

OFFICIAL PROCEEDINGS OF THE CITY COUNCIL

REGULAR SESSION

SHAKOPEE, MINNESOTA

JUNE 7, 2011

Mayor Schmitt called the meeting to order at 7:00 p.m. with Council members, Pat Heitzman, Steve Clay, Matt Lehman and Pamela Punt present. Also present Mark McNeill, City Administrator; Kris Wilson, Assistant City Administrator; Jim Thomson, City Attorney; Judith Cox, City Clerk; R. Michael Leek, Community Development Director; Bruce Looney, Public Works Director/City Engineer; Jamie Polley, Parks, Recreation and Natural Resource Director; and Julie Linnihan, Finance Director.

The Pledge of Allegiance was recited.

Mayor Schmitt asked if there were any additions or deletions to the agenda. Mark McNeill said staff had no changes to the agenda.

Clay/Punt moved to approve the agenda. Motion carried 5-0.

In the Mayor's report Mayor Schmitt said he attended the last Downtown Partnership dinner. He attended an open house at CertainTeed Corp; Memorial Day celebration at Memorial Park; SCALE Executive Committee Meeting; Raceway Park's Mayor's Race fundraiser for the CAP Agency and a MnDOT meeting regarding flood mitigation.

Mayor Schmitt asked if there were any additions or deletions to the Consent Agenda. Mr. McNeill asked to remove 5.C.2., C.R. 101 Change Order for Bluff Avenue Storm Sewer.

Lehman/Heitzman moved to approve the Consent Agenda as amended, taking 5.C.2., C.R. 101 change order for Bluff Avenue storm sewer off the consent agenda. Mr. McNeill read the Consent agenda. Motion carried 5-0.

Lehman/Heitzman moved to declare 60 bicycles as surplus property, as outlined in the June 7, 2011 memo from Sergeant Angela Trutnau. (Motion carried under the Consent Agenda) (Document No. CC-495)

Lehman/Heitzman moved to approve the Amendment to the Tri-City Joint Powers Agreement. (Motion carried under the Consent Agenda)

Lehman/Heitzman offered Resolution No. 7102, a Resolution of the City of Shakopee, Minnesota, accepting monetary award in the amount of \$3,000 from the Minnesota Department of Public Safety's Office of Traffic Safety, and move its adoption (Motion carried under the Consent Agenda)

Lehman/Heitzman moved to authorize the appropriate City Officials to execute the consultant extension agreement from WSB & Associates, Inc. for 2011 GIS/CMMS in an amount not to exceed \$11,610.00. (Motion carried under the Consent Agenda)

Lehman/Heitzman moved to direct staff to add 3rd Avenue, from Atwood Street to Scott Street and Scott Street, from 2nd Avenue to 4th Avenue to the 2011 Bituminous Overlay Project No. 2011-2. (Motion carried under the Consent Agenda)

Lehman/Heitzman moved to accept, with regret, the resignation of Therese Scherer from her position as Police Records Supervisor, effective July 29, 2011. (Motion carried under the Consent Agenda)

Lehman/Heitzman moved to authorize the hiring of Tamara Helgeson for the position of Police Records Supervisor, at Step D of Grade 6 (\$26.54 per hour) of the City's Non-Union Pay Plan and with a starting balance of 40 hours of vacation and 40 hours of sick leave, dependent on the successful completion of all pre-employment screenings. (Motion carried under the Consent Agenda)

Lehman/Heitzman moved to approve bills in the amount of \$2,174,144.00 and electronic transfers in the amount of \$503,040.29 for a total of \$2,677,184.29. (Motion carried under the Consent Agenda)

Lehman/Heitzman moved to approve the minutes of May 10, 2011 and May 17, 2011. (Motion carried under the Consent Agenda)

Lehman/Heitzman moved to approve and acknowledge receipt of the "Waiver of Admission of Violation" from: Valley Liquor, Inc., 1102 Shakopee Town Square; Top Star Market Inc., 615 South Marshall Road; Canterbury Concessions, Inc., 1100 Canterbury Road; Tokyo Sushi Grill & Restaurant Inc., 8080 Old Carriage Court North; Snover BBQ LLC dba Dickey's Barbecue Pit, 8088 Old Carriage Court North; Fraternal Order of Eagles #4120, 220 West 2nd Avenue; Brebbecca Inc. dba Pullman Club, 124 West 1st Avenue; and Magnum Management Cooperation dba Valleyfair, One Valleyfair Drive, for the sale of alcohol to a minor and impose a penalty for the first violation in the amount of \$1,000 and a suspension of the license for one day, and suspend \$500 of the fine and the one day suspension for one year on the condition that the licensee has no further incidents of furnishing or selling alcoholic beverages to a minor during that one-year period. (Motion carried under the Consent Agenda)

