

Regular Meeting
Monday, February 23, 2015
Bloomington Civic Plaza
1800 West Old Shakopee Road
Bloomington, Minnesota 55431-3027

- 1 **CALL TO ORDER- 7 PM** Mayor Winstead called the meeting to order at 7:00 p.m.
- Present: C. Abrams, J. Baloga, T. Busse, A. Carlson, D. Lowman and J. Oleson.
- 2 **INTRODUCTORY**
- 2.1 **FLAG PRESENTATION** Boy Scout Troop #374 from Nativity of Mary Church presented the colors.
- 2.2 **Heart Safe Community Proclamation** Requested Action: Read and present a proclamation designating Bloomington as a Heart Safe Community.
- Mayor Winstead read and presented the proclamation to Lisa Brodsky, Assistant Public Health Administrator.
- Brodsky introduced Jamie LaLonde who shared her personal experience with sudden cardiac arrest while working at the Forever 21 store at the Mall of America.
- Katie Tewalt, Supervisor of the Heart Safe Communities Program at Allina Health Emergency Services presented Bloomington with a certificate and two Heart Safe road signs.
- 2.3 **2014 Advisory Board of Health Annual Report and 2015 Work Plan and Meeting Schedule** Requested Action: Accept the Advisory Board of Health (ABH) 2014 Annual Report and approve their 2015 Work Plan and ABH Meeting Schedule.
- Public Health Administrator Bonnie Paulsen highlighted a few slides from the 2014 Annual Report. She stated the Bloomington City Council serves as the Community Health Board in Bloomington and described the services Bloomington Public Health provides to the cities of Richfield and Edina.
- Paulsen introduced Advisory Board of Health Chair David Drummond who presented the 2014 ABH Annual Report. He talked about the difference between medical care vs. public health, which focuses on preventive care.
- Lowman said “smoking in multi-family housing” interests him and asked Drummond what he learned about that at the conference he attended. Drummond said it’s a significant issue and reported one of the ABH members is and will continue to study it in detail, as it’s not only a health issue but an aesthetic one. He didn’t know if the Board would be making a recommendation on this topic or not.
- Motion was made by Abrams, seconded by Lowman, and all voting aye, to accept the 2014 ABH Report and approve the 2015 ABH Work Plan.

2.4 Parks, Arts and Recreation Commission 2014 Annual Report and 2015 Work Plan

Requested Action: Accept the Parks, Arts and Recreation Commission (PARC) 2014 Annual Report and approve their 2015 Work Plan.

Parks & Recreation Manager Randy Quale introduced PARC Chair Gordie Holm and Vice Chair Jim McCarthy. Holm presented the 2014 Annual Report and McCarthy presented the 2015 Work Plan.

Baloga requested they elaborate on the City's sidewalk and park trails usage policy. Quale replied it's a policy for the usage of sidewalks and trails within the city. It's been drafted but staff wants to go through the Alternative Transportation Plan update before bringing this policy to Council for review. He stated the last Park Master Plan was approved in 2008 so an update of that Plan will be done within the next year or two.

Baloga asked about a Needs Assessment for the parks. Holm replied it should be done in March.

Oleson asked if Council will be getting the big picture of what's going on with the parks. Staff replied yes in the April timeframe.

Motion was made by Baloga, seconded by Abrams, and all voting aye, to accept the 2014 PARC Annual Report and approve their 2015 Work Plan.

2.5 2015 Planning Commission Work Plan

Requested Action: Approve the 2015 Planning Commission Work Plan.

Planning Manager Glen Markegard presented the 2015 Planning Commission Work Plan. He said per the Council study meeting discussion, there will be accelerated discussions on commercial redevelopment and residential enhancements. He said the Housing & Redevelopment Authority will be bringing forward a separate study item in April-June timeline. The industrial zoning updates will also be accelerated. He said work on the IT Zoning District will be combined with the other industrial districts. He said staff recommends retaining the Normandale Lake District Plan Update project in 2015, which primarily focuses on adding a reference to the westbound 494 access at East Bush Lake Road. It's been added to the Community Investment Program and will be added to the District Plan.

Motion was made by Oleson, seconded by Busse, to accept the 2015 Planning Commission Work Plan as presented. No vote taken at this time.

Lowman asked the Council if it made sense to add the Normandale Lake District to the 2015 priorities as recommended by staff.

Baloga thanked staff for incorporating so many suggestions. He asked what the status of the Normandale Lake District activity will be if the bill that was introduced in the House but not yet in the Senate doesn't go anywhere this year. Markegard said staff would look to future years for that bill or something similar. He said even if funding is not approved in 2015, the project will continue.

