

- 3.3 Accept Donations** Requested Action: Accept the donations as listed.
- Motion was made by Carlson, seconded by Oleson, and all voting aye, to accept the donations.
- 3.4 Regular and Treated Road Salt - Approve Purchase** Requested Action: Approve the purchase of up to 2400 tons of regular road salt at cost of \$66.55 per ton plus tax under State of Minnesota Contract #77774 and up to 4,800 tons of treated road salt at a cost of \$80.07 per ton plus tax under State of Minnesota Contract #77778 from Cargill, Inc. and approve moving the budget authority of \$261,000 from General Fund Contingency to 101-7625-431-6717.
- Motion was made by Carlson, seconded by Abrams, and all voting aye, to approve the purchase and transfer as described above.
- 3.5 Old Cedar Avenue Bridge Rehabilitation SRF Consulting Professional Services Agreement Amendment #1** Requested Action: Approve Contract Amendment 1 with SRF Consulting Group, Inc. for \$387,902.00 bringing the total approved budget to \$2,170,167 (including the original 12% contingency) for the Lindau Lane Grade Separation Project design and construction services.
- Motion was made by Carlson, seconded by Abrams, and all voting aye, to approve the contract amendment with SRF Consulting Group, Inc. as described above.
- 3.6 City Council Meeting Minutes Approve** Requested Action: Approve the following 2014 City Council study meeting minutes as presented: February 24, March 3, March 17, and March 24.
- Motion was made by Carlson, seconded by Abrams, and all voting aye, to approve the minutes listed above as presented except for the February 24, 2014, study meeting minutes, from which Mayor Winstead abstained.
- 3.7 Joint Powers Agreement with State of Minnesota Adopt Resolution** Requested Action: Adopt a resolution approving the execution of the State of Minnesota Joint Powers Agreement Criminal Justice Agency contract (SWIFT Contract #79501).
- This item was held by Lowman who requested more detail.
- Sandra Johnson, City Attorney explained this is an exciting project for the Legal Department regarding LENS, a criminal case management system. Rather than have staff hand type information into the report, the LENS system will integrate it. The Bureau of Criminal Apprehension (BCA) is paying for this as Bloomington is a pilot city for this project. Bloomington prosecutes all of its non-felony cases. She said the judge will be handed an I-pad with the police reports.
- Motion was made by Lowman, seconded by Baloga, and all voting, to adopt the resolution as described above. (R-2014-77)
- 3.8 FBI Joint Terrorism Task Force & BPD Memo of Understanding** Requested Action: Approve a Memorandum of Understanding (MOU) between the City of Bloomington Police Department and the FBI.
- This item was also held by Lowman who requested more detail.

Deputy Police Chief Rick Hart said the Joint Terrorism Task Force is a highly trained group of investigative personnel. He said it's represented by 103 U.S. cities. He reported Bloomington has a detective on the JTTF. He said the MOU covers the overtime expenses and a car is provided by the FBI.

Motion was made by Lowman, seconded by Abrams, and all voting aye, to approve the Memorandum of Understanding as presented.

4 PUBLIC COMMENT PERIOD

The Mayor declared the public comment period open for those wishing to address the Council on matters other than items included on the agenda.

Speaker #1: Sally Ness, 8127 Oakland Avenue South
She expressed concerns regarding the Al Farooq Youth & Family Center (AFYFC) at 8201 Park Avenue. She commented on the area that has been lost at Smith Park and the overuse of the AFYFC building. She said Smith Park needs to close at 10 pm. She talked about a verbal approval for use of the Smith Park parking lot. She said for three years, the Smith Park parking lot has had activity throughout the night. She said her neighborhood has endured nighttime traffic for three years. She said there were no permits to use Smith Park in 2012. She asked the Council not to sign the Joint Use Agreement but find out what's really going on over at the Park.

