

Regular Meeting
Monday, April 06, 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: Councilmembers C. Abrams, J. Baloga, T. Busse, A. Carlson, D. Lowman and J. Oleson.

- 2 **INTRODUCTORY**

- 2.1 **FLAG PRESENTATION** Tiger Cub Scout Pack 619 presented the colors and led the audience in the pledge of allegiance to the flag.

- 2.2 **Public Health Week Proclamation** Requested Action: Mayor read and present the Public Health Week Proclamation.

Mayor Winstead read and presented a proclamation declaring April 6-12 as Public Health Week to Public Health Administrator Bonnie Paulsen.

- 2.3 **Volunteer Recognition Week Proclamation** Requested Action: Read and present the Volunteer Recognition Week Proclamation.

Mayor Winstead read and presented a proclamation declaring April 12-18 as Volunteer Recognition Week to Human Rights Commissioners (HRC) Dennis Kane and Jessica Kietzman.

Winstead reported the labor donated by volunteers is worth \$1.4 million to the City.

- 2.4 **Genocide Awareness and Prevention Month Proclamation** Requested Action: Read and present the Genocide Awareness and Prevention Month Proclamation.

Mayor Winstead read and presented a proclamation declaring the month of April as Genocide Awareness and Prevention month to HRC Commissioners Dennis Kane and Jared Leese.

Kane stated genocide is still taking place in the world today.

Leese referenced a list of acts of genocide as declared by the International Criminal Court dating back to World War I, through the holocaust, and up to Dafur, which is happening currently. It is ever present in the world and something people should be aware of.

- 3 **CONSENT BUSINESS**

3.1 Extend Foth Solid Waste Contract Phase 4

Requested Action: Approve the Organized Collection Options Committee (OCOC) and Request for Proposals (RFP) work (Phase 4) in the amount of \$93,200 with a 10% contingency for a total of \$102,520.

Oleson held this item to ask how much will be saved on fuel by going to organized collection. He said it would be beneficial to the public to see what the potential benefits are of going to an organized collection system.

Winstead explained this pertains to an agreement the Council is aware of and has seen in the past and the implementation of it as it moves through the process. He said staff could determine in general what the cost savings potentially could be if an organized system was implemented.

Public Works Director Karl Keel said staff will provide more details in City Manager's Information (CMI) but in general terms, Bloomington spends as a community for residential solid waste, approximately \$8 million per year for services. With negotiations or going out for an RFP, that cost could be cut in half to \$4-6 million; saving millions of dollars. He said the Foth contract is very small compared to the size of this enterprise.

City Manager Jamie Verbrugge commented some of the claims in the mailer that was sent to the residents had some pretty high dollar figures. He said a good portion of that number was for a Solid Waste Plan that had been worked on previously. This current process is an outreach of that original planning process to look at solid waste issues beyond organized collection. He explained the City is following a statutory process so it's good to have a professional consultant to guide the City. He said the implementation step will be the last step in the process. He said a cost of \$200,000 to save the community approximately \$2 million is a good return on investment. He announced there will be an open house regarding the organized collection process on Thursday, April 23 from 4-7 pm in the Public Works Training Room. He said information on it will be provided in the Sun Current and on City's website.

Motion was made by Oleson, seconded by Lowman, and all voting aye, to approve the OCOC and RFP work (Phase 4) in the amount of \$93,200 with a 10% contingency for a total amount of \$102,520.

3.2 Link Wilson; 9040 W. Bush Lake Adm. Variance Side Yard Setback

Requested Action: Adopt a resolution approving the variances to reduce the side yard setback from 10 feet to 9.2 feet for a second level addition and to increase the allowable height from 30 feet to 32.5 feet at 9040 West Bush Lake Road, subject to the conditions listed in the staff report.

Motion was made by Busse, seconded by Baloga, and all voting aye, to adopt a resolution approving the variances at 9040 West Bush Lake Road as described above, subject to the conditions listed in the staff report.
(R-2015-32)

3.3 Ratify Labor Agreement - Police Officers

Requested Action: Ratify a three-year (2015-2017) labor agreement with the Bloomington Police Officers' Federation (BPOF), representing approximately 89 police officers.

Motion was made by Busse, seconded by Baloga, and all voting aye, to ratify a three-year (2015-2017) labor agreement with BPOF.