Mayor called for a vote on the motion. It passed 7-0.

3 CONSENT BUSINESS

3.1 2015 Local Public Health Services Agreement with the City of Edina Approve

Requested Action: Approve the 2015 Local Public Health Services Agreement with the City of Edina.

Motion was made by Carlson, seconded by Abrams, and all voting aye, to approve the Agreement as described above.

- 3.2 Execution of Master Subscriber Agreement for Court Data Services for Governmental Agencies** Requested Action: Adopt a resolution approving the Master Subscriber Agreement for Minnesota Court Data Services for Governmental Agencies.
- Motion was made by Carlson, seconded by Abrams, and all voting aye, to adopt a resolution approving the Agreement as described above. (R-2015-18)
- 3.3 LOGIS Public Safety Software Upgrade Adopt Resolution** Requested Action: Adopt a resolution approving the funding for interest through the 2018 contract for the LOGIS Public Safety Application upgrade.
- Motion was made by Carlson, seconded by Abrams, and all voting aye, to adopt a resolution approving the commitment of funds for the upgrade of public safety software. (R-2015-19)
- 3.4 Accept Donations** Requested Action: Accept the donations as listed in the agenda item.
- Motion was made by Carlson, seconded by Abrams, and all voting aye, to accept the donations and approve the amended budgets to facilitate the appropriate use of the funds as presented in the agenda item.
- 3.5 Founder Ridge Project Series 2014A and Series 2014B Adopt Resolution Amending** Requested Action: Adopt a resolution amending Series 2014A and Series 2014B Notes for the Founder's Ridge Project per the schedule prepared by Northland Securities, Inc.
- Motion was made by Carlson, seconded by Abrams, and all voting aye, to adopt a resolution amending Series 2014A and Series 2014B Notes for the Founder's Ridge Project. (R-2015-20).
- 3.6 2015-102 PMP Project (includes 2015-802 Auto Club Retaining Wall) Approve Plans, Specs & Schedule** Requested Action: Approve the plans, specifications and schedule for the 2015-102 Pavement Management Program (PMP) Street Maintenance Project (including the 2015-802 Auto Club Retaining Wall Reconstruction Project).
- Motion was made by Carlson, seconded by Abrams, and all voting aye, to approve the plans, specs and schedule for the 2015-102 PMP Street Maintenance Project including Project 2015-802 as described in the item.
- 3.7 2015-802 Auto Club Retaining Wall Reconstruction Project Accept Easements** Requested Action: Accept the easements for the 2015-802 Auto Club Retaining Wall Reconstruction Project.
- Motion was made by Carlson, seconded by Abrams, and all voting aye, to accept the easements for the 2015-802 Auto Club Retaining Wall Reconstruction Project as described in the agenda item.
- 3.8 Federal Recreational Trail Program Grant Application – Old Cedar Avenue Adopt Resolution** Requested Action: Approve the City's application for Federal Recreational Trail Program funding and adopt a resolution of support for a new off road multi-modal trail for the east approach of the Old Cedar Avenue Bridge over Long Meadow Lake.
- Baloga held this item to inquire if the City's portion of \$137,000 of the estimated \$287,000 cost for the Old Cedar Avenue East approach was included in the current bridge cost estimate.

Public Works Director Karl Keel explained this is the piece south of the bridge so it was not bundled into the Old Cedar Avenue Bridge costs but rather was included in the package of bundled amenities, which includes these trail links.

Motion was made by Baloga, seconded by Abrams, and all voting aye, to approve the City’s application for Federal Recreation Trail Program funding and adopted a resolution of support for a new off road multi-modal trail for the east approach of the Old Cedar Avenue Bridge over Long Meadow Lake. (R-2015-21)

3.9 Variance to Side Yard Setback; Charles Breitsprecher; 8233 Xerxes Ave.

Requested Action: Adopt a resolution approving a variance to reduce the required side yard setback from 5 feet to 2.5 feet for an attached garage addition at 8233 Xerxes Avenue South for Charles and Michelle Breitsprechter, subject to the conditions listed in the staff report.

Motion was made by Carlson, seconded by Abrams, and all voting aye, to adopt a resolution approving a variance at 8233 Xerxes Avenue South as described above. (R-2015-22)

3.10 Release of Land from Development Agreement (Normandale Hospitality Place) – Approve

Requested Action: Approve a Release of Land from the Development Agreement for Lot 1, Block 1 NORMANDALE HOSPITALITY PLACE, which is the new Hampton Inn property located at 5400 American Boulevard West and authorize the Mayor, City Manager, and City Attorney to sign the same.

Motion was made by Carlson, seconded by Abrams, and all voting aye, to approve a Release of Land from the Development Agreement described above.