Lehman/Heitzman moved to approve the applications and grant an On Sale or Off Sale 3.2 Percent Malt Liquor License, conditioned upon compliance with all licensing requirements, to :

- Sky Ventures LLC, dba Pizza Hut, 257 Marshall Rd., On Sale
- Asian Hon, Inc., 1135 East 1st Ave., On Sale
- Shakopee Jaycees, Joe Schleper Baseball Stadium at Tahpah Park, On Sale
- Tokyo Sushi & Grill Restaurant, Inc., 8080 Old Carriage Court N., On Sale
- Snover BBQ LLC, dba Dickey's Barbecue Pit, 8088 Old Carriage Court N., On Sale
- Magnum Management Corporation dba Valleyfair, One Valleyfair Dr., On Sale at:
 1. Depot Refreshments, location #3030 including adjacent fenced in outdoor dining areas,
 2. Sidewinder Burrito, location #3055 including adjacent fenced in outdoor dining area,
 3. Atomic Pizza, location #3032 including adjacent outdoor dining area,
 4. Stadium Pizza and Grill, location #3050
- Chaska Market, LLC dba Los Ranchos, 123 E. 2nd Ave., On Sale and Off Sale,
- Wal-Mart Stores Inc., 8101 Old Carriage Court, Off Sale
- Holiday Stationstores, Inc., 444 E. 1st Ave., Off Sale
- Holiday Station Stores, Inc., 1381 Greenwood Ct., Off Sale
- Holiday Stationstores, Inc. 8002 Old Carriage Court, Off Sale
- Holiday Stationstores, Inc. 3901 Eagle Creek Blvd. Off Sale,

Shakopee 1997 LLC dba Cub Foods 1198 Vierling Dr. E., Off Sale
Northern Tier Retail LLC SuperAmerica LLC #4546, 1298 Vierling Dr. E., Off Sale
Northern Tier Retail LLC SuperAmerica LLC #4035, 1155 E. 1st Ave., Off Sale
Northern Tier Retail LLC SuperAmerica LLC #8510, 1195 Canterbury Rd., Off Sale
Kwik Trip Inc., 1522 Vierling Dr. E., Off Sale,
Top Star Market Inc. 615 S Marschall Rd., Off Sale
Kwik Trip, Inc. 8225 Crossings Blvd., Off Sale,

(Motion carried under the Consent Agenda)

Lehman/Heitzman moved to approve the application(s) and grant an Off Sale, On Sale, Sunday, and/or Club Intoxicating Liquor License(s), conditioned upon compliance with all licensing requirements, to:

AFFC, Inc., dba Arnie's Friendly Folks Club, 122 E. First Ave., On Sale and Sunday
Applebee Minnesota, LLC, 1568 Vierling Dr. E., On Sale and Sunday
Brethecca, Inc., dba Pullman Club, 124 W. First Ave., On Sale, Sunday and Off Sale
Babe's Place, Inc., 124 S. Holmes St., On Sale, Sunday and Off Sale
Canterbury Park Concessions, Inc., 1100 Canterbury Road, On Sale and Sunday
ERJ Dining IV, LLC dba Chili's Grill and Bar, 8098 Old Carriage Court, On Sale and Sunday
Chipotle Mexican Grill of Colorado LLC, 8094 Old Carriage Court, (includes outside dining and drinking), On Sale and Sunday
Global Restaurant Group, Inc., dba Dangerfield's, 1583 E. First Ave., (includes outside dining and drinking), On Sale and Sunday
El Toro of Shakopee, Inc., 1120 E. First Ave. (includes outside dining and drinking), On Sale and Sunday
Great Lakes, Inc. dba Shakopee Ballroom, 2400 4th Ave. E., On Sale
Pablo's Mexican Restaurant, Inc., 230 S. Lewis Street (includes outside dining and drinking), On Sale
RAM Arizona's LLC, 1244 Canterbury Rd. (includes outside dining and drinking), On Sale and Sunday
RT Minneapolis Franchise LLC dba Ruby Tuesday, 4135 Dean Lakes Blvd., On Sale and Sunday
MCW Entertainment LLC dba Hater's Bar and Grill, 911 E. 1st Ave., (includes outside dining and drinking), On Sale and Sunday
Turtle's Bar and Grill, Inc., 132 E. First Ave., (includes Banquet Center), On Sale and Sunday
Magnum Management Corp. dba Valley Fair, One Valleyfair Dr., Beach Bites Restaurant in Soak City Waterpark, On Sale and Sunday
Annward, Inc. dba Wine Styles, 8076 Old Carriage Court, Off Sale
Chea Kong, Inc. dba Southside Liquors, Inc., 1667 17th Ave. E., Off Sale
Crossroads Liquor of Shakopee, LLC, 1262 Vierling Dr. E., Off Sale
Riverside Liquors, Inc., 507 First Ave. E., Off Sale
Roseen & Roseen, Inc. dba MGM Liquor, 471 S. Marschall Rd., Off Sale
Sam's West Inc., 8201 Old Carriage Court, Off Sale
Valley Liquor, Inc., 1104 Minnesota Valley Mall, Off Sale
Duerr LCC dba Shakopee Wine Cellars, 4041 Dean Lakes Blvd., Off Sale

American Legion Club Post #2, 1266 E. First Ave., Club and Sunday
Fraternal Order of Eagles #4120, 220 2nd Ave. W. (includes outside dining and drinking),
Club and Sunday
Knights of Columbus Home Association, Inc., 1760 E. 4th Ave., Club and Sunday
VFW Post 4046, Inc., 1201 E. 3rd Ave. (includes outside dining and drinking), Club and
Sunday

2. Waive the requirement of the City Code Section 5.02, Subd. 9 for Global Restaurant Group, Inc. dba Dangerfield's Restaurant and for Knights of Columbus Home Association, Inc.
3. Consistent with previous approval, the following conditions are placed on the approval of the licenses for MCW Entertainment, LLC dba Hater's Bar and Grill:
 - a. The extended 648 square foot area of the license which includes the deck shall be closed on a daily basis to the public at sunset and no sale or consumption of food or beverages is allowed on the deck after sunset.
 - b. The doors to the extended deck license area shall remain closed at all times after sunset except in the case of an emergency.
 - c. Applicant's failure to comply with any of these conditions shall be grounds for suspension or revocation of the license by the City Council.
4. Consistent with previous approval, the following condition is placed on the approval of the licenses for VFW Post #4046, Inc.:
 - a. No alcohol possession or consumption in the patio area shall occur after 11:00 p.m. (Motion carried under the Consent Agenda)

Lehman/Heitzman moved to approve the applications and grant a Wine License to Tokyo Sushi & Grill Restaurant, Inc., 8080 Old Carriage Court North and to Snover BBQ LLC dba Dickey's Barbecue Pit, 8088 Old Carriage Court North. (Motion carried under the Consent Agenda)

Lehman/Heitzman moved to authorize appropriate City staff to purchase 34 desktop computers from TigerDirect and 2 laptops from Dell for an amount not exceed \$35,380. (Motion carried under the Consent Agenda)

Lehman/Heitzman moved to approve changing the web-streaming provider from Granicus to EarthChannel. (Motion carried under the Consent Agenda)

Lehman/Heitzman moved to accept and file the 2010 Telecommunications Activates Annual Report. (Motion carried under the Consent Agenda) (CC Document No. 496)

Lehman/Heitzman moved to authorize the appropriate officials to enter into a contract with Multi-Services Incorporated for custodial services at the Community Center and Youth Building at a cost not to exceed \$3,688 per month. (Motion carried under the Consent Agenda)

Mayor Schmitt asked if there was anyone in the audience who wished to speak on a topic that was not on the agenda. No one responded.

Gary Vaneyll, who is the newly appointed Metropolitan Council Representative for Scott and Carver Counties, gave a brief introduction of his background and advised Council that if they have any questions or concerns that they want discussed at the Met Council meetings, to contact him.

Mayor Schmitt asked to discuss items removed from the Consent Agenda.

