

**CITY OF NOWTHEN  
CITY COUNCIL MEETING  
WEDNESDAY, AUGUST 10, 2016 @ 7:00 PM**

The Nowthen City Council met for their Regular City Council Meeting on Wednesday, August 10, 2016 at 7:00 PM, at the Nowthen City Hall, 19800 Nowthen Blvd NW, Nowthen, Minnesota.

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

Others: Lt. Wayne Heath

**Approve/amend the meeting agenda** – Agenda was amended to add **3.g. Consent Decree** and Consent Agenda Item 7.1.6 - Adopt Resolution 16-20. Bettinger requested pulling out **Claim # 10255 – Donation to Heritage Festival, for discussion** and Rainville pulled out **Consent Agenda item# 7.1.1 – Approve July Council Meeting Minutes from the Consent Agenda for discussion**. Rainville made a motion to approve the amended agenda; Reighard seconded. All in favor; motion carried.

- 1). **Sheriff Report** – Lt. Wayne Heath provided an update of Sheriff's Services for the month of July 2016 – He also informed the Council about the Citizen's Academy starting September 14 to October 19<sup>th</sup> at the Anoka County Sheriff's Office in Andover. This is a six week program to get an inside look at the workings of law enforcement operations and the Sheriff's Office. Information is available on the Sheriff's website about it.
- 2). **Floor Items:** - Marsha VanDenburgh of 3270 206<sup>th</sup> Ave NW, Oak Grove, is running for Anoka County Commissioner. She just wanted to say hi to the City Council and put a face to a name. She looks forward to the relationship with the Council; if elected.
- 3). **Planning and Zoning**
  - a). **Glen & Janice Connelly** - (PID 29-33-25-11-0012) – Request for an Interim Use Permit to allow operation of a craft house within a C-1, Commercial District; and Interim Use Permit to allow the expansion of the outdoor storage; and an Interim Use Permit to legalize outdoor sales of used automobiles. – **Rainville made a motion to approve the request by Glen & Janice Connelly, with a 180 day extension; Pilon seconded.** Scheffler was unclear about the 90 days.

Scheffler assumed if the Connelly's reapplied for the IUP's they would get the full year again. If Connelly is starting his application over again he should get that year, unless he requests more than a year. Reighard agrees with Scheffler on this, the Council made them go through the whole process again, so he is reapplying. He is also curious where the 90 days came from. Pilon said that the 90 days came from the ordinance that was in affect. At that time they could only extend it an additional 90 days. The discussion at P&Z was, if the 90 days already passed the Council could only extend it an additional 90 days. The concern Pilon has is if Connelly doesn't complete the conditions in time, he could just apply for another IUP. The conditions have been worked on for 1 ½ years. Giving an additional 180 days is being generous. It was already extended once.

Scheffler asked Rainville if she would be willing to change her motion to a year. Rainville pulled her motion. **Scheffler made a motion to approve the three (3) requests from Glen & Janice Connelly for an IUP for outdoor used auto sales, outdoor storage and to legalize the operation of the Nowthen Getaway Craft House and that the conditions must be met and put into effect within one (1) year of the date of approval; Bettinger seconded.** Rainville would ask that it be included there will be no additional extensions given to complete the conditions. It would now be 2 ½ years to complete the work if we give him a year. **Scheffler amended his motion to include, "no additional extension will be given"**. Bettinger does not agree. He would rather stick to the ordinance that was just passed and allow Connelly to request for an extension if he needed to. **Bettinger pulled his Second to Scheffler's motion. Reighard seconded Scheffler's motion. Four in favor; Pilon opposed. Motion carried.**

- b). **Jason Snyder & Michael & Laurel Light – (PID 28-33-25-11-0006) – Request for a Minor Subdivision and Variance to allow a 1.97 acre parcel to be split from a 6.97 acre parcel. – Bettinger made a motion to approve the request from Jason Snyder and Michael & Laurel Light for a Subdivision and Variance with the conditions recommended by the Planning and Zoning Commission and the condition to grant to the City a permanent conservation restriction over the 1.97 acre parcel, as recommended by Attorney Ruppe; Scheffler seconded. All in favor; motion carried.**
- c). **Proposed Ordinance 2016-05 – Amending City Code Chapters 10 and 11 pertaining to the allowance of second driveways for residential parcels. –**