3.11 Street Sweeper - Approve Purchase

Requested Action: Approve the purchase of a 2015 Elgin Pelican-NP Street Sweeper in the amount of \$175,937.00 from MacQueen Equipment of St. Paul, MN under State of Minnesota Contract #83362.

Motion was made by Carlson, seconded by Abrams, and all voting aye, to approve the purchase of a street sweeper as described above.

3.12 2014 Year-End Encumbrance Rollover Approve

Requested Action: Approve the rollover of the outstanding 2014 encumbrances, as listed in the agenda item, into the 2015 fiscal year with a reduction of the 2014 budget and an adjustment of the 2015 budget authorization by the same amounts.

Motion was made by Carlson, seconded by Abrams, and all voting aye, to approve the rollover of funds encumbered on purchase orders outstanding as of December 31, 2014 into the 2015 fiscal year as listed in the agenda item.

3.13 Cooperative Purchasing Connection - Approve Cooperative Participation

Requested Action: Approve the City’s participation in the Minnesota Service Cooperatives’ (MSC) Cooperative Connection Program for purchases of supplies, materials, or equipment without regard to the competitive bidding requirements.

Motion was made by Carlson, seconded by Abrams, and all voting aye, to approve the City’s participation in the Cooperative Purchasing Connection purchasing program.

- 3.14 Polar Business Subsidy Amendment - DEED** Requested Action: Adopt a resolution approving the first amendment to the Business Subsidy Agreement between the City and Polar Semiconductor, Inc. to modify the job creation/retention goal to reflect the number accepted by DEED.
- Motion was made by Carlson, seconded by Abrams, and all voting aye, to adopt a resolution approving the first amendment to the Business Subsidy Agreement between the City and Polar Semiconductor, Inc. as described above. (R-2015-23)
- 3.15 Polar Business Subsidy Amendment - Hennepin County** Requested Action: Adopt a resolution approving the first amendment to the amended and restated Business Subsidy Agreement between the City and Polar Semiconductor, Inc. to modify the job creation goal for the Hennepin County grant.
- Motion was made by Carlson, seconded by Abrams, and all voting aye, to adopt a resolution approving the first amendment to the amended and restated Business Subsidy Agreement between the City and Polar Semiconductor, Inc. as described above. (R-2015-23)
- 3.16 Lindau Roundabout Sculpture Agreement** Requested Action: Authorize execution of an agreement with James Brenner for a sculpture in the roundabout at the intersection of Lindau Lane and 28th Avenue.
- Motion was made by Carlson, seconded by Abrams, and all voting aye, to authorize execution of an agreement between the City and James Brenner for the sculpture described above.
- 3.17 2015 Cable TV Education Access Contract Approve** Requested Action: Approve the contract with Independent School District #271 for educational cable access services.
- Motion was made by Carlson, seconded by Abrams, and all voting aye, to approve the contract with Independent School District #271 for educational cable access services.
- 3.18 2014 Contract for Services between Bloomington and Port Authority** Requested Action: Approve and authorize execution of the 2015 Contract for Staff Services between the City of Bloomington and the Port Authority.
- Motion was made by Carlson, seconded by Abrams, and all voting aye, to approve and execute a contract with the Port Authority as described above.
- 3.19 Meeting Minutes City Council-Approve** Requested Action: Approve the following City Council meeting minutes as presented: August 11, 2014 (Study), October 13, 2014 (Regular), November 3, 2014 (Regular), November 17, 2014 (Regular), January 31, 2015 (Special Meeting), and February 2, 2015 (Regular).
- Motion was made by Carlson, seconded by Abrams, and all voting aye, to approve the minutes listed above as presented.
- 3.20 2014 Year-end Budget Carryovers** Requested Action: Approve the re-appropriation of the 2014 budgeted expenditures into 2015 as listed in the agenda item.
- Motion was made by Carlson, seconded by Abrams, and all voting aye, to approve the re-appropriation of the 2014 Year-End Carryover Budget.

- 3.21 Diseased Tree Removal District 3 - Approve Extension** Requested Action: Approve extension of the contract with YTS Companies for diseased tree removal within District #3 for an additional twelve-month period through March 31, 2016 with an increase to the not-to-exceed contract amount to \$120,000.00.

Motion was made by Carlson, seconded by Abrams, and all voting aye, to approve a contract extension with YTS Companies as described above.

4 PUBLIC COMMENT PERIOD

Mayor Winstead declared the Public Comment Period open for anyone wishing to address the Council on matters not on tonight's agenda.