Mr. Loney presented Council with Quotes for the Bluff Avenue Storm Sewer.

Mr. Loney said that Council authorized an extension agreement with WSB & Associates, Inc. to design a storm sewer system on Bluff Avenue from Dakota Street to Prairie Street to correct an erosion problem north of Bluff Avenue. The design has been completed and reviewed by staff. A bid for a change order was requested and received from N.W. Asphalt, Inc. N.W. Asphalt's change order price was \$75,053.00. Staff felt this change order was more of a quote. Staff obtained another quote from Quiring Excavating at a cost of \$53,698.00.

Lehman/Punt moved to approve the plans for the Bluff Avenue storm sewer system from Dakota Street to Prairie Street, and to approve the quote from Quiring Excavating to construct the storm sewer improvements as quoted at \$53,698.00, and to approve a 5% contingency amount for use by the City Engineer for quantity adjustments. Motion carried 5-0.

Mayor Schmitt asked for Council liaison reports. Cncl. Punt attended the Scott County Transit Review Board meeting. She said ridership is up 11% over the past two months. She also said that 65% of the 494/169 interchange will be complete by the end of 2011 with construction to be done the end of 2012. Cncl. Heitzman said he attended the Downtown Partnership banquet and attended the High School Graduation. Cncl. Clay thanked the Council for attending the Shakopee Public Utilities Commission meeting on Monday, 06/06/11. Cncl. Lehman attended the Memorial Park Memorial Day services and the benefit Mayor's Race at Raceway Park.

Mr. Leek presented Council with the Contract with VPSI, Inc. (VPSI) for Van Pool Services.

Mr. Leek said the current contract with VPSI expired on April 30, 2011. Mr. Leek said that there have been concerns about the overall level of funding available for transit in the region. Because of the concerns, staff expects to discuss this issue further with the Council as part of the 2012 budget. He explained that the three year contract has a 30 day cancellation clause to allow for getting out of the contract.

Clay/Punt moved to authorize the appropriate City officials to execute a contract with VPSI for van pool services. Motion carried 5-0.

Mr. Leek presented Council with the Request of Dominion Inc. for City Support of Funding For Arlington Ridge.

Mr. Leek said that Dominion Development & Acquisition, LLC on behalf of Shakopee Leased Housing Associates II, is submitting an application to the MN Housing Finance Agency for tax

credits that will enable them to perform a rehabilitation of Arlington Ridge Apartments located at 1219 Taylor Street. In order increase the chances of success of the application, Dominion has requested that the City provide a resolution and letter of support and that the City Council consider a waiver or reduction of building permit fees associated with the planned work. Mr. Leek said that staff supports the resolution but not waiving the permit fees.

Ryan Lunderby, representative of Dominion Development, 2905 Northwest Blvd., Plymouth, approached Council and thanked them for their support in the project. He also understands the City's position of not waiving or reducing the building permit fees.

Clay/Heitzman offered Resolution No. 7104, A Resolution of the City of Shakopee Supporting the Section 42 Tax Credit Application to the Minnesota Housing Finance Agency by Shakopee Leased Housing Associates II, Limited Partnership, and moved its adoption. Motion carried 5-0.

Mr. Loney presented Council with the Wood Duck Trail Reconstruction.

At the May 17, 2011 Council meeting Council provided staff direction to look at which project could be eliminated from the Capital Improvement Program (CIP) and what the potential project costs and assessments could be to reconstruct Wood Duck Trail.

Mr. Loney said the estimated project cost would be \$440,000.00 and would have assessments of \$130,000.00 and it is estimated that approximately 15 lots could be assessed for the improvement at a cost of \$8,666.00 per lot. Mr. Loney said that projects that could be eliminated could be streets in the Bluff Avenue area and streets in the Levee Drive area that were included in the 2011-2016 CIP. Mr. Loney suggested strengthening the sub-grade in the areas where the pavement has broken and utilizing bituminous millings from the 2011 Bituminous Overlay Project to make repairs at this time and to consider the reconstruction of Wood Duck Trail when discussing the CIP on July 19th.

Punt/Heitzman moved to direct staff to repair the pavement break-up areas on Wood Duck Trail, as presented in the staff memo. Motion carried 5-0.

Mr. Loney presented Council with the Upper Valley Drainageway Slope Stabilization Project in Scenic Heights.