**Scheffler made a motion to approve the proposed draft Ordinance 2016-05, dated 08-09-16, amending City Code Chapters 10 and 11 pertaining to the allowance of second driveways for residential parcels; Bettinger seconded.** Bettinger said that this is moving in the right direction, but he doesn't feel it is needed. These are just more rules and laws not needed. **All in favor; motion carried.**

- d). **Proposed Ordinance 2016-04 - Temporary Housing Opt Out Ordinance – Rainville made a motion to approve Ordinance 2016-04, an Ordinance opting out of the requirements of MN Statutes Section 462.3593 pertaining to temporary family health care dwellings; Scheffler seconded. All in favor; motion carried.**
- e). **Herb and Bill Langer – (PIN 02-33-25-32-0013, 02-33-25-32-0009 & 02-33-25-32-0010 – A request for a Lot Line reconfiguration. – Bettinger made a motion to approve the request from Herb and Bill Langer for a lot reconfiguration, as recommended by staff and the Planning and Zoning Commission; Rainville seconded. All in favor; motion carried.**
- f). **Met Council Grant Application/Adopt Resolution 2016-20, A Resolution appointing staff to apply for and administer the Grant – Rainville made a motion to approve to adopt Resolution 2016-20, A Resolution identifying the need for funding to complete its 2040 Comprehensive Plan update and authorizing an application for Planning Assistance Grant Funds; Reighard seconded.** Bettinger would like to keep it open for proposals to update the Comp Plan, if they still can. **All in favor; motion carried.**
- g). **Consent Decree – Gary and Teri Scott - 21830 Xenon Street – Rainville made a motion to approve and move forward with the Consent Decree, Special Assessment Agreement, Waiver of Hearing and Appeal; Bettinger seconded. All in favor; motion carried.**
- 4). **Building Department**
- a). **Escrow Requirements – Building occupancy prior to completion of all improvements (landscaping-temporary housing, etc.) – Rainville made a motion to table this discussion until such a time that we have additional information; Pilon seconded. All in favor; motion carried.**
- 5). **Park & Recreation**

- a). **Hockey Board location – Across Recycling Center or Soccer Field – Reighard made a motion to have City staff to assist with setting up the hockey boards in the field across from the fire station as the primary location, and if that location doesn't work by then, use the soccer field as a secondary location. Scheffler seconded.** Pilon asked if we can go with the primary location and then have a discussion if that location doesn't work. Reighard thinks that it will be the primary location once it is leveled and cleared. If we give the contractor 60 days to remove the dirt and level it off, it should work.

Scheffler would like to see the Hockey rink located further West than the dirt pile. That way people don't park in front of the Fire Station and block it off. If the person removing the dirt can start at the West end and level it off toward the fence that would help. Bettinger thinks the area should be roped/closed off so people are not driving on it.

Rainville wanted to clarify that Reighard asked to have staff set up the Hockey Rink. Reighard is working on getting volunteers to do it. **All in favor; motion carried.**

**Rainville made a motion to start tracking time expended towards the effort of installing, maintaining and anything that is related to the hockey boards, for budget purposes; Pilon seconded.** Reighard wanted to know what they would track. Rainville would like to track staff and volunteer hours for this. That way they can get an idea of volunteering hours. For budgeting purposes she would like to track this and anything associated with the Hockey Rink. Pilon agrees with this and thinks it would be nice to promote the volunteers for this.

Bettinger said that it will help us track what is being spent on the Hockey Rink, but that isn't going to help us with the budget. Rainville disagrees. If we are going to be flooding the rink, that is going to labor and those labor hours are going to be taken out of the general work day or overtime, there are going to be expenses there. She would like to know what those expenses are. She would like to know what this rink is costing the City in both material and labor.

Pilon thinks that if we are going to have an ice rink, we are going to have to budget in ways that we never use to.

Reighard doesn't know how you can budget for it when the goal of the plan is to do this with volunteers. He doesn't see that as a huge concern. What he is asking the Park and Rec. Committee is a game plan on goals. They have already been told by local businesses that they are willing to support this project both financially and with equipment. You can't budget for that. He thinks that they will be able to get a lot of it done with volunteers.