Speaker #1: Sally Ness, 8127 Oakland Avenue South

She made the following comments regarding the Dar Al Farooq Youth & Family Center (AFYFC) at 8201 Park Avenue South: Asked the Council not to sign the Joint Use Agreement (JUA); said AFYFC Director Hyder Aziz signed the development application; read AFYFC's best guess with regard to use; showed photo of Mr. Aziz at the podium during a City Council meeting with a stack of more than 150 papers from people who had expressed an interest to him in AFYFC; read from information provided on the AFYFC website; said AFYFC users fill three times their number of parking spaces; said there was an incorrect case # listed in one of the City's documents regarding AFYFC that actually pertains to Hillcrest; and showed a resolution that incorrectly states it's on behalf of Lutheran High School when it should say on behalf of Concordia. She said there has been a big change in usage at AFYFC from 300 to 750 people, which is a big change. She said there must be some way the City can help the neighborhood. She said AFYFC should be made to adhere to the 300 occupancy for assembly. She said the photos of cars double parked at AFYFC and in the Smith Park parking lot are proof that the usage has changed at AFYFC.

Winstead said staff will try and resolve some of the issues Ness raised.

Speaker #2: Karen Wills, 10467 Dupont Road, Child Psychologist

She referenced her prior Public Comment appearance when she talked about the City's intent to prosecute some people involved in the Black Lives Matter protest that was held at the Mall of America in December. She said since that time, the City has moved forward and singled out ten individuals for prosecution. She asked the Council, as her elected representatives, to exercise its discretion in urging restraint and discretion in the prosecutorial process from City Attorney Sandra Johnson. She said Johnson's role to the Council is advisory and the Council directs Johnson's actions and the City Council is answerable to the public. She said she participated in the rally at the Mall. She read an extreme point of view that was expressed in the Sun Current. She believes this rally was treated differently than other rallies. She said the protestors were denied a permit and ten random people were charged.

Speaker #3: Vi Rozek, 8214 Park Avenue South

She recalled finding a school in a quiet neighborhood in the fall of 1982 and how many changes she has seen occur in the Smith Park neighborhood and at Smith Park since then. Having lived there for 30 years, she said none of the prior users of 8201 Park Avenue held activities that went throughout the night because it was not allowed in the City's Comprehensive Plan. She said AFYFC has transformed their neighborhood. Now there are lots of cars parked up and down their street and the parking lots overflow daily. She talked about events occurring after 10 pm and the Eid events that pack in lots of people. She reported there are lots of people walking through their area until 4:30 am. She said rules have been rewritten to accommodate this building's users and now their neighborhood is no longer a jewel.

Mayor Winstead asked if anyone else wished to address the Council. No one else came forward so the Public Comment Period was closed.

**5 LICENSING DIVISION:
PUBLIC HEARINGS**

**5.1 New On-Sale
Intoxicating Liquor
License Application –
Crowne Plaza Hotel**

Requested Action: Approve the on-sale intoxicating liquor license, expiring June 30, 2015, for Myron Wayne Kaeding, doing business as, Crowne Plaza Hotel at 3 Appletree Square.

Motion was made by Baloga, seconded by Busse, and all voting aye, to approve the liquor license for the Crowne Plaza Hotel as described above.

**5.2 New On-Sale
Intoxicating Liquor
License Application –
Hyatt Place
Minneapolis Airport
South**

Requested Action: Approve an on-sale intoxicating liquor license for ARC Hospitality Portfolio I Misc. TRS, LLC, doing business as, Hyatt Place Minneapolis Airport South at 7800 International Drive.

Motion was made by Oleson, seconded by Lowman, and all voting aye, to approve the liquor license for the Hyatt Place Minneapolis Airport South as described above.

**5.3 Liquor License
Violations**

Requested Action: Deem the violations that occurred at the following establishments on December 17, 2014, as nonwillful and impose the following fines:

- B3 Investments, LLC, d/b/a Clover Wine & Spirits - \$1,000.00
- FS Midwest Restaurant Ventures d/b/a Redrossa Italian Grille - \$1,000.00
- Luby's Fuddruckers Restaurants, d/b/a Fuddruckers - \$1,000.00
- Streetz Grill Bloomington, LLC, d/b/a Streetz American Grill - \$500.00

Associate City Attorney Ann Kaul presented the staff report on one off-sale and three on-sale liquor violations that occurred on December 17, 2014, during a liquor license detail conducted by the Bloomington Police Department. She reported all four establishments have stipulated to the facts presented in their case and none had any violation within the past five years. Council will need to determine if the violation should be deemed willful or nonwillful and the amount of the penalty. Details regarding the violations are as follows:

- Off-Sale:
Clover Wine & Spirits
800 West 98th Street

A 19-year old operative purchased beer. No age or I.D. was requested. The recommended fine is \$1,000.00.

