

**CITY OF NOWTHEN
CITY COUNCIL MEETING
TUESDAY, JUNE 9, 2015 @ 7:00 PM**

The Nowthen City Council held its Regular City Council Meeting on Tuesday, June 9, 2015 at 7:00 PM, at the Nowthen City Hall, 19800 Nowthen Blvd NW, Nowthen, Minnesota.

Present: Mayor Jeff Pilon
Councilmember Jim Scheffler
Councilmember Randy Bettinger
Councilmember Mary Rainville
Councilmember Paul Reighard

Others: Lt. Wayne Heath

PUBLIC HEARING – MS4 (Storm Water Pollution Prevention Program) – Mayor Pilon opened the public hearing at 7:00 PM. The purpose of the Public Hearing is to review comments on the Storm Water Pollution Prevention Program (SWPPP). A copy of the SWPPP is available at the City Offices. As an annual requirement of the National Pollutant Discharge Elimination System (NPDES) General Storm Water Permit for Small Municipal Separate Storm Sewer Systems (MS4's), the City of Nowthen must receive public comment and opinion on the adequacy of their Storm Water Pollution Prevention Program. This public hearing is offered to solicit that input and to provide the public with an opportunity to participate in the development and implementation of the program. One resident asked if this was new. It was stated not. The SWPPP is also available for review at the offices. **Public Hearing closed at 7:03 PM.**

Approve/amend the meeting agenda – Rainville added Council items 7.i. Floor items and item 7.J. Council Direction. **Bettinger made a motion to approve the amended agenda; Reighard seconded. All in favor; motion carried.**

1). Sheriff Update

_____ – Lt. Wayne Heath provided an update of calls for Sheriff's services for the month of May 2015.

- 2). Floor Items:** - Dan Williams of 7967 191st Lane NW said that he wanted to know the update of the handicap ramp reconstruction and update of the audio video progress. On the sheriff's report it was stated that two guys were ticketed for taking items out of the recycling center.

There are several people asking where the City is going to draw the line on this issue. There is a sub culture of people that go to the recycling center and get bicycles and such and there are people that drop stuff off because they don't know what to do with it, with the intent of it being used. He thinks that we should find a common ground to live with. He got his parts for his go cart off of garden tractors that were dropped off at the recycling center. Some of the old guys were concerned about getting a ticket for theft for taking a bicycle home to their grandkids. He talked to some staff and was told that they need to go through the office to ask for permission to remove items from the recycling center. If that is true, he would like Council to put some signage up there so people are aware that if they don't have permission, don't take the items.

Pilon said the status of the ramp is that he is trying to schedule a meeting with the Building official and the Engineer regarding this. There has been no official discussion regarding the audio video recordings and for recycling they can put it for discussion at a future date.

3). Planning and Zoning

- a). **Jeff and Shai Stadfelt - (PID 17-33-25-12-0005) - A Request to Vacate a drainage and utility easement**, for property owned on 211th Ave NW within Hayside Acres Plat, following a previous lot combination that took a portion of Lot 4, Block 1 and joined it with Lot 2, Block 1.– **Rainville made a motion to approve the request by Jeff and Shai Stadfelt for an easement vacation, as recommended by the Planning and Zoning Commission and Stockman; Bettinger seconded. All in favor; motion carried.**

- b). **Lee and Dawn Stewart - (PID 19-33-25-44-000) – A Request for a Conditional Use Permit** on property owned at 19767 Tiger Street, to allow a second driveway on the residential parcel zoned RRA, Rural Residential Agriculture, according to Sections 11-6-2.J and 11-4-3.B of the Nowthen Zoning Ordinance. – **Scheffler made a motion to approve the request by Lee and Dawn Stewart for a Conditional Use Permit, as recommended by the Planning and Zoning Commission and the Planner; Bettinger seconded.** Pilon said that he would rather not override ordinances. On a short residential street, if everyone put in two driveways, it is a safety issue. There is sufficient room to branch off from his current driveway. **Pilon and Rainville opposed. Three in favor; motion carried.**