Mr. Loney said that staff has found areas of slope stabilization and eroded rip-rap areas in the Upper Valley Drainageway that need to be corrected and repaired. He provided Council with plans that provide for a series of retaining walls to provide proper slope stabilization. The areas needing improvement are near Scenic Heights. Other areas needing slope stabilization would be C.R. 17 and 4th Avenue in the Upper Valley Drainageway. An estimated cost for the project would be approximately \$63,000 which would be paid from the Storm Drainage Fund.

Lehman/Clay moved to approve the plans for the slope stabilization project in the Upper Valley Drainageway in Scenic Heights and directed staff to obtain quotes for the project. Motion carried 5-0.

Mr. Loney presented Council with the C.R. 101 Change Order for Paving of Minnesota Street, Dakota Street and Prairie Street, from C.R. 101 to Bluff Avenue.

Mr. Loney said that staff has worked with the N.W. Asphalt, Inc. and obtained a cost estimate for the three blocks at a cost of \$45,610.00. N.W. Asphalt said the work would be finished by September of this year. He said the pavement width would vary and would not include curb and gutter nor drainage improvements.

Lehman/Heitzman moved to authorize the paving of Minnesota Street, Dakota Street and Prairie Street, from C.R. 101 to Bluff Avenue at the estimated cost of \$45,610.00, plus a 5% contingency with the C.R. 101 Project. Motion carried 5-0.

Jamie Polley, Director of Park, Recreation and Natural Resources, presented Council with the Award of Contract for Greenfield East/Park Meadows Park, Project PR2011-1, Resolution No. 7103.

Ms. Polley said there were six bids submitted and the apparent low bidder is Chard Tiling and Excavating, Inc. with a total base bid of \$596,975.44. Ms. Polley said the CIP allocation for this project is \$675,000. The main components of the budget include: park construction, play equipment, design and construction administration. The construction budget, which includes a 5% contingency, is \$555,060.00 and the Engineer's Estimate of the work bid was \$577,367.53 which is over the Chard Tiling bid.

Staff is recommending the approval of deduct alternates 1. basketball court paving, 3. smaller park shelter, 5. 29 parking stalls, and 6. recycle hockey rink lights. Ms. Polley also said the Shakopee Youth Baseball Association has agreed to pay for a few items included in the general contract price totaling \$7,290.00. The total project cost is \$669,419 which is \$5,581 under budget.

Punt/Lehman offered Resolution No. 7103, a Resolution Accepting Bids for Greenfield East/Park Meadows Park, including deduct alternates 1,3,5, and 6, and moved its adoption; and, authorized a contract extension with WSB and Associates for Construction Staking, with the amount not to exceed \$12,000.00. Motion carried 4-1 with Cncl. Clay opposed.

Judy Cox, City Clerk, presented Council with the Amendment to City Code, Sec. 5.30, Liquor License Required.

Ms. Cox said the governor has signed into law a new bill that allows a city to issue an on-sale intoxicating liquor license to an auto racing facility located in the City. It is now appropriate for the City Code to be amended to include the new language which allows the issuance of a liquor license to an auto racing facility.

John Hellendrung, manager of Raceway Park, answered questions of Council. Mr. Hellendrung said the new law provides a better marketing opportunity for Raceway Park.

Lehman/Clay offered Ordinance 846, 846, Fourth Series, An Ordinance of the City of Shakopee, Minnesota Amending City Code Section 5.30, Liquor License Required, and moved its adoption. Motion carried 5-0.

Mr. McNeill presented Council with the 2012 Tentative Budget Calendar. He said that some dates will be modified as the process evolves. Council reviewed the calendar and added August 9th as a tentative date if needed.

Mayor Schmitt asked if there were any other business or Council concerns. Cncl. Lehman said he received several complaints from area residence regarding the loud music from the concert that was held at Canterbury Park over Memorial Weekend. Mr. McNeill said that several of the complaints were from Eden Prairie. He attributed the noise complaints due to the atmospheric conditions of that day.

Punt/Heitzman moved to adjourn to Tuesday, June 21, 2011 at 7:00p.m. Motion carried 5-0.

The Council meeting ended at 8:56 p.m.

Judith S. Cox
City Clerk

Kim Weckman
Recording Secretary