Speaker #2: Vi Rozek, 8214 Park Avenue South
She presented some Park Avenue traffic counts collected on a Monday, Wednesday, and a Thursday. Then she presented some traffic counts collected on a Tuesday, Friday, Saturday, and a Sunday; which were much higher. She said the Council didn't pass the Martin Luther Manor proposal because it was going to generate too much traffic for that neighborhood. She said there are 2,000 cars going up and down Park Avenue in front of her home and it will increase when school starts. She said the Council needs to sit there and observe it over an hour or two. She reported some Council members have sat in her home and watched the traffic. She said it's time for the Council to ask all the questions regarding the traffic, building use, Conditional Use Permit, etc. She said this doesn't only involve east Bloomington but all of Bloomington. She said Smith Park belongs to the City not to AFYFC. She said many AFYFC patrons are saying Smith Park belongs to them.

Speaker #3: Tony Schoenecker, 3401 Overlook Drive (Representing many people in the audience)
He talked about Overlook Drive and said the neighborhood would prefer a cul-de-sac be constructed rather than a through street. He suggested putting a pass-through connection for bikers and an emergency access for the Police Department. He questioned the normal traffic range referred to on the City's website. He said the neighbors are concerned with the cut-through traffic on West 106th Street. He reported 2,000 cars head north on France every day and that the fastest route will be on Overlook Drive after the road is connected. He said the City claims it will only increase traffic by a small amount. He believes drivers will take the fastest route. He said some traffic calming measures have been mentioned. He commented on a 2012 traffic accident. He said a cul-de-sac would provide plenty of room for a fire truck. He asked why there is a bias towards their neighborhood when there could be a variance for a cul-de-sac and there are lots of cul-de-sacs south of Old Shakopee Road. He said the traffic study came in late so they wanted to get this information out there.

Winstead said Council will take into consideration the data Schoenecker presented and it will be addressed when this item is heard. He talked about the process that needs to take place for alternatives to the proposed plan. He said there will be plenty of time for questions and answers at the Council hearing. He said a Dwan family member is developing the land with developer Peter Jarvis. They want to put in a development so City professionals have come forth with what is the best practice for configuration of roads for that development. He said that doesn't mean that is all that can happen. He said the City's Traffic and Planning staff have worked with the developer to put forth the best development.

Speaker #4: David Rickert, 2400 West 106th Street
He commented on the City's Complete Streets Policy. He believes this development should and will occur in this area. He said the development plat as proposed supports the City's Complete Streets initiative as well as the Alternative Transportation Plan. He said it will provide greater ease of travel for bicyclists and walkers. He said it will provide a greater access for the residents living west of Dwan to Nine Mile Creek parks, the lower trails, and the connection to the National Wildlife Refuge trails. He read from page 5 of the City's traffic study for this subdivision, which projects a potential traffic increase of 0 to 20% vehicles per day on Xerxes Avenue, Thomas Avenue, and Penn Avenue. He requested the developer consider rain gardens in addition to the stormwater pond to increase the development's aesthetic beauty. He requested the Council to review the traffic study, Alternative Transportation Plan, and the Complete Streets Policy to judge the pros and cons of this proposed development.

Speaker #5: David Schutten, 3710 Overlook Drive
He said a lot of effort has gone into the Overlook Drive connection. He said there will be a lot of people in danger. He said the neighborhood proposal is safer than the current proposal. He said making Overlook Drive a thoroughfare will put more people in danger. He said this is not a small issue ... it's a matter of a lot of people who have invested a lot of savings to live on a quiet street and a thoroughfare will turn it into a busy street.

The Mayor asked if anyone else wished to address the Council during the public comment period, or it would be closed. No one came forward to speak so the public comment period was closed.

**5 LICENSING DIVISION:
PUBLIC HEARINGS**

**5.1 St. Bonaventure
Church; 901 E. 90th St.;
On-Sale 3.2% Beer
Special Event License
Application**

Requested Action: Approve the On-Sale 3.2% Beer Special Event license application for St. Bonaventure Church at 901 East 90th Street.