- c). **Robert and Julie Koester** - (PID 30-33-25-22-0007) - A Request for an **Interim Use Permit** on property owned at 19645 Halas Street, to allow an **Extended Home Occupation**, to operate a semi-truck sales business, on the residential parcel zoned RRA, Rural Residential Agriculture, according to Sections 11-3-5.D and 11-4-3.B of the Nowthen Zoning Ordinance. – **Rainville made a motion to approve the request by Robert and Julie Koester for an Interim Use Permit, as recommended by the Planning and Zoning Commission and the Planner; Bettinger seconded. All in favor; motion carried.**
 - d). **Perkins** – (PID 21-33-025-33-0021) – 19745 Nowthen Blvd
Withdraw of application – **Pilon made a motion to accept the withdrawal from Dave Perkins for his request for a CUP for multiple uses on a single lot and his IUP to reestablish residential use; Rainville seconded. All in favor; motion carried.**
 - e). **Structure Setback to Wetlands** – Recommend Ordinance Revisions. – **Bettinger made a motion to approve staff to make revisions of the ordinance and send it back to P&Z for public hearing; Reighard seconded. All in favor; motion carried.**
 - f). **Terie & Gary Scott** (21830 Xenon) – Council Direction – **Pilon made a motion to have the attorney draft up a consent decree and present it at the July meeting; Rainville seconded.** Rainville wanted the decree to include language that they are not allowed to bring in additional items onto the property. **All in favor; motion carried.**
- 4). **Road and Bridge**
- a). **Equipment Fund** – Allocate Funds – Rainville stated that the Road and Bridge Committee went through a list for equipment replacement and a time line. They determined that they would have to put about \$50k a year for future equipment replacement. They asked to have the City Council look at putting money aside. Bettinger stated that they also requested to have \$10k be placed into the equipment fund. Pilon said that he would like to wait until the end of the year to see what funds are still available. He said that there are road improvements that are up on the agenda and we need to consider that as well.

- d). **Black Top Repairs** – Ebony & Garnet – Pilon said that they had requested specifics be put in a proposal. This is to be sent back to the Road and Bridge Committee for more detailed information.
- c). **Roanoke Street / Park land Issues** – Pilon stated that at this point Oak Grove is taking action on this matter. In the meantime, let's try and keep our residents calm to allow them a chance to get this cleaned up.

5). **Park and Recreation**

- a). **Recommend appointment of Peter Carpenter to Park & Rec. Committee** – Reighard made a motion to appoint Peter Carpenter to the open position on the Park and Rec. Committee; Rainville seconded. All in favor; motion carried.

6). **Consent Agenda:**

- 1.1 **Approve the Amended May 12, 2015 Regular Council Meeting Minutes.**
- 1.2 **Financial Report**
- 1.3 **Approve All Audited Bills Claim # 9465 through Claim # 9515, plus Net Distribution reports dated May 13, May 18, & June 2, 2015**
- 1.4 **Approve Liquor License** – *Northwoods, Burns Bottle Shop, Bill's Superette*
- 1.5 **Resolution 2015-09** – *Vacating Drainage & Utility Easement*
- 1.6 **Resolution 2015-10** – *Sugar Hills Regional Master Plan*
- 1.7 **Resolution 2015-11** – *Authorizing Mayor & Council Included in Worker's Comp*
- 1.8 **Removed and added to item 7.f.**
- 1.9 **Resolution 2015-13** – *Appreciation for Robert (Bob) Mahutga*

Scheffler made a motion to approve the consent agenda; Bettinger seconded. Rainville would like to remove item 1.4 and 1.9 for discussion. Bettinger and Scheffler did not amend their motion. Bettinger and Scheffler in favor; three opposed. Motion failed. Rainville made a motion to approve all the Consent Agenda items except for 1.4 and 1.9; Pilon seconded. Rainville asked why the Bourbon Room was not part of 1.4. Pilon stated that the renewal form has not been received from the state yet. Rainville stated that for item 1.9 she is requesting that the original resolution be presented as she presented it, and not the resolution amended by staff. Four in favor; Scheffler opposed. Pilon made a motion to approve item 1.4; Rainville seconded. All in favor; motion carried.