- 3.4 Accepting Permanent Easements in the Plat of STRAND ESTATES 6TH ADDITION Adopt Resolution**
- Requested Action: Adopt a resolution accepting public easements for the plat of STRAND ESTATES 6TH ADDITION located at 10476 Colorado Circle.
- Motion was made by Busse, seconded by Baloga, and all voting aye, to adopt a resolution accepting public easements for the plat of STRAND ESTATES 6TH ADDITION as described above. (R-2015-33)
- 3.5 Designating Certain Municipal State Aid Segments Adopt a Resolution**
- Requested Action: Adopt a resolution designating 0.37 miles as Municipal State Aid segments, as listed in the agenda item, on West 78th Street and Washington Avenue.
- Motion was made by Busse, seconded by Baloga, and all voting aye, to adopt a resolution designating certain Municipal State Aid segments as described above and in the agenda item. (R-2015-34)
- 3.6 2015 Local Public Health (LPH) Services Agreement Approve with the City of Richfield**
- Requested Action: Approve the 2015 Local Public Health (LPH) Services Agreement with the City of Richfield through which Richfield will pay Bloomington the sum of \$226,202 for services provided by Bloomington's Public Health Division.
- Motion was made by Busse, seconded by Baloga, and all voting aye, to approve the LPH Services Agreement with the City of Richfield as described in the agenda item.
- 3.7 Amendment No. 2 to Maternal, Infant, and Early Childhood Home Visiting Grant Agreement with Minnesota Department of Health**
- Requested Action: Approve Amendment No. 2 to the Maternal, Infant, and Early Childhood Home Visiting (MIECHV-1) Grant Agreement with the Minnesota Department of Health (MDH).
- Motion was made by Busse, seconded by Baloga, and all voting aye, to approve Amendment No. 2 to the (MIECHV-1) grant agreement with MDH.
- 3.8 Award Contract for 2015-102 PMP Street Maintenance Project (includes 2015-802 Auto Club Retaining Wall Project)**
- Requested Action: Award the 2015-102 Pavement Management Program (PMP) Street Maintenance Project to McNamara Contracting, Inc. in the amount of \$3,338,352.45 and approve various contract changes up to 5% of the original contract amount (\$166,917.62) for a total project construction authorization of \$3,505,270.07.
- Motion was made by Busse, seconded by Baloga, and all voting aye, to award a contract for the 2015-102 PMP Street Maintenance Project, which includes the 2015-802 Auto Club Retaining Wall Project as described in the agenda item.
- 3.9 Alpha Business Center 2nd Lease Amendment with Polar Semiconductor**
- Requested Action: Approve the second lease amendment for Polar Semiconductor, LLC to extend their lease of space in the Alpha V building through December, 2016.
- Motion was made by Busse, seconded by Baloga, and all voting aye, to approve the second lease amendment for Polar Semiconductor, LLC extending their lease in the Alpha V building through December 2016.

- 3.10 Accept Donations** Requested Action: Accept the donations made by various donors to various City activities and amend the revenue and expenditure budgets to facilitate the appropriate use of the funds.
- Motion was made by Busse, seconded by Abrams, and all voting aye, to accept the donations and approve the revenue and expenditure budgets as noted in the agenda materials.
- 3.11 Bituminous Patch Materials- Approve Purchase** Requested Action: Approve the purchase of 2100 tons of bituminous patch material to be used by the City for street repairs from Commercial Asphalt Co. under State of Minnesota Contract #86541 for a total cost of \$122,325.00.
- Motion was made by Busse, seconded by Baloga, and all voting aye, to approve the purchase of bituminous patch material from Commercial Asphalt Co. for a total cost of \$122,325.00 as described in the agenda item.
- 3.12 Sealcoat Aggregate - Approve Purchase** Requested Action: Approve purchase from Dresser Trap Rock to furnish and deliver seal coat aggregate for use by the Street Maintenance Division at a unit price of \$50.25 per ton for a total amount of \$175,875.00.
- Motion was made by Busse, seconded by Baloga, and all voting aye, to approve a purchase of seal coat aggregate from Dresser Trap Rock for a total cost of \$175,875.00 as described in the agenda item.
- 3.13 Bituminous Materials, Oils, and Emulsions- Approve Purchase** Requested Action: Approve purchase of bituminous materials from Flint Hills Resource, LP under State of Minnesota Contract #28839 for use by the Street Maintenance Division for street repairs for a total cost of \$375,219.30.
- Motion was made by Busse, seconded by Baloga, and all voting aye, to approve the purchase of bituminous materials from Flint Hills Resource, LP for a total cost of \$375,219.30.
- 3.14 Order 2015-901 Storm Sewer Maintenance Project** Requested Action: Order the 2015-901 Storm Sewer Maintenance Project, which includes maintenance to the storm sewer system at approximately 24 sites around Bloomington.
- Motion was made by Busse, seconded by Baloga, and all voting aye, to order the 2015-901 Storm Sewer Maintenance Project as described in the agenda materials.
- 3.15 Electric Services with Killmer Electrical Services - Approve Extension** Requested Action: Approve the contract extension with Killmer Electric Co., Inc. through April 30, 2017 with a 5.5% labor rate increase. Approve an increase to the not-to-exceed contract amount to \$160,000.00.
- Motion was made by Busse, seconded by Baloga, and all voting aye, to continue this item to the April 20, 2015, Regular Council meeting.
- 3.16 Electric Services with Peoples Electric Services - Approve Extension** Requested Action: Approve the extension of a contract with Peoples Electric Company for interior electrical services through April 30, 2017 with a 7.7% increase to labor rates and approve the increase to the not-to-exceed contract amount by \$430,000 for a total not-to-exceed amount to \$700,000 to cover the expected cost for the total 4-year contract period.