Rainville would be happy with volunteers, but anything that doesn't get done, gets done with staff. We really need to look at this going forward and plan for the future. It needs to be broken down by labor, materials and volunteer hours. Pilon agrees with Rainville that we need to track this.

LaDoucer indicated that staff time and material can be tracked this year, but once we go to the upgraded accounting program, it may not be as easy to break it down in great detail. The Chart of Accounts are meant to track expenditures for each department, not necessarily individual line items.

Reighard said the goals the Park and Rec. Committee will be asked to put together is going to be ever changing. To make it easier, there was discussion about putting in a well next to the Fire Station. That would make it easier to flood the rink and fill the fire trucks. Obviously the first year you are not going to be running as efficiently as you can. As you learn and grow, you become more and more efficient.

**Three in favor of Rainville's motion to track time and materials; Bettinger and Reighard opposed. Motion carried.**

**6). Road and Bridge**

- a). **Survey – Bettinger made a motion to table the survey discussion until the Road and Bridge creates one; Rainville seconded. All in favor; motion carried.**
- b). **Request for Authorization – *Removal of Excess Dirt from stockpile* – Bettinger made a motion to approve the Request for Authorization from Madson Construction to remove the excess stockpile of dirt and give him 60 days to complete the work; Reighard seconded. All in favor; motion carried.**

- c). **Award/Deny Bids - 1997 Chevy 4x4 1 ton – Bettinger made a motion to approve the bid for \$6,275 from Greg Tinsley to purchase the 1997 Chevy 4x4 1 ton; Scheffler seconded. All in favor; motion carried.**
- d). **Appoint staff/Council Member(s) to approve bids and final sales - 1970 Namco Standup Forklift and 1992 Ford L8000 Single Axle Truck – Scheffler made a motion to appoint Glaze, Bettinger and Reighard as the committee to approve the bids and sale of the forklift and the 1992 Ford L8000; Bettinger seconded. All in favor; motion carried. Rainville made a motion to require staff to produce a spreadsheet of the bidders in the future; Pilon seconded. All in favor; motion carried.**
- 7). **Consent Agenda:**
- 1.1 **Removed (see below)**
  - 1.2 **Financial Report**
  - 1.3 **Approve All Audited Bills Claim # 10220 through Claim # 10268, plus Net Distribution reports dated July 11<sup>th</sup> and July 26<sup>th</sup>, 2016.**
  - 1.4 **Adopt Resolution 16-18 – *Donation of flowers from RoseAnn Ames***
  - 1.5 **Adopt Resolution 16-19 – *Donation of a Rain barrel from the Nowthen Lions***
  - 1.6 **Adopt Resolution 16-20 - *Authorizing the expenditure of SCORE Funds for the purchase of compostable products.***

**Approve the July 12, 2016 City Council Meeting Minutes -** Rainville would like item 5.e in the July 12, 2016 meeting minutes further clarified on how the vote went. There was an initial vote to table that needs to be corrected of a failed motion and the all in favor; motion carried needs to be removed. She would request that the comments that she made that the new policy compensates Council members for absence of a Council Meetings, workshops and commission meetings, where they are liaisons, will still be paid even if they miss those meetings and those meetings don't automatically meet each month. They will be compensated for something they are not attending. She doesn't agree with that and it should be noted in the minutes. She did say that at the July meeting. **Council consensus is the table the July minutes until those corrections are made.**

**Audited Bills Claim #10255 - Bettinger made a motion to hold the Heritage Day Festival donation of \$2,500 until a copy of the 2015 tax returns are received and that the City receives a copy of every year's tax returns before any future donations are made to the Heritage Festival.**

Pilon believes when this first came up about a donation it was noted the current year's tax returns. At the time, the Heritage Committee gave the current year's tax returns, which at the time happened to be for 2014. Looking back, the Council didn't clarify that they wanted the 2015 tax returns. Because the 2015 taxes weren't filed yet, they gave the City the 2014 tax returns. It wasn't previously clarified and wasn't made a condition and now Bettinger wants to make it a practice of all donations. Whether it is Heritage Festival or others wanting donations. They would have to provide their tax returns before they get a check.