Rainville made a motion to have item 1.9 (Resolution 2015-13) be presented to Council in its original format; Pilon seconded. Rainville stated that she submitted the resolution to honor Robert Mahutga for his service on the committee's in the City. Once she submitted it, it was changed by staff. That wasn't her intention to have it critiqued by staff. She requests that the Council vote on it as it was originally presented. Reighard said that this was discussed at the workshop. It wasn't staff that just changed it on their own. Staff had discussed this with the Mayor and with the consented agreement with the Mayor, made the changes. He said that we need to get it off the table that staff just changed it on their own. He said that it is a unique situation. He said the communication was dropped and Rainville should have been part of it, but staff didn't do it on their own, they did involve the Mayor.

Rainville understands, but it was her resolution and she is not comfortable with having her resolution changed without having any conversation about that change.

Scheffler said that at this point he would rather see it removed entirely than see it changed again.

Bettinger said that he thinks it is great that Rainville wants to do the resolution, but they need to be sensitive to the family as well. They really should have checked with the family first before a resolution was put together to see how they would like it read. That is really what is missing here. The family was never contacted ahead of time and once they were, they did the changes to it and this is how they want it read. Bettinger thinks that to honor Bob and his family, the way it was written at the workshop should be the one they adopt. That is the way it should be, that is the way the family wanted it and that is what Bob would have wanted and that should mean something.

Rainville said that it is not typical policy, when you do a resolution it is by the Council, it is not in conversation with. She understands the unique situation, but she truly believes that if someone other than herself would have submitted the resolution, the family would have accepted it. They are not accepting it because her name was on it.

Pilon said that he actually didn't discuss it with staff. He received an email from Mahutga stating the changes she wanted to see. Mahutga stated in her email that if she didn't hear anything back from Pilon, she would submit the changes to LaDoucer to present to the Council. Pilon stated that it was his mistake for not talking with LaDoucer about the changes and involving Rainville.

Pilon doesn't want to set precedent. He would not have staff change anyone's resolution in the future. The Council can do three things about this. Submit it as is or not submit it at all or submit it in its original form. In the future, if there is any suggested changes, that they be discussed with the author of the resolution. You never want to tell staff that they cannot suggest changes, but before they come forward, they should be in their original format.

Rainville and Pilon in favor of Rainville's motion. Bettinger, Scheffler and Reighard opposed. Motion failed. Bettinger made a motion to approve Resolution 2015-13 as presented tonight; Pilon seconded. Four in favor; Rainville opposed. Motion carried.

7). **Council Items:**

- a). **Request to cut and bale grass on city property – Bettinger made a motion for Ryan Thompson to cut and bale the grass and to sign a waiver of liability; Scheffler seconded. All in favor; motion carried.**
- b). **Request for additional time of office help – Scheffler made a motion to grant the request made by LaDoucer to keep the temporary help until around mid-September, or as the budget permits; Bettinger seconded. All favor; motion carried.**
- c). **Schedule Budget Workshop – Budget workshops scheduled for July 20th, August 3rd and August 17th from 6:00 PM to 8:00 PM.**
- d). **Should Recycle Center Be Staffed On Saturday, July 4th? - Scheffler made a motion to remove the July 4th Saturday recycling day and have Warden work at cleaning the parks that day instead; Rainville seconded. All in favor; motion carried.**
- e). **Seasonal Park Maintenance Worker – Bettinger would propose staff to interview them. Scheffler made a motion to have staff set up interviews with the potential applicants and if one is qualified staff can proceed with the hiring; Bettinger seconded. All in favor; motion carried.**
- f). **Resolution 2015-12 – Approval of Premise Permit – Scheffler made a motion to adopt Resolution 2015-12; Rainville seconded. Four in favor; Bettinger opposed. Motion carried.**

- g). **Approve Final Invoice (Recycling Center – Majestic Masonry) – Scheffler made a motion to approve final payment of the invoice to Majestic Masonry, but that before the check is released, that the missing two plastic sleeves be added; Bettinger seconded. All in favor; motion carried.**
- h). **Offer to purchase City Property (Lot 1, Block 1, Burns Town Center) – Bettinger made a motion to counter the offer to the estimated market value from the county of \$98,000; Reighard seconded.** Pilon stated that he is not sure that the person submitting the offer is aware of the amount of ponding that is on the lot. Mr. Peterson stated that he is aware of this. There are restrictions on the lot and that they need to be aware of that. Mr. Peterson said that he will check with the Planner and his surveyor about this.