No public testimony was received.

Motion was made by Busse, seconded by Abrams, and all voting aye, to approve the On-Sale 3.2% Beer Special license for St. Bonaventure Church.

**6 DEVELOPMENT
BUSINESS: PUBLIC
HEARINGS**

6.1 Fowler Electric; 9054, 9060, and 9100 Grand Avenue; Change in Condition

Requested Action: Approve a modification to Conditions of Approval in Case 8055A-11 for Fowler Electric Co., Inc. as stated in the staff report.

Glen Markegard, Planning Manager provided the staff report. He showed an aerial of the site located south of 90th Street. He said Council approved the Interim Use Permit in 2011. He said this will be a phased improvement plan and reviewed the plan approval dates. He said staff recommends changing the deadlines as follows: Condition #1(a) to March 31, 2015 and in Condition #1(b) to September 30, 2015. He said the applicant is available for questions.

Winstead commented the City wanted to see this move forward but understands there are some extenuating circumstances.

No public testimony was received.

Motion was made by Busse, seconded by Abrams, and all voting aye, to approve the modifications to Condition #1 in Case 8055A-11 as presented.

6.2 Red's Rubbish Service, Inc.; 1800 West 94th Street CUP for Open Storage

Requested Action: Adopt a resolution approving a Conditional Use Permit for outdoor storage as a primary use at 1800 West 94th Street, Case 4206A-14, subject to the conditions and Code requirements listed in the staff report.

Dennis Fields, Planner presented the staff report. He showed an aerial photo of the site on which the applicant proposes to use 23,000 square feet for exterior storage. The applicant received an enforcement notice from the City regarding the use of the exterior storage area as a primary use. Since the user of the storage area does not have office/warehouse space on the property, this is considered a separate use and requires a Conditional Use Permit (CUP) for open storage as a primary use. The applicant requested a CUP without any changes to the site but City Code requires a solid fence for the screening of all equipment and materials on the site. The applicant has not submitted a lighting plan but staff encourages the installation of lighting to enhance security. There is no increase in the impervious percentage. Staff recommends approval subject to the conditions in the staff report.

No public testimony was received.

Motion was made by Baloga, seconded by Oleson, and all voting aye, to adopt a resolution approving a Conditional Use Permit for Red's Rubbish Service, Inc. subject to the conditions in the staff report. (R-2014-78)

6.3 Adam Gaertner & McKenzie Novak; 10649 Yosemite Road; Setback Variance for an Accessory Structure

Requested Action: Having not been able to make the required findings, Council is requested to adopt the resolution of denial for a variance to reduce the required side yard setback from 5 feet to 1.7 feet for an accessory building located at 10649 Yosemite Road, Case 10936A-14, for Adam Gaertner and McKenzie Novak.

Fields presented the staff report highlighting the following slides:

- Variance for an accessory structure
- Aerial photos of property on Yosemite Road
- Plan in Building Permit drawing
- Drainage and utility easement

- As-Built survey: City received a complaint about the accessory building. The previous accessory building was constructed illegally within the setback area and inside of the 5-foot drainage and utility easement. The applicant had the property surveyed and verified the shed is within 1.7 feet from the side property line. If this variance is granted, an Encroachment Agreement will be needed.
- Practical difficulties in complying with the Zoning Ordinance: It's the property owner's responsibility to verify setback lines.
- Alternate Code complying locations
- Precedence setting: Staff is concerned that approving this variance would affect future requests for detached driveways also.
- Recommendation: Staff recommends denial of the variance request.

Winstead commented the previous owner of this property opened a trick bag.

