. However, it is his opinion that Mr. Dimmel received the notice and had an opportunity to respond before he went out of town.

ROLL CALL: Ayes: Huffman, Quigley, Wickstrom, Withhart, Martin
Nays: None

MOTION: by Councilmember Quigley, seconded by Councilmember Huffman to make no change to the assessment amount for 3125 Woodbridge Street, (PIN #36-30-23-44-0074) for Matthew and Christina Skally, Woodbridge Reconstruction, Project 09-01.

ROLL CALL: Ayes: Quigley, Wickstrom, Withhart, Huffman, Martin
Nays: None

MOTION: by Councilmember Quigley, seconded by Councilmember Huffman to make a change to remove the street assessment for 3131 Rice Street, (PIN #36-30-23-44-0052), leaving the storm sewer assessment for Jeffrey Dimmel, Woodbridge Reconstruction, Project 09-01.

ROLL CALL: Ayes: Withhart, Huffman, Quigley, Wickstrom, Martin
Nays: None

Mayor Martin stated that the Council tries to apply policies fairly and equally throughout the City, even though there are sometimes unique circumstances. Had there been an objection by Mr. Dimmel on October 4th, she does not believe the Council would have ruled differently.

MOTION: by Councilmember Wickstrom, seconded by Councilmember Quigley to approve Resolution 10-84 adopting the assessment roll for Woodbridge Neighborhood Reconstruction, City Project 09-01, with any previously noted revisions, spreading said assessments over 15 years for assessment amounts of \$5,000 and over, spreading said assessments over 10 years for assessment amounts under \$5,000, both at 4.50 percent interest, with said installments to be equal payments.

ROLL CALL: Ayes: Huffman, Quigley, Wickstrom, Withhart, Martin
Nays: None

City Attorney Filla stated that anyone who wishes to appeal the City's decision has 30 days to appeal in District Court. After the City is served, the appellant has 10 days to file the complaint with the District Court. The easement that goes north and south to Owasso Lane is a private easement, but the City has maintained it as a public road and arguably it has become a public road. The private driveway may not be a private driveway. There is no other recorded easement.

AWARD OF BID - 2010 PAVEMENT REHABILITATION, CP 10-08

Presentation by Public Works Director Mark Maloney

On September 28, 2010, the City received four bids for the 2010 Pavement Rehabilitation project. The roads in this project include Woodduck Court, Maintenance Center parking lot, parking lot at Fire Station No. 4 and Christopher Lane. The bids were slightly over estimate between \$168,000 and \$188,000. The low bidder is T.A. Schifsky & Sons in the amount of \$168,151.00. With administrative and engineering costs, the total project is estimated at \$218,000. The project will be financed with \$141,100 from the Street Renewal Fund, \$45,500 from the General Fixed Asset Fund for Fire Station No. 4 parking lot and \$32,000 from the Central Garage Fund for the Maintenance Center parking lot.

Councilmember Withhart asked if the cost estimate is within the City's budget of this year. Mr. Maloney stated that this project is included in the City's Capital Improvement Program (CIP) this year.

MOTION: by Councilmember Huffman, seconded by Councilmember Withhart to adopt Resolution No. 10-94, which accepts the base bid of T.A. Schifsky & Sons for the 2010 Pavement Rehabilitation, City Project 10-08, and authorizes the Mayor and City Manager to execute a construction contract in the amount of \$168,151.00.

ROLL CALL: Ayes: Quigley, Wickstrom, Withhart, Huffman, Martin
Nays: None

ADJOURNMENT

MOTION: by Council member Quigley, seconded by Council member Huffman to adjourn the meeting at 7:52 p.m.

ROLL CALL: Ayes - 5 Nays - 0

Mayor Martin declared the meeting adjourned.

THESE MINUTES APPROVED BY COUNCIL ON THE 18TH DAY OF OCTOBER 2010.

Terry C. Schwerm
City Manager