Motion was made by Busse, seconded by Baloga, and all voting aye, to continue this item to the April 20, 2015, Regular Council meeting.

3.17 Zamboni - Approve Purchase

Requested Action: Approve the purchase of a new electric Zamboni 552 ice resurface machine from Frank J. Zamboni & Co., Inc. under the National Joint Powers Association (NJPA) cooperative agreement for the total cost of \$107,043.15.

Motion was made by Busse, seconded by Baloga, and all voting aye, to approve the purchase of a new electric Zamboni 552 ice resurface machine as presented in the agenda item.

3.18 Order 2015-925 Nine Mile Creek Lower Valley Bank Stabilization

Requested Action: Order the 2015-925 Nine Mile Creek Lower Valley Bank Stabilization project, which includes creek bank stabilization, bridge foundation maintenance and trail restoration at four general locations between Harrison Park and the extension of West 110th Street.

Motion was made by Busse, seconded by Baloga, and all voting aye, to order the 2015-925 Nine Mile Creek Lower Valley Bank Stabilization project as described in the agenda item.

3.19 Meeting Minutes City Council-Approval

Requested Action: Approve the following City Council meeting minutes as presented:

September 15, 2014 (Study)
October 21, 2014 (Study)
November 24, 2014 (Study)
December 2, 2014 (Special Meeting)
December 6, 2014 (Special Meeting)
December 15, 2014 (Regular)

Motion was made by Busse, seconded by Baloga, and all voting aye, to approve the City Council meeting minutes listed above as presented.

3.20 Travel Request- Approve

Requested Action: Approve the out-of-state travel expenses for Mayor Winstead and Councilmember Jon Oleson as presented in the item.

Motion was made by Busse, seconded by Baloga, and all voting aye, to approve the out-of-state travel as presented for Mayor Winstead and Councilmember Jon Oleson.

3.21 Services Agreement with LSA Design, Inc. Alpha B Project

Requested Action: Approve the Design Peer Review and Construction Monitoring Services Agreement with LSA Design, Inc. for the Alpha B project to conduct cost review, design peer review and construction monitoring services for the project in the not-to-exceed amount of \$70,000.

Motion was made by Busse, seconded by Baloga, and all voting aye, to approve the Services Agreement with LSA Design, Inc. for the Alpha B project as described in the agenda item.

4 PUBLIC COMMENT PERIOD

4.1 Response to Prior Meeting's Public Comments City Manager Jamie Verbrugge provided Council with copies of the e-mails he sent to the two individuals who spoke during the Public Comment Period at the last Council meeting. He said most of their questions pertained to the Joint Use Agreement (JUA) and the ancillary issues associated with the Dar Al Farooq Youth & Family Center (AFYFC) at 8201 Park Avenue. He believes most of their JUA questions were answered.

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

Speaker #1: Carl Schleeter, Director, Seven Hills Preparatory Academy
As a representative of the families that attend Seven Hills Academy, he said public charter schools provide a quality school choice but they face hurdles such as funding and fewer facilities to support their growth and success. They need a space that offers the following basic amenities such as a gym, a playground, a space for classrooms, offices, and a cafeteria. He said they've learned within the last two months the City has eliminated an entire category of properties most able to fit those needs. He said this change was made during the midst of their search for a location without public comment or input. His concern is that removing schools as a conditional use in the IP District effectively zones schools like Seven Hills Academy out of Bloomington. He said an open discussion where the stakeholders could give input should take place before this is allowed to happen. He said Seven Hills might have to look at locating outside the community. They're a Title 1 school entering their 10th year in operation. He talked about the awards and achievements earned by Seven Hills Academy and said they are 1 of 23 charter schools statewide to be designated "a high quality charter school" and 1 of only 4 to have received a 3-year federal grant providing up to \$225,000 in funding to replicate their high quality program. He talked about their vision, programs, transportation, and security. He said their school would be a creative and impactful use of an available property and invited the Council to visit their school.

Winstead said staff will work to respond to Schleeter's statements and request. He restated Schleeter's concern is with the City's change in removing schools from the IP Zoning District and not having zoning districts in Bloomington that allow a charter school.