Speakers #1 & #2: Adam Gaertner & McKenzie Novak, 10649 Yosemite Rd They purchased the home in May 2013. There was an existing shed that had been on the property for 40 years. The shed doesn't affect any of the neighbors' views. They have a three-quarter acre lot and this was the most logical place to add onto the shed. As their backyard is a quarter acre, it is not practical to put the shed in the back corner. Ms. Novak said allowing the variance would be a benefit to the City and utility companies, as there is a 10-foot gate on the southwest side of their property that could be used by the City or the utility company to access their backyard. She said if they need to move the shed 4 plus feet to the north, a vehicle for any purpose would no longer be able to pull through onto their property in front of the shed, as was intended to address any line maintenance, which will need to be addressed in the near future. She said it would be nearly impossible to access the lines from any other adjacent property. She said the original shed and concrete slab has been there for 40 years. McKenzie said the City of Richfield inspector told them they have to inspect every home with the seller to ensure instances like this are caught on the front end. She questioned why the Bloomington inspector didn't catch this upon inspection when the home was sold. She said there are many violations in their neighborhood but the only way people get caught is if neighbors call on it and that's not a friendly way to live. They feel like they are being singled out. She said the shed has no effect on others and moving it 4 feet will not affect anyone. She asked the Council not to penalize them for a Code violation they didn't know existed.

Baloga inquired if the applicants surveyed the land prior to purchasing the home.

Gaertner said he could only get a permit if the shed was moved; otherwise, they'd have to request a variance. Gaertner said they had a survey done after they purchased the home, not before.

Winstead inquired as to the problem identified by the complainant.

Fields explained the complaint was about the setback.

Oleson said the applicant referenced other areas out of compliance and asked if staff had any challenge to their statements about the number of garages, driveways that are out of compliance in the neighborhood.

Fields explained the north side of their home is out of compliance because the 6.3-foot setback is less than what the Code requires today.

Lee said staff has no reason to doubt the testimony of the homeowners, as those homes built in the 60s were going up as fast as they could.

Oleson commented sometimes survey markers get dug up by mistake. He talked about a home he purchased in Woodbury where he wanted to put in a shed only to find out there was an association involved that didn't allow sheds. He's also concerned about how such a precedent could lead to a city losing control. He doesn't think there should be a 0 or 1.7-foot setback. He suggested something needs to be done to ensure this type of information is made available to the purchaser before the sale happens even if it means a review of the City's codes and ordinances by the City Council.

Abrams inquired as to the standard size of a detached single-car garage.

Fields replied a single stall is 10 feet wide and 20 feet deep for a total of 120 square feet.

Winstead asked about precedents.

Fields said when staff gets questions regarding fence height or location of accessory buildings, callers are told about the 5-foot setback. He said with detached accessory structures, the City could get an influx of requests for applicants wanting to expand their single stall garage.

Winstead said he sees a difference between someone wanting to build a garage 1.7 feet off the lot line compared to something that has been there for 40 years with lot stakes in question and a history behind it. He said this precedent could be explained away.

Lee said Council needs to understand it's in a place to exercise judgment about what's a problem or not for precedent. He said staff needs to be in the position of defending precedent. Council is in a different position compared to staff members when it comes to exercising individual judgment.

Busse asked what would have happened if someone issued a complaint about the shed without the addition.

Fields replied the homeowner would have been notified and the history noted. He said the new part of the shed has to meet all Code requirements. He said the utility and drainage easement had to have been there when this property was initially platted. He said there is a large slope on the northeast portion of the property.

Lee said in the event there is an obstruction in the easement, the City would require that obstruction be moved should there be a need by the City to do work in that easement. He said if that work involved construction, the shed would need to be removed.

Abrams inquired if it's within the purview and scope of the Council's policymaking ability to amend future definitions of accessory buildings to differentiate between different sized structures to accommodate the uncertain lot lines within this city.

Lee stated that would be an ordinance provision; which is within the Council's purview.

Winstead said the current definition is prudent as it is. This is the circumstance before the City Council.