Speaker #1: Gelmar Bechara, Owner
He said he was distracted and sold the beer to the operative. He said it's his first ever violation and feels bad about it. It was not done on purpose. He takes it very seriously. He reported they've passed a couple of compliance checks in the past. He said he was extremely remorseful adding he will be more vigilant in the future. He said they have scanners that can check for fake I.D.'s.

Busse recalled a previous discussion about this particular store selling to a car full of kids.

Licensing Examiner Doug Junker explained the issue Busse recalled was in this lot but not involving this owner.

Motion was made by Busse, seconded by Baloga, and all voting aye, to deem the violation at Clover Wine & Spirits as nonwillful and imposed a \$1,000 fine.

- On-Sale:
Redrossa Italian Grille
1901 Killebrew Drive

19 and 20-year old operatives ordered beer. An I.D. was requested of the female who had a WI driver's license indicating she was Under 21 but no I.D. was requested from the male. The male was sold the alcohol. The recommended fine is \$1,000.

Speaker #1: Erik Jansen, General Manager

He said that bartender was his best employee and was up for a Diamond Service Award but was terminated the evening this violation occurred. He said the bartender took the I.D. to another manager and made the decision not to serve the female but sold beer to the male. The bartender said the male looked older so that is why he didn't ask for an I.D. He said this was his first violation since becoming a manager and that everyone learned a lesson.

Busse commented Redrossa is attached to a hotel and asked Janson if they conduct special training for their bar staff.

Janson replied they conduct pre-shift meetings.

Motion was made by Busse, seconded by Oleson, and all voting aye, to deem the violation at Redrossa Italian Grille as nonwillful.

Motion was made by Busse, seconded by Abrams, and all voting aye, to impose a fine of \$1,000 for the Redrossa Italian Grille.

- Fuddruckers
3801 Minnesota Drive

A 19-year male old operative ordered beer and an I.D. was requested. The I.D. showed he was Under 21 but the bartender sold him the beer anyway. The recommended fine is \$1,000.

Speaker #1: Scott Heidman, Representing Fuddruckers

He said the bartender looked at the I.D. and read the birth year as 1993 rather than 1995. He said they use TIPS training and have a non-negotiable policy.

Winstead restated the facts in the case were stipulated to by Redrossa and the license clearly identified the purchaser as being Under 21.

Heidman said they run a great establishment and it was embarrassing for both he and the bartender.

Lowman asked Heidman what he will do to ensure this doesn't happen again.

Heidman replied they use TIPS training and said they will TIPS train a couple of back-up bartenders as well. He said they card everyone; no exceptions. They intend to have lots of conversation between management and staff adding the bartender still has her job.

Motion was made by Busse, seconded by Abrams, and all voting aye, to deem the violation at Fuddruckers as nonwillful and imposed a \$1,000 fine.

- Streetz American Grill
1200 West 98th Street

19 and 20-year old operatives entered the restaurant. The 19-year old male ordered beer and presented a WI driver's license, which showed he was under the age of 21. Beer was sold to both operatives. The recommended fine is \$500.

Speaker #1: Paul Harmon, Streetz Grill Owner and Chief Operator
He said the register person is an older woman who is still employed. She made an error and realized it as soon as the bottle left her hand. She was immediately remorse about what she did. They train everyone except the line cooks. They've added dates on their registers to deter sales of alcohol to under age persons.

Motion was made by Busse, seconded by Abrams, and all voting aye, to deem the violation at Streetz American Grill as nonwillful and imposed a \$500 fine.

Winstead explained this fine is less due to their 3.2 liquor license.

**6 DEVELOPMENT
BUSINESS: PUBLIC
HEARINGS**

- 6.1 Jennifer Development Company, Inc. 10701 Hampshire Ave.; Appeal of Planning Commission Condition**

Requested Action: Continue this item to the March 16, 2015, Regular City Council meeting as requested by the applicant.

It was stated the applicant, Jennifer Development, requested the continuance to March 16.

Motion was made by Baloga, seconded by Oleson, and all voting aye, to continue to the March 16, 2015, Regular Council meeting, an appeal by Jennifer Development Company, Inc. (owner) of a Planning Commission Condition of Approval and Code interpretation.

- 6.2 Park N Fly - Interim Use Permit 3700 and 3750 American Blvd**

Requested Action: Assuming the Site Development Agreement is signed prior to the February 23, 2015, Council meeting, the Planning Commission and Staff recommend the following:

In Case 9250A-14, approve a five-year Interim Use Permit for remote airport parking located at 3700 American Boulevard East set to expire July 1, 2019, subject to the conditions listed in the staff report.