Speaker #2: Sally Ness, 8127 Oakland Avenue South
She stated the Smith Park and Al Farooq Youth & Family Center (AFYFC) parking lot at 8201 Park Avenue are shared lots. She showed a photo of cars double parking blocking in cars parked in the Smith Park parking lot. She said that would cause them to have to wait until AFYFC users leave their building in order to get out of their parking space. She commented there are no marked handicapped spaces in the Smith Park parking lot. She said AFYFC users fill the Smith Park parking lot. She again referenced several documents including the Council's Rules of Procedure and asked how Council members can represent the residents if they are not given factual information. She asked if there was a development application signed by Hyder Aziz for a primary school at 8201 Park Avenue. She asked if the Agreement was signed by Hyder Aziz and the City Attorney. She showed photos of cars parked at AFYFC during the nighttime hours. She asked about a citizen complaint record and several letters the City should have received pertaining to different issues including AFYFC's summer food program. She asked several questions regarding the revised Joint Use Agreement. She will e-mail her questions to the City Manager.

Winstead said staff will try and answer the appropriate questions.

5 LICENSING DIVISION: None.
PUBLIC HEARINGS

6 DEVELOPMENT
BUSINESS: PUBLIC
HEARINGS

6.1 Feldmann's Imports
4901 American Blvd.
W.; Major Revision to
Preliminary and Final
Development Plan

Requested Action: Approve a major revision to the Preliminary and Final Development Plans for a 6,550 square foot service delivery addition, interior modifications to increase office and showroom area, and related parking lot improvements for an existing Class I motor vehicle sales facility at 4901 and 4851 American Boulevard West for Terry Feldmann's Imports, subject to the conditions listed in the staff report.

Senior Planner Londell Pease presented the staff report. His slide presentation highlighted the following slides: Aerial Photo, Parking, Site Plan, and Recommendation.

Winstead said Nissan is gone so Feldmann's is making this entire site a Mercedes dealership and that's how it dilutes the space to be used properly.

Oleson asked about more green space and the location of the underground stormwater system. Pease replied there will be underground chambers on site to handle stormwater quality. He showed where the future Stanley Avenue extension would be located, which would result in a loss of 65-70 parking spaces. He said gaining more green area today would prove to be more harmful in the future so staff is not recommending that.

Abrams inquired as to the difference between customer and employee parking and asked how many employees report to work on a daily basis. Pease said the applicant can provide that number.

Speaker #1: Nathan Shea, Tanek, Inc. (Architects)
He said underwater storage tanks are required to handle the stormwater. He said the applicant also owns the green space further to the south. He said their 2009 improvements anticipated the taking of the road. From a parking standpoint, he said Feldmann has no concern regarding the parking. He said there used to be two dealerships with two staffs but now it will be one dealership with one staff, which requires less staff parking.

Motion was made by Busse, seconded by Abrams, and all voting aye, to approve a major revision to the Preliminary and Final Development Plans for Terry Feldmann's Imports at 4901 and 4851 American Boulevard West as described by staff subject to the conditions listed in the staff report.

**Public Comment Period
continued**

Speaker #3: Mark Quistad, Seven Hills Preparatory Academy Board Member

He expressed his support for Seven Hills Academy. He said it's a fantastic school that already exists in Bloomington but it's growing and needs to expand. He said this school is very positive for Bloomington.

Speaker #4: Ryan Grutsch, Seven Hills Academy Teacher
He said Seven Hills is a wonderful school in a great city. They want to continue that relationship long into the future.

Mayor Winstead asked if anyone else wanted to address the Council on any items not on tonight's agenda. No one came forward to speak so the Public Comment Period was closed.