Baloga said a variance is to address this very situation. He doesn't find opposing this because it could set a precedent for another 40-year old shed being outside of the setback area. He said that doesn't make good common sense or good policy. He offered the following motion:

Motion was made by Baloga, seconded by Abrams, to adopt a resolution approving a variance to reduce the required side yard setback in Case 10936A-14. No vote was taken at this time.

Oleson asked about the condition relating to this variance if Council were to adopt it.

Markegard said if approved, one condition is recommended for an Encroachment Agreement to clarify if the structure is located within the easement.

Winstead stated if the City needs to gain access under the shed, it would need to be moved or removed.

Fields said there would be a limit to these buildings plans in case the applicants wanted to expand in the future.

Lowman asked if the easement could be moved.

Winstead said no, that is a greater policy question. He said he can support granting the variance but wants to be sure the conditions are laid out.

Markegard said with variances, there are resolutions of approval. He said staff can prepare the resolution and the conditions of approval for the next meeting.

Johnson said Council is making the findings for a 40- year precedent, monument markings, shed improvement, and original survey.

Baloga withdrew his original motion, which was accepted by the seconder.

Motion was made by Baloga, seconded by Abrams, and all voting aye, to continue this item to the September 8, 2014, Council meeting to allow staff and the applicant time to reach an agreement on all of the conditions so a resolution approving the variance can be presented for adoption at that time.

Busse said the Council has had discussion about people encroaching onto City park land and asked if the City needs to model the situation. It was stated if City staff comes across egregious situations to report them.

Winstead said if staff saw this and informed the applicant, they would need to apply for a variance or correct the situation.

Oleson requested staff be proactive when they become aware of these situations prior to buyers purchasing a home. Something needs to be done.

Lee explained the difficulty is a Time of Sale inspection costs \$150. He said the only way to locate property lines is via a land survey, which costs between \$1,000 to \$2,000. He said there is no other reliable way to find the property lines. He said even as-builts aren't reliable.

Oleson asked if the City has the authority to require a disclaimer be provided that indicates the survey information that is presumed right might not be accurate.

Winstead suggested a Time of Sale inspection could note there might be a questionable accessory building on the property.

Council to discuss at a future study meeting what can and can't be done at a Time of Sale inspection.

7 TRANSPORTATION & UTILITY IMPROVEMENTS: PUBLIC HEARINGS

8 ORDINANCES: PUBLIC HEARINGS No items.

9 OTHER: PUBLIC HEARINGS

9.1 General Assessment Policies City of Bloomington - Approve Amendments

Requested Action: Approve the proposed amendments to the City of Bloomington General Assessment Policies to address properties that do not directly abut a public street but still benefit from a public improvement.

Jen Desrude, Civil Engineer presented the staff report highlighting the following slides:

Special Assessment Policy

- Background: Amsden Road was approved for Pavement Management Policy (PMP) in 2013. Non-frontage properties are not addressed in the current policy.
- Current Assessment Policy: Special Assessment calculations, Adjusted Front Footage (AFF) computation, improvement types, handling restricted access, condominiums and townhomes; but does not address non-frontage properties.
- Rectangular lots: Greater than 150 feet deep
- Odd-Shaped Lots: (Calculation: Area within the first 150 feet divided by 150 feet)
- Odd-Shaped Lots Summary
- Shallow Lots: Less than 130 feet
- Corner lots deeper than 150 feet: A property is assessed for whichever street comes up first. They're only assessed for one frontage; the first street that is done.
- Large Tracts
- Double Frontage Lots: Shallow lot
- Neck lots: Adjusted Front Footage of 80 feet
- Types of parcels without street frontage

Winstead requested Desrude explain a 3D Registered Land Survey.

Desrude said there are 3D Registered Land Surveys; one for the Penn American District and two at the Mall of America.

Lee stated while there are currently only three 3D Registered Land Surveys in the city, staff anticipates more with higher density mixed-use development so the policy should address them.