In Case 9250C-14, adopt a resolution approving a variance to increase the Interim Use Permit term from five years to ten years located at 3750 American Boulevard East, subject to the conditions listed in the staff report.

In Case 9250D-14, approve a ten-year Interim Use Permit for remote airport parking located in the existing parking structure at 3750 American Boulevard East to expire July 1, 2024, subject to the conditions listed in the staff report.

Planning Manager Glen Markegard provided the staff report. He presented a slide presentation and highlighted the following: Applicant plans to remove the small building at the entrance to the site and reconfigure the site, which will add (30) parking spaces. The plan doesn't match the City's long-term vision for the South Loop District, but it serves as a good holding use until the site is redeveloped. Two important considerations are, "is there a demand for redevelopment that matches the vision in the Comp Plan" and "is there a supply of land available for redevelopment in the District." He said based on demand alone, staff would not recommend approval, as there are developers interested in residential and hotel development in this area. He said because there is a large land supply in the South Loop District, staff believes it makes sense to extend or reissue the Interim Use Permit (IUP). While the applicant believes they have permanent rights to the use, staff said there are no permanent rights. He said a resolution is to have the land owner sign a development agreement confirming the use is interim and the City would then approve the 5 years on the surface lot and 10 years on the parking ramp. He said Bill Griffith has a signed agreement with him should this be approved. If approved, this would set up a phased development. He said staff and the Planning Commission recommend approval of all three applications, which requires three separate motions.

Winstead said he recalled the ramp being built to a standard that could support an office building and questioned why a 10-year IUP on the ramp vs. 5 years on the other parcel. Markegard said the applicant requested 10 years to justify their investment of possibly installing LED lighting on the site.

Oleson said staff's recommendation is that a 5-year IUP is long enough on the larger property. He asked if another developer wanted to develop that parcel, could they negotiate with the current developer to develop that parcel sooner than five years. Markegard said the site could be redeveloped at any time no matter what the term. He said after five years, the owner wouldn't have any rights to continue the use unless they applied for and received another approval. He said the owner could redevelop earlier if they so choose. To answer Oleson's question regarding the life expectancy of the ramp, Markegard replied 30-50 years and said it was built in the 90's.

Speaker #1: Bill Griffith, Representing Park N' Fly

This one has a long history and it's been well discussed with staff during the past year. He said he consulted with Rick Geshweiler, Planning Director within the last ten years who said a trade occurred, which said if the developer would put many millions of dollars into a structured parking ramp that could later support office development, the exchange was that the surface lot would then obtain permanent remote airport parking rights. He said staff disagrees with that and has for the several previous renewals. He said the City once granted these rights by Temporary Conditional Use Permit but now the City issues Interim Use Permits. They want to cut those arguments out of the discussion and look towards the future. He said Ms. Muir, agent for the owner, is looking forward to the future and believes the surface lot will be in a good position for redevelopment within the next five years. He said the structured parking ramp would provide some cash flow for the development of the surface lot. He said essentially every project that is underway in the South Loop District is being done with City investment/involvement. He said until those projects that have City investment come to fruition, there won't be a solid development opportunity for these surface lots. They hope there will be an opportunity to build onto or next to the structured parking ramp within the next ten years.

Winstead said he doesn't recall the representations Griffith said were made by Mr. Geshweiler.

Griffith said it's taken longer than anyone imagined to develop the South Loop District. He said Ms. Muir isn't giving up on this location because it's a good one.

Markegard said the IUP's would expire in 2019 and 2024.

Motion was made by Baloga, seconded by Abrams, and all voting aye, to approve a five-year Interim Use Permit for remote airport parking located at 3700 American Boulevard East to expire July 1, 2019, subject to the conditions listed in the staff report. (Case 9250A-14)

Motion was made by Baloga, seconded by Oleson, and all voting aye, to adopt a resolution approving a variance to increase the Interim Use Permit from 5 years to 10 years located at 3750 American Boulevard East, subject to the conditions listed in the staff report. (Case 9250C-14) (R-2015-24)

Motion was made by Baloga, seconded by Oleson, and all voting aye, to approve a ten year Interim Use Permit for remote airport parking located in the existing parking structure at 3750 American Boulevard E to expire July 1, 2024, subject to the conditions listed in the staff report. (Case 9250D-14)

7 TRANSPORTATION & UTILITY IMPROVEMENTS: PUBLIC HEARINGS

None.

8 ORDINANCES: PUBLIC HEARINGS

None.

9 OTHER: PUBLIC HEARINGS

None.