- 7 **TRANSPORTATION & UTILITY IMPROVEMENTS: PUBLIC HEARINGS** None.
- 8 **ORDINANCES: PUBLIC HEARINGS**
- 8.1 **Computerized Criminal History and Driver's License History Inquiries and Replacing with Employment Background and Driver's License Checks Policy**
- Requested Action: Repeal the City's current ordinance and replace it with an Employment Background and Driver's License Checks Policy.
- Human Resources Manager Kay McAloney introduced this item explaining the proposed Employment Background and Driver's License Checks Policy wholly repeals Ordinance 2.68 Division C (Computerized Criminal History and Driver's License History Inquiries), which authorizes the City to conduct computerized criminal history and driver's license history inquiries on persons who are finalists for certain employment positions in the City and who are volunteers in City programs providing services to children or vulnerable adults. She said legislation was passed requiring cities that have such an ordinance to repeal it and put in its place a policy. She said it just changes the ordinance to a policy for conducting background checks.
- Motion was made by Abrams, seconded by Baloga, and all voting aye, to wholly repeal City's Ordinance 2.68.01 through 2.68.05 – Division C and replace it with an Employment Background and Driver's License Checks Policy as presented in the agenda item.
- No public testimony was received.
- 8.2 **Vacation of Public Drainage and Utility Easements Located at 10476 Colorado Circle, Lot 7, Block 1, STRAND ESTATES 5TH ADDITION**
- Requested Action: Adopt an ordinance approving the vacation of drainage and utility easements located at 10476 Colorado Circle for the purpose of clearing the title for re-platting of the property into the plat of STRAND ESTATES 6TH ADDITION.
- Motion was made by Carlson, seconded by Abrams, and all voting aye, to adopt an ordinance approving the vacations of easements located at 10476 Colorado Circle, Lot 7, Block 1, STRAND ESTATES 5TH ADDITION. (O-2015-8)
- 8.3 **Rezoning City-Owned Properties to Lindau Mixed Use Zoning District per the South Loop District Plan**
- Requested Action: Adopt an ordinance rezoning the primary zoning district at 2501, 2601, and 2701 American Boulevard East and 2600 Lindau Lane from I-1, Industrial Park, to LX, Lindau Mixed Use, with no change to the applicable overlay zoning districts.
- Planning Manager Glen Markegard presented the staff report involving the rezoning of four City-owned properties in the South Loop District on the southwest corner of 28th Avenue and American Boulevard. They're all leased out -- three northerly buildings to the Interstate Companies and the southerly building (Alpha V) to a variety of tenants.
- He showed a slide presentation that highlighted the following slides: Aerial of the Zoning Map, Proposed Rezoning: Changes Primary to LX or Lindau Mixed-Use; South Loop District Plan Guidance, Lease Status (short-term leases expiring in 2017). The impedes for rezoning the City-owned properties in advance of other rezonings in the District is that a potential tenant is looking at the Alpha V building for an indoor recreational use, which is not allowed in the Industrial I-1 District but would be a permitted use in the LX District. He said the existing industrial uses would become legally nonconforming, which is not a concern due to their short leases. All tenants have been notified. He said staff recommends approval.

Busse questioned why the City waited to rezone this parcel. Markegard said the rezoning of Alpha A and B occurred when the development was proposed on the Alpha A property. He said staff planned to rezone the rest of this property with the rest of the properties but it was accelerated due to a tenant's interest on this property. He said Council would need to approve the short-term lease.

Carlson questioned the second overlay district. Markegard replied it's a Planned Development Overlay District which applies just to the center Interstate parcel. When it's redeveloped, it would be revised as one planned development.

Motion was made by Oleson, seconded by Lowman, and all voting aye, to adopt an ordinance rezoning the primary zoning district at 2501, 2601 and 2701 American Boulevard East and 2600 Lindau Lane from I-1, Limited Industry, to LX, Lindau Mixed Use, with no change to the applicable overlay zoning districts. (O-2015-9)

9 OTHER: PUBLIC HEARINGS

9.1 5-Year Community Investment Program (CIP) Adopt Resolution

Requested Action: Adopt a resolution adopting the City's Community Investment Program for the years 2015-2019.

Chief Financial Officer Lori Economy-Scholler presented the City's Community Investment Program (CIP) for the years 2015-2019. She said it's been reviewed by the Planning Commission and it's in compliance with the City's Comp Plan. She presented slides that highlighted the following: CIP Goals, Capital Improvements, CIP General Information, CIP General Content, 2015 CIP Project Sources and Uses (\$51.9 million in projects that could occur in 2015), and CIP Annual Activities.

Carlson requested more detail regarding the big expense listed in 2017 and asked if it could be potentially spread out over more years. Economy-Scholler replied there is \$29 million shown in 2017 for the I-35/I-494 interchange. Carlson asked if it made sense to have such a large dollar amount in that one year. Economy-Scholler said it depends on what the City is looking at for bonding. She said other than the potential bonding for a community center, the majority of those other funds will come from outside sources. They might be projects that will touch the City but will not be ones the City will need to levy or bond for.

Winstead explained the capital or actual construction amount needs to be listed in the report even if outside money will be used. He said if there are projects within the city, this shows the capital investment needed but it's not the funding model.

Economy-Scholler said one of the other projects might be for the rebuild of Fire Station #3 between 2017-2018.

Oleson inquired as to the figure for a new community center and Economy-Scholler replied it's \$46 million.

Busse asked if Community Investment Program and the Capital Improvement Plan can be used interchangeably and Economy-Scholler replied they can.

Baloga commented there are \$27 million in projects listed in 2019 and beyond for parks acquisition. He said the largest project listed is \$9.9 million for the Hyland-Bush-Anderson Lake Park acquisition. It's to acquire lands to encircle that body of water with a walking path. He said it's listed as a Priority #1, which he doesn't support because Bush Lake adjoins Hyland Park and Hyland Lake and Normandale Lake is just a one-mile walk from Bush Lake. He said \$27 million is very high compared to the \$250,000 in funding per average year, which is insufficient. He's not comfortable with the allocation or the priorities that are being assigned to future parks acquisition while the current parks are being neglected.