- Policy Amendment: Non-Frontage Single and Two Family Homes:
 - Lot 1: 125 feet of AFF (per current policy)
 - Lot 2: 143 feet of AFF (per current policy)
 - Lot 3: 95 feet of AFF (per the policy amendment)
 - Lot 4: 109 feet of AFF (per the policy amendment)
 - Lot 5: 119 feet of AFF (per the policy amendment)
 - Lot 6: 91 feet of AFF (per the policy amendment)
- Policy Amendment: Non-Frontage Single and Two Family Homes:
 - Lot 1: 160 feet of AFF
 - Lot 2: 116 feet of AFF
 - Lot 3: 126 feet of AFF
 - Policy Amendment: (Fourplex): AFF 117 feet
 - Policy Amendment: Non-Frontage High Density Mixed Use
 - Keep as one group lot: 1,187 AFF and 1,026 AFF on the American Boulevard side.
 - Policy Amendment: 3D Registered Land Survey (RLS)
 - Recommendation: Amend City's General Assessment Policies

Carlson said the policy addresses the needs and it's consistent. It's been amended many times and it needs to be kept up to date.

Lee complimented Desrude on her presentation.

Busse said this is replicable.

Winstead said there is no perfect method and this will always be updated as new shapes and concepts come forward. He said staff just needs to work to have an equitable method to assess the properties.

Speaker #1: Fred Wallace, 8521 Amsden Road
 He showed an e-mail and the attachments he received from Desrude in November 2013. He said he uses Amsden Road but he doesn't front it. He doesn't think the proposed assessment is fair. He showed a current survey. His lot has been in place since 1962. He said the AFF could be calculated. He read the Neck Lot description that said the AFF was going to be 80 feet. He expressed support for being assessed per the current guidelines. He said when the Pavement Management Program (PMP) for Amsden Road was approved, the current guidelines were in place so he is not supportive of going back and changing the assessment calculations for these odd sized lots.

Winstead said under the old guidelines, Wallace would be assessed at 80 feet of frontage.

Lee asked what his AFF would be under the new policy.

Wallace replied it would be 126 feet vs. 80 feet. He asked if he would be charged more if he was the only one to have a neck lot on Penn Avenue when everyone else has a larger lot or would the current policy apply.

Winstead said if the proposed policy is adopted, it will be the policy going forward. Neck and flag lots would have 80 AFF whether it's Penn Avenue or Amsden Road. He said the open cases right now will be assessed per the proposed policy.

Desrude said staff anticipated using this amended policy for the properties on Amsden Road. She said the assessment hearing will be held in October. She explained if staff were to go strictly by the current policy, his assessment would be \$0.

Wallace said he's willing to pay an assessment even though he has no AFF.

Karl Keel, Public Works Director said the basic premise is to make lots reflective of the fair amount of land those lots represent so they're standardized into a standard amount of frontage. He said Wallace has a very large lot, 4-5 times the size of a typical lot, so this resulted in a frontage that is reasonable. He said a 126-foot lot is typical with other residential lots.

Winstead said there are good points on both sides of this issue. He believes every lot in the city should be assessed as an 80-foot lot.

Johnson said the trick is to prove special benefit to the property. She said does it increase the price that someone would pay for that property after the improvement relative to before the improvement. She said a street improves the general neighborhood. It's the gateway to what is being sold. The street and curbing enhances the home. She said the AFF tries to get at special benefit. How much does this improve the value of the real estate? She said the policy has to be uniformly applied. This is something the City Assessor and Legal believes would stand up in court if challenged.

Wallace said part of the formula of 126 feet is due to his acreage size.

Winstead commented it is up to a certain point, as Wallace has a super large lot.

Wallace said he heard that his lot is the size of four City lots.

Keel explained the size of the lot is not a direct correlation to how the AFF is calculated but generally speaking, the formula tries to assess larger lots more. He said Wallace has a very large lot so because he will pay a little bit more than a typical 80-foot lot, isn't unreasonable. He said the calculation only goes back 150 feet on a deep lot.