Mr. Peterson said that his thoughts on it are that it has sat vacant for many years. The lost tax revenue greatly outweighs the difference in price.

Scheffler said that sometimes the Counties estimated value is a lot different than what the appraised value is. In moving forward, that is something that they can look at as well in the future. Pilon said when the Council counter offered in the past, the County numbers were pretty close to the value.

Mr. Peterson said that he would also be willing to provide some type of easement for signage for exposure. This would allow the City to erect, at their own cost, a sign to advertise the other businesses. **Four in favor of Bettinger's motion; Pilon opposed. Motion carried.**

- i) **Floor Items** – Rainville would like to address the floor items that were directed to her at the last Council Meeting. She said that the resident misspoke and said that she accused the Ramsey Lions of falsifying information. That was not her intention. What she was doing was just questioning information that was put in front of us at the last minute. The questions were based on information that she received from the gambling board and her experiences with the Nowthen Lions, in regards to the distribution of food baskets. Rainville said that her job as a Council Member is to ask questions. If the resident wants a Council Member that doesn't ask questions, they would be sorely disappointed in her. The next issue that was brought up is the Park and Rec. Committee.

Rainville said that the resident said that she was discriminatory because she spoke about the applicant not having children. What she did was ask questions about conversations that had taken place at previous Park and Rec. Meetings. She knows that you cannot discriminate people. That was not her intention and the resident mistook that.

Rainville stated that the last issue was the Data Practices Act and why is she so opposed to having information provided. She has never once said that she didn't agree with the information, the information is public. From day one her issue has been the process that was used to get that information out there. There was no legitimate Data Practice Request and an employee was allowed to get the information after hours. The information was given to the external City staff without any clarification of what is there. Then after the fact, the resident that was interested in the information came in and filed the request for it. Her issue there was the process, not the information. It is public information; you just need to go through the proper channels.

Pilon said that was an issue on the accusation and it was discriminatory to say you need to have someone on the Park and Rec. Committee that had children. His understanding was that it was discussed that it would be nice to have people that had kids using the park to be considered or recruited. Reighard said that it was never a requirement. It was always brought up that the community could see it being an advantage if the resident had children. By no means was it ever meant that no one could be considered if they didn't have children. Pilon's understanding was the comments made by the Council member were referring to discussion that the Park Committee had. Not that the person would be disqualified. Reighard said that for clarification, Peter Carpenter, the person the Council just appointed to the Park and Rec. Committee, doesn't have any children, at this time, but his wife is expecting.

- j). **Council Direction** – Rainville would like to ask the Council that they reaffirm with staff, that when Council gives direction, that direction is to be followed. The reason for doing this is because at the last Road and Bridge Meeting she asked Glaze if he was continuing on with the Council request to track when and where he has graded. The reason Council asked for this was because residents were saying that he is never on their road grading. Glaze had said that the roads were graded. To protect Glaze, the Council asked him to document when and where he was grading roads.

Rainville stated that at the last Road and Bridge Meeting she asked Glaze if he was still documenting this. Glaze told her that he was not because the new Council hasn't told him to continue with it. Rainville said that a Council direction is a direction until rescinded by the Council. Pilon said that it is a good point. A new Council can redirect or change a request, but the practices and policies in place should be maintained until they are altered or redirected. **Rainville made a motion to advise staff to follow direction until there is a change in direction; Pilon seconded. All in favor; motion carried.**

8). **Introduction of New Items:**

Scheffler made a motion to adjourn the meeting at 8:35 PM; Bettinger seconded. All in favor; motion carried.

Respectively submitted by:

Corrie LaDoucer, City Clerk

Mayor Jeff Pilon