Winstead said the plan to acquire properties around Bush Lake has been a long-term plan provided there is a willing seller using grant money from the County and State. He said this is a multi-decade plan and staff will continue to send out grant applications for various projects.

Community Services Director Diann Kirby said in order for the City to receive any grant money from the Met Council, the projects need to be listed in the CIP.

Winstead said Baloga is questioning the policy to seek the grant money and the acquiring of properties around the lake.

Baloga commented there are many parks for which less grant funding is applied. He believes there is a miss-direction on where the City is focusing its attention for parks and recreation.

Abrams said she'd like to see the Parks, Arts & Recreation Master Plan get updated.

Winstead said this is not the time to open up the prioritization. The City has picked off the needed projects where there is funding. When there is a willing seller, the City has applied for funds.

Baloga said he has a problem with the enormous capital future parks acquisition and the underfunding for maintenance of the City's existing parks and playgrounds. He said there is only two years' worth of funding for the replacement of playground equipment and other parks activities and believes that cost is being ignored. He would like to elevate that discussion. He said he's not seeking any changes in the document but said it's more of a policy kind of choice. He'd like to know how the cost for replacement for parks and recreation facilities will be funded.

Winstead said the document is to expose what's been on the Council's horizon.

Economy-Scholler said most of the parks, if they don't receive federal funding, rely on the park dedication fees unless other funding sources are identified during the budget process.

Winstead said the Council needs to review the big plan to see what should or shouldn't be included in the CIP.

Motion was made by Baloga, seconded by Abrams, and all voting aye, to adopt a resolution adopting the Capital Improvement Plan for the years 2015-2019. (R-2015-35)

9.2 Resolution Giving Host Approval to the Issuance of Healthcare Facilities Revenue Note

Requested Action: Adopt a resolution granting host approval for the issuance of Healthcare Facilities Revenue Bonds to Progress Valley, Inc. to propose financing for improvements and renovation of an approximately 23,111 square foot one-story office building located at 110 80th Street East, into a 28-bed women’s chemical treatment facility. The maximum estimated principal amount of the Note to be issued to finance the Project is \$3,500,000.

It was stated there is no obligation to the City in providing this host approval.

Motion was made by Abrams, seconded by Oleson, and all voting aye, to adopt a resolution giving host approval to the issuance of a healthcare facilities revenue note under Minnesota statutes, for the Progress Valley, Inc. Project. (R-2015-36)

10 ORGANIZATIONAL BUSINESS

10.1 City Council Policy & Issue Update

The City Manager had no issues to bring forth to the Council.

Winstead commented the Organized Collection Options Committee (OCOC) will be conducting an open house on April 23; the announcement of which didn’t make the Sun Current.

Verbrugge said the City specifically asked the Sun Current to advertise the open house but it didn’t get in the newspaper.

Abrams requested Council members participate in a video conference on April 21 regarding public health in our community. She said Bloomington is a unique provider of public health services. She mentioned she’ll be presenting on the elected official’s experience in public health and suggested Council members consider watching the webinar.

10.2 Charter Change for Bonding

Requested Action: Approve the revised proposed charter change and forward it to the Charter Commission’s May 7, 2015 Annual Meeting agenda.

Chief Financial Officer Lori Economy-Scholler presented this item requesting the City Council approve the forwarding of a revised change in the City’s Charter relating to bonding to the Charter Commission for review and recommendation at their May 7th annual meeting. She explained this change would provide the City with more flexibility regarding the funding of trails, park facility improvements, a community center, other City facilities and transportation improvements that don’t involve special assessments included in the Community Investment Program (CIP). The proposed general obligation bonding authority could be used for enhanced maintenance, renovation, and major rehabilitation. She said per Council’s discussion at the study meeting on March 23, the proposed language has been amended to include reverse referendum language that allows the public to submit a petition to the City Clerk within 30 days of the published notification of the City’s intent to issue general obligation bonds for a public purpose provided the petition contains the signatures of 5 percent of the registered voters of the city as of the last general election or 2,000 registered voters, whichever is less. The purpose of a petition would be to not allow the City to issue general obligation bonds until such a proposal has been approved by a majority of the votes cast on the question at a regular or special election. Also included in the proposed ordinance is a requirement that 5 out of 7 Council members to approve such bonding.

Economy-Scholler said if the general obligation bonding authority is approved, then these types of project(s) could be approved for actual bonding at some future date. She reviewed how other cities have used this bonding tool and whether or not their process included a reverse referendum option. She stated the ordinance requires a full complement of Council members be present and a unanimous vote to change the Charter and five affirmative votes out of seven to issue these types of bonds.