10 ORGANIZATIONAL BUSINESS

10.1 City Council Policy and Issue Update

City Manager Jamie Verbrugge stated the April 13 study session presents a conflict for a number of executive team members and asked Council if that meeting could be moved to April 27. Staff to send a communication to Council verifying their availability to meet on April 27.

Busse reported the League of Minnesota Cities Board of Directors adopted a resolution regarding city street funding and are now requesting support for this from the cities. He will forward it to the City Manager and requested the Council adopt a similar resolution on March 2, 2015. Verbrugge said he had not seen that resolution so Busse will forward it to him.

Baloga thanked the Bloomington Convention & Visitors Bureau for putting on such a wonderful Diamond Service Awards ceremony last night to recognize the employees working in the City's service industry. He said it's a great way to honor the individuals who do so much to make Bloomington's hotel and hospitality industry so vibrant.

10.2 Organized Collection Update

Requested Action: Direct staff to continue negotiations with the existing Bloomington's existing haulers.

Public Works Director Karl Keel explained staff has been negotiating with the haulers who presented their most recent proposal on February 5, as described in the memo by Foth. He reported there is much agreement on the services of a contract so it's getting down to price.

Keel showed a Rates and Prices Comparison graph showing the total cost per month for trash and recycling (after taxes and other adjustments) Bloomington residents are paying per the current open hauling system (based on the results of the resident invoice survey) compared to the rates for Competitive Cities, All Negotiated Cities, Haulers doing the billing/Negotiated cities, and the Haulers' Proposal as of 2/5/15. He said the rates range from \$5/month to \$60/month with the average amount paid in Bloomington at \$26/month. He said the Organized Collection Options Committee (OCOC) reviewed the haulers' proposal and recommends the Council not approve it but rather continue negotiations with the haulers.

Winstead explained the recommendation from the OCOC was not a formal one but rather a straw poll that indicated it should not be accepted.

Oleson asked if the difference in rates makes sense to the hauler.

Keel replied the haulers continue to safeguard their rate data and explained the residents that submitted their invoices did so because they had shown an interest in solid waste or saw a request on the City's webpage.

Oleson verified that the information provided by the residents was actual copies of their bill and was not self-reported.

Abrams said she has responded to the e-mails requesting the City do whatever it can to eliminate the number of trucks on the street by asking them at which point in time is price more important (possibly pursuing an RFP process to go with a single hauler) than continuing with the smaller haulers so they can maintain their share of the market. She's asking them if they're willing to pay a higher price. She said some residents would rather pay more to ensure there is fairness for the smaller haulers in retaining some share of the market they had originally earned. She told the Council it's worth the time to compose an appropriate e-mail response to keep the conversations going. She said this is a complex dive into an industry that is still a bit unknown to everyone. She's interested in knowing how important is maintaining the hauler's market share to the commenters, as it might be reflected in the price vs. going to a single hauler. It's not just about trucks on the street; it's also about rates.

Keel said as part of the OCOC process, there was conversation about how a Request for Proposals (RFP) might be formatted; how small an area could be bid out. He said the discussion centers on the opportunity for the smaller haulers to be able to compete in that process. He said the competitive price could be a consortium of haulers or it could be multiple haulers with multiple contracts.

Winstead said the best of all scenarios would be if the market share could be protected for the haulers while getting the best price for Bloomington residents and reducing the number of trucks on the street.

Oleson reported there is a fair amount of misunderstanding amongst the public regarding this idea of organized collection so the City needs to get the facts out about the proposal. Get the word out. Keel replied there is a very complete section on Organized Collection on the City's webpage.

Winstead said the OCOC spent time talking about how to get the word out. In addition to the webpage, there will be open houses, and articles in the Briefing. He said the Haulers want to address the Council.

Speaker #1: Gregory Burt, Owner of Burt's Disposal
He's a 40-year Bloomington resident and said Burt's Disposal can provide the best service possible for the residents. Taking major trucks off the street was their main objective. He said price was not the main issue to begin with but now it is. He said good service can't be delivered by Burt's at Walmart prices. He said not one of the seven haulers should lose their job because of organized collection. He said one hauler could do it cheaper but the service won't be there. He said going to an RFP process will put him out of business, as he can't compete with the large national companies. He said the base price shown by those 275 people is inaccurate. He said they pay more than that. He offered to show his books to the Council. He said if the Council wants answers, don't ask Foth, ask the people in the business who know it best. He wants to stay in business. He said if this goes out for an RFP, he'll be out of business. He said the Council should be able to work with the haulers but he can't lower his prices any more. He asked the Council to keep in mind how much of an effect this will have on his business. He again said his books are completely open.