Wallace asked Desrude to bring up the Mariabo Circle example she used. He said he's being charged at the 126-foot width while larger lots on Mariabo Circle are only being charged for 91 square feet. He said if Amsden Road is going to be part of 2015 or future PMP projects, it should be considered under the current policy.

Lowman said he's uncomfortable with Wallace's proposed assessment since the road was approved for PMP in 2013, but under the current policy, he wouldn't be assessed at all.

Wallace said he's not saying he shouldn't pay any assessment but supports not changing the current policy because it has worked.

Winstead said the existing policy doesn't address Wallace's type of lot.

Johnson said Wallace's property doesn't qualify as a neck lot and is undefined. She said the policy in front of the Council would classify Wallace's lot as being assessed at the amount that was estimated at the time the project was ordered and that was on the high side so he would have notice of it. She said the Council can't negotiate Wallace's assessment at this time.

Winstead said Council has to look at the current policy or change the policy.

Oleson asked if the Council needs to talk about a transition for those who are currently in a plan that was set years ago but are about to be assessed differently. He asked if Wallace's situation is the result of developments that have happened since 1962 and have led to neck lots that were of many development associations.

Winstead asked Wallace how he and his neighbors govern their roads.

Wallace replied he has a shared driveway. He said it is not a shared driveway nor is it part of any association.

Lee said Examples #2 and #3 are policy amendments to address non-frontage single-family and two-family lots. He said there are only a handful within the city that don't directly access a road.

Lowman said given the City's history and legal direction, this policy direction makes the most sense.

Winstead said he supports the policy amendments going forward even though there was a time warp from when the project was approved to this assessment.

Busse said nothing is going to be perfect and this is the best option possible to assess Adjusted Front Footages. He said it's about as equitable and logical as it can be and it makes the most sense.

Motion was made by Baloga, seconded by Busse, and all voting aye, to close the public hearing on the amendments to the City's General Assessment Policies.

Motion was made by Busse, seconded by Oleson, to approve the amendments to the City's General Assessment Policies as presented. No vote was taken at this time.

Lowman asked if there was any way to go back and review Wallace's situation at a later time.

Johnson said the actual assessment of Wallace's property will come up at a separate time. She said the project has been ordered. She said Wallace has a statutory right to contest the special benefit that is being described for his property under the formula. She said his due process rights are in the future and he can do that.

Abrams said this policy process has brought a lot of outliers into compliance. It brings four different sorts of situations that currently exist into something where appropriate and fair contribution through assessment is what can be expected going forward. She said when additional commercial or residential development comes into the City, staff should be asking if that development creates a new outlying situation that cannot be addressed based on the proposed amended ordinance. Are they creating any unique assessment situation? She supports the amendments before the Council.

Mayor called for a vote on the motion. It passed unanimously.

10 ORGANIZATIONAL BUSINESS**10.1 City Council Policy & Issue Update**

- Acting City Manager Lee said Councilmember Lowman had asked about the Overlook Drive properties. He reported Peter Jarvis, the developer, held a meeting on Friday, August 8 to talk to the neighborhood about the development. He said City staff doesn't typically attend those meetings. He said it's possible that a developer who is open to taking the ideas of a neighborhood could put them into a revised plan. He said it's possible a City staff person who lives in the neighborhood could have attended the meeting representing their own property.

Winstead said there has been talk about Council members engaging with property owners. He said if information is presented, it can take on the characteristics of a hearing at which there is no developer in attendance to present his information. He said Council members run the risk of becoming an adversary or an advocate for what that neighborhood wants to see but without all of the parties being present such as the developer, the Council, City staff, etc., which is a recipe for creating a real problem. If a Council member takes on the position of the developer, the neighborhood isn't being represented. If the member takes on the position of the neighborhood, the developer isn't being represented. He said there is case law on both sides of it.