Verbrugge said the Charter Commission could, with a majority vote, move this forward by adoption of a resolution recommending the City Council enact a Charter amendment by ordinance authorizing the issuance of general obligation bonds by vote of the City Council. The City Council must vote unanimously in order to issue the bonds.

Council comments/inquiries:

Winstead asked if the Charter Commission could change the proposed ordinance language and City Attorney Sandra Johnson replied they could. They could send back revised language for the Council to consider.

Baloga, recalling the Council's previous discussion on this subject at a study meeting, said he thought the Council had agreed the timeline for a reverse referendum should be 30-60 days following publication of the intent to issue bonds. Economy-Scholler explained it's 60 days for a reverse referendum on the Charter change itself and 30 days for a reverse referendum on a particular bond issue. Baloga said he recalled Council changing both timelines to 60 days. Verbrugge said the 30-day timeline was left in the proposed ordinance, as Council had not reached a consensus on extending it. Economy-Scholler stated CIP bonds have a 30-day referendum structure but said that could be extended to 60 days if that is the Council's desire.

Winstead indicated his comfort level for 30 days.

To clarify Oleson's inquiry about filing a petition for a reverse referendum, Johnson explained such a petition needs to be submitted by a registered voter to the City Clerk's office who then needs to certify that all of the signatures are from voters registered in Bloomington and who voted in the last general election. She confirmed this reverse referendum procedure follows the same petition criteria used across all public sectors and said someone could register to vote right before signing the petition. Economy-Scholler explained once the City Clerk verifies the petition, it would be up to the City Council to determine if the question should be put on the November ballot or if a special election should be called. She said the Charter change question could be added to this coming November's general election ballot if a qualifying petition for a reverse referendum is received. She said the typical cost for a special election is \$36,000.

In reference to bullet point #3 from staff's presentation regarding the proposed Charter change, Carlson said there was some previous Council discussion about excluding certain capital improvements from this Charter change and asked if there was anything that would warrant such exclusion at this time. Verbrugge explained part of the intent of this Charter change is to grant the Council a broader legislative authority and asked if the Council wanted to incrementally increase that legislative authority or grant it more broadly. He said the broader permission would give the Council a "may" and not a "shall" option to use general obligation bonding in this way. He said the Council could always put the question to a referendum if they desired.

Winstead said individual projects would be considered on an individual basis so was comfortable knowing it will require 5 of 7 Council members to approve any such bond issuance. He said the Charter Commission could review that but added he would not be supportive if they came back and eliminated that item as a condition.

Baloga mentioned some councils don't take action on the first day an item is heard and presented and expressed his preference that the timeline be extended to 45 or 60 days for a reverse referendum.

Lowman concurred with Baloga on the timeline and suggested a dollar cap on the bonding amount or requiring 6 out of 7 Council votes to pass it.

Abrams supported 45 days and 6 out of 7 Council votes.

Winstead mentioned there are currently mechanisms in place for which the City could bond for many different types of projects through its other bonding authorities (Port Authority and Housing & Redevelopment Authority), but this change would put in place an improved bonding tool.

Baloga asked if this type of bonding could be used for parks, trails and equipment. Economy-Scholler said she would check on that but said trails might require an abatement district. When asked if trails could be treated the same as road reconstruction for bonding purposes, she said trails are not the same as roads. A trail would have to be adjacent to a roadway scheduled for reconstruction and would fall under the PIR debt structure.

Motion was made by Carlson, seconded by Lowman to forward the revised Charter changes to the Charter Commission's May 7th annual meeting, as spelled out in today's discussion regarding items #1 (30-day referendum timeline), item #2 (ceiling on capital improvements and related costs), and item #4 (5 out of 7 members required to approve the bonds). No vote was taken at this time.

Winstead said he won't support the motion because he doesn't believe putting a ceiling on the capital improvement is appropriate and doesn't agree with the 60-day timeline. He would, however, like the Commission's opinion on setting it at 30 days or more and what they deem is a super majority of the Council.

Verbrugge summarized Council's direction as follows: Forward the revised proposed Charter changes to the Charter Commission for consideration at their May 7th meeting and request they consider the number of days for a reverse referendum and the definition of super majority.

Carlson amended his motion to reflect the Manager's suggestion, which was seconded by Lowman. He then withdrew his motion for clarification purposes.

Lowman asked if such a motion removes the possibility of a cost ceiling cap being included in the ordinance. Winstead again stated he believes a cost ceiling cap is totally inappropriate and suggested the Charter Commission be given staff's original ordinance language along with a summary of this Council discussion.

Motion was made by Busse, seconded by Oleson, and all voting aye, to move forward to the Charter Commission for consideration at their May 7th meeting, the revised proposed changes to the Charter regarding bonding and request they consider the number of days for a reverse referendum and the definition of a super majority for the purpose of a Charter change.