Winstead said staff might request that information. He said the last hurdle for the OCOC is about rates.

Lowman asked Burt what his perspective is on the organics. Burt said he can't compete with the other companies on price but he can on service. He said the haulers can only go down so low and still be efficient. After that there is nowhere to cut.

Speaker #1: Mark Stoltman, CEO of Randy's Environmental Services
He challenged the numbers on the City's price matrix. He finds it hard to believe anyone is paying \$60/month. He also said he'd be open to showing the City his numbers. He has a unique perspective on the current statute as it exists now. He said they're a good family-owned business. He said if something can't be done to protect the smaller haulers, they'll be in a position where they can't compete. He mentioned working with Senator Marty to provide a structure that keeps the haulers in business and gives them an opportunity to prove themselves. The result was a 3-7 year agreement to protect the haulers. He said the Senate voted 66 – 0 to keep small businesses operating in MN. In the House the vote was 115 – 18. He said Bloomington is the only city to have seven licensed haulers come together. The problem he sees with the OCOC is that it's trying to zone this. He said if the entire City is bid and the price is standardized for the city, the low price will win and it will exclude all of the other companies. He said three of the haulers can't afford to bid their recycling now. He said it's hard to take proprietary information from the haulers' perspective and give it away. He said this group won't be able to come down much on price so there's got to be some variance given for those haulers. He said if this is to work in Bloomington and in other communities, it shouldn't be by putting someone out of business.

Lowman, an OCOC member, asked Stoltman how feasible would it be to add in the other programs such as the citywide cleanup, the use of vouchers, or having organics as an added value.

Stoltman said absolutely. He said they do cleanups in other communities. He said this group has been fixated on price so all the details haven't been discussed. He said Bloomington is the only city that has actively embraced that organics is the future and needs to go there.

Lowman said he's very interested in other services or ideas from the haulers.

Stoltman talked about the different types of citywide cleanups they perform in other cities. He asked the City to tell him what it needs and said the haulers will figure out a way to do it.

Winstead said he'd like to see it come together from a negotiated standpoint. They're looking at the numbers and rates that will be put on the residents. When he sees the Competitive Cities prices vs. the Negotiated Prices, he doesn't want Bloomington residents to have to pay more than they're paying in other cities. He understands the desire to keep open collection. He talked about the insurance requirement. He said what the City is requiring from a bonding standpoint is different than what other cities are paying.

Oleson asked if the uncollected debt piece and how to deal with the fluctuating market on recyclables are items still on the table. He said Bloomington is asking the State Legislature to allow it to do what other cities are doing to pick up uncollected debt.

City Attorney Sandra Johnson said it's a clarification that would greatly assist the City in being able to collect unpaid trash bills after they've engaged in the collection process as an assessment against the property. She said it's not completely done yet.

Oleson said that information would be helpful to the haulers and asked if that would take until the close of the legislative session.

Winstead said anything the City puts forth assumes that legislative change will occur so the City can be the debt collectors.

Oleson asked if the ability to adjust charges based on the market is still on the table. Keel replied it was discussed during the negotiations and the haulers submitted some data. The OCOC discussed the idea of adjusting the price based on the changing commodity prices for recyclables. He said the last proposal proposed by the haulers doesn't include that adjustment.

Winstead said that is something that should be considered if it can help from a pricing structure. He didn't see any need to delay the process. He said if the legislation doesn't pass, the OCOC might have to make an adjustment. He asked Stoltman to confirm it's approximately 10% that is uncollectable. He said Shakopee went through an RFP process and their uncollectable debt is 4%. He said he wants to have the City take on the collection aspect because the City can ultimately get the money and get it to the haulers. He said that uncollectable number has to be right.

Stoltman said 10% of their customers on average are behind and currently their only leverage for a bad debt customer is to stop servicing the customer. He said the bad debt they have in their contract cities goes to 16% because the customers know their service can't be stopped.

Winstead stated this was just an update but Keel has requested the Council vote on the direction to staff to continue negotiating with the haulers.

Motion was made by Baloga, seconded by Abrams, and all voting aye, to have staff continue the negotiation process with the existing haulers.

10.3 Parks, Arts, and Recreation Commission Appointments

Requested Action: Appoint two adults to positions on the Parks, Arts and Recreation Commission (PARC), expiring on December 31, 2017.

Motion was made by Baloga, seconded by Oleson, and all voting aye, to postpone the PARC appointments to the March 2nd Council meeting.

Motion was made by Baloga, seconded by Busse, and all voting aye, to nominate Rebecca Northup and Lenny Schmitz for consideration of the appointments to the PARC Commission.

11 ADJOURN

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

Barbara Clawson
Council Secretary