Lowman said he hates to be non-responsive to citizens' concerns.

Johnson relayed a story involving a Minneapolis Councilwoman who was trying to balance both sides; the applicant and the public. Johnson said Council needs to put on their judge hats. They have to define standards to a specific set of facts. They must treat this situation as a judge would. She suggested explaining to the public that Council has to remain impartial until the hearing is done and their decision must be based on all of the evidence in the hearing. She warned Council if they gather evidence in this type of quasi-judicial case outside of the record that is before the Council, they need to state that into the record so that the record reflects every bit of evidence that will serve as a basis for the decision.

Lowman said the constituents don't understand the process and questioned how they advocate for themselves in this process.

Johnson replied the best way for the residents to advocate for the neighborhood is to write a letter so it gets put into the record.

Winstead said this situation is unique and typical all at the same time.

- Lee said a worthy presentation scheduled by the Greater Minneapolis Chamber is coming up on September 23 at 11:30 a.m. at the Minneapolis Hyatt Regency regarding the MSP Airport.
- Carlson inquired if Council could receive materials in advance to prepare for the September 15th study session.

Lee said a memo can be provided in City Manager's Information prior to the meeting.

- Baloga asked if the tentative study meeting scheduled before the September 8 regular meeting to talk about the 2015 preliminary levy could be firmed up and requested it start at 5:30 pm.

Winstead said he has had conversations with a couple of Council members who feel the percentages previously discussed by the Council were too high. He said Council needs to be ready to prepare staff on the amounts and percentages for the levy and the budget.

Baloga wants a meeting called.

Winstead said Council wants to give direction to the City Manager about the structure of the percentages prior to the next meeting.

Lee suggested staff could provide Council with a general outline of the 3%, 4% and 5% options unless Council wants more than that.

Winstead said it would be good if Council could give staff some insight into some of the structure that addresses the what if's (if it were, what it could be).

Oleson said there is going to be push back anytime tax rates go up. He said that study session needs to provide a rationale for what is being presented.

Lee said Council desires to see that study meeting start at 5:30 pm so he will try and frame up how they want it to go for the City Manager.

Abrams asked if this topic will also be an item on the September 8 regular meeting agenda.

Julie Vogel, Finance Manager replied Council will want to pass the preliminary levy on September 8.

Winstead asked to what date the Preliminary Levy can be deferred.

Vogel said it could be discussed at a study session on September 15 and finally adopted on September 22. She said there is already an hour scheduled to discuss budgets on the September 15th agenda.

Winstead said some things will get framed up at the study session on September 8th for continued discussion on September 15th.

- Oleson said the Bloomington Sister City Organization recently hosted ten students and some adult chaperones from Izumi, Japan. He said as the Council's representative on the Sister City board, he will request a summary report.

He also reported on a problem he had with his iPad. He said Good encountered a problem and it crashed his iPad along with the data he had stored on it.

Winstead said it would be good if Council had the ability to back up their iPads.

Carlson inquired if there were some best practices on using technical devices that could be shared with the Council.

Winstead said it would be helpful to know the proper way to back up from the City's IT staff.

Baloga said he uses an off-site cloud plus others for back up purposes.

Oleson said he was backed up but suggested Good might be having a problem. He talked about the problems he's been having trying to print to his old printer. In addition, he'd like to have Microsoft office on the iPad. He said the whole concept of moving to this system needs to go back to the drawing board to some extent.

Abrams said the iPad was never designed to store documents or facilitate the movement of documents. She said that's one of the struggles she's been having from the capture and the printing without a wireless printer at home to the complicated backup processes that are necessary.

Winstead requested staff report back on these issues.

Lee said a study time could be scheduled to give Council an opportunity to ask questions about the use of their iPads.

11 ADJOURN

Mayor Winstead adjourned the meeting at 9:53 p.m.

Barbara Clawson
Council Secretary