**10.3 Litigation Update:
RDNT, LLC v. City of
Bloomington**

Requested Action: No action is required. For informational purposes only.

Risk & Litigation Manager Amy Larson along with Attorney Jason Kuboushek, Partner with Iverson, Reuvers, Condon law firm discussed the outcome of the Martin Luther Manor (MLM) lawsuit. She stated the City has been very pleased with the representation it's received for which the League of Minnesota Cities Insurance Trust (LCMIT) is responsible for choosing.

Kuboushek stated this case has to do with the Council's denial of the Conditional Use Permit (CUP) for the expansion of the Martin Luther Manor facility. He said he presented before the Council on a previous attempt to mediate this case but that was not achieved in this instance. He explained this case came down in mid-March and started in District Court. He said the District Court judge granted a motion for Summary Judgment for Martin Luther Manor and found the City had improperly denied MLM's CUP request. The City then appealed it to the Court of Appeals and they found the District Court erred and that the evidence supported the City Council's decision. He said it's not an automatic right-of-review at the Supreme Court level but they took this particular case, which involved many people. He said the Supreme Court is a very active panel and they liked what the City did, which included really good findings. He said the record was developed before they get involved. He said staff did an excellent job in preparing the record. There were great public hearings and staff did a good job of responding to the applicant's questions. He said the record is what helped the City prevail in this case. The Supreme Court found that it was proper for the Council to deny the CUP because it was going to injurious to the surrounding neighborhood or otherwise harm the public's health, safety and welfare. They latched onto that particular finding and determined the evidence was there to support it. He said courts shouldn't second guess city councils. He said the Supreme Court was very pleased with the record and the review of the record. He said the Supreme Court latched onto the language of a City planner who said, "This is a not a capacity issue but it's a livability issue." He said the Supreme Court noted the street could handle the increased traffic from a capacity issue but the neighborhood and the public couldn't handle it. He explained State statute puts the burden on the applicant to propose the mitigation measures so the clarification on which party the burden of mitigation falls was beneficial to this case. There was concurrence by Justice Anderson who didn't agree with the Court of Appeals when it determined the finding of compatibility with the Comprehensive Plan was an adequate reason for denying the CUP. He said Judge Anderson's comment was more of a request to the Legislature to clarify how zoning ordinances and comprehensive plans work together. He said this is a great Supreme Court decision which was made possible by strong findings and strong record building by Planning and Legal staff, and the discussion that took place at the Council public hearings.

Lowman asked if this is the end of the line or does Martin Luther Manor have any other legal recourse. Kuboushek said the Minnesota Supreme Court is the end of the line.

Oleson asked if the concurrent opinion written by Justice Anderson was specific to this situation or does it caution the Council to not put so much emphasis on the Comp Plan. Kuboushek said the City of Bloomington is not unique in issuing Conditional Use Permits (CUPs). The criteria for issuing a CUP is what is injurious to the public health and its compatibility with the Comp Plan. He said Judge Anderson said the statute has gone back and forth on the Comp Plan issue. He believes the Judge was asking the Legislature to clarify the comprehensive plan issue, as it's used as a standard by municipalities across the state.

Busse said he was glad the discussion at the public hearing was useful.

Winstead thanked Kuboushek for his efforts on this case.

10.4 Human Rights Commission Appointments

Requested Action: Appoint one adult to a term on the Human Rights Commission (HRC) expiring on December 31, 2016.

Oleson commented the Council has interviewed HRC candidates in the past and asked Council if they should be held again for this position given the number of qualified applicants.

Abrams supported interviewing applicants for the HRC appointment.

Motion was made by Baloga, seconded by Abrams, and all voting aye, to put the following names into nomination for consideration of one adult appointment on the Human Rights Commission: Michael Dardis, Tia Jamison, Irene McCarthy, Richard McCarthy, Mary Ann Padua, Diana Tharalson, Susan Winslow and Ibrahim Yusuf.

Staff to set up an interview process on a Saturday morning. It was suggested interviews could be held on April 18 following the All-Volunteer breakfast.

10.5 Advisory Board of Health Appointments

Requested Action: Appoint one “provider” to the Advisory Board of Health (ABH) for a term expiring on December 31, 2016. Johanna Berry was appointed to the “provider” position by Council on January 26, 2015, but withdrew her appointment the week of February 2, 2015. As Corinne Ellingham was the only remaining qualified applicant to fill the “provider” position, the following motion was made:

Motion was made by Busse, seconded by Abrams, and all voting aye, to appoint Corinne Ellingham to a “provider” position on the Advisory Board of Health expiring December 31, 2016.

11 ADJOURN

Mayor Winstead adjourned the meeting at 9:29 p.m.

Barbara Clawson
Council Secretary