Bettinger said that other agencies have submitted their financial statements. Pilon asked who has submitted that. Bettinger said that Alexandria House has submitted their financial information. Pilon asked if we got their taxes. We have gotten information on how they derived their formula, but not their taxes. Bettinger said that we have gotten their budget information. He said that was the intent of the original motion that was made for the donation to the Heritage Festival, was for the City to get the 2015 tax returns. We have not received it even though it was asked for. There has been talk about weaning the Heritage Festival off of City funds. If we don't get the tax returns to see where they are at, how does the City know when to start weaning them off of City funds?

Pilon is not disagreeing with that because it has been talked about in the past. He is asking that the City Council be clearer in the motion because what they intend is what they motion on. Because what is intended needs to be exactly what is asked for. What was asked for was the current tax returns and those were supplied to the City.

That is Pilon's opinion, but Bettinger's opinion is the current taxes means what you file this year. Pilon said that the Heritage Committee presented the taxes that had been filed at the time of the request. Bettinger feels that Pilon is trying to put a spin on this. He believes the Council all knows what was being asked for. It seems to Bettinger that someone is trying to hide something and he doesn't know why. It is a pretty simple form to present.

Rainville said the motion that was made by the Council in February was for the Heritage Festival to provide their current tax returns. That was never even officially requested of the festival. The festival never got an official request for it. They did supply their current tax form. That tax form is not due until mid-year. They don't do their taxes until they have to. They supplied the current tax form to the City. If the Council wants to move forward and next year request the tax returns before they make a donation that is fine.

Rainville said that was not what the Council asked for when it was voted on earlier this year. If they read the motion, that is not what the motion said. That is why it is very important to clarify the motion, because they don't know peoples intent.

Pilon said that is one of the challenges. If we are not specific on the motions, it may not be what everyone else is hearing. He disagrees that anyone is trying to hide something. He thinks that they need to try and be more disciplined as a Council to say, what the intent of our motions is and be specific on that, so we are clear. That is why he has requested clarifications on some of the motions. They cannot go back and read intent, when they have a defined specific motion. That the intent of someone, even when they voted for it, was something other than what they were saying. He doesn't believe the Heritage Festival will have any problem supplying the tax returns, it is just the expectation. When the motion was made in February, we should have directed staff to request it. The Council isn't going out individually and telling them that they need the returns.

Bettinger asked LaDoucer if she had requested the 2015 tax returns. LaDoucer didn't recall asking for it, but the 2014 tax returns were emailed to her. She then emailed the Heritage Committee back and stated that the City had already received the 2014 tax returns and that we needed the 2015 tax returns. LaDoucer never heard back from anyone. Bettinger said that it is a pretty simple form to send. If they don't want to send it, then someone is hiding something.

Pilon said that Bettinger is making an accusation and that is unfair. No one is hiding anything; the Council just didn't specifically ask for the 2015 tax returns. He said that we got 2014, which is what the City asked for. It was the current taxes. The Council never came back and said that they meant 2015. The City can certainly get the 2015 tax returns, but to clarify, that was not what was asked. They did send in what was requested.

Reighard's assumption was that because they were voting on it in 2016, they were asking for the 2015 tax returns. Moving forward, he doesn't have any issues with the City Council specifically saying that they need, and specify the year, the tax returns before they give any donations. That way they would have a chance to review them. Pilon asked if Reighard would expect that with all donation requests. Reighard says, if they can. Obviously there are some that are different than others. The Council has talked and the discussion has been to help the Heritage Festival become self-sufficient. It helps to see their tax returns for this, so they could look at if they need the donation and where are they using it. Pilon agrees with that and thinks it is a reasonable request for any nonprofits.



Rainville said going forward, if Councilmember Bettinger wants to submit a Request for Council Action and request that policy, she is all in favor of that. At this point, she knows it sounds bad because she is on the Heritage Festival Board, when the Council voted on this they voted to get the current tax year and they provided the current tax year. If the motion wasn't clear, that is not their fault. That is the fault of the maker of the motion. The Heritage Festival adhered to what the motion was. To now say, that isn't what was meant, is not fair. Going forward, if Bettinger wants to submit a Request for Council Action stating the policy going forward, she would be in favor of it.

Bettinger said that it was not his motion in February, it was Reighard's motion, but he believes it was for the current year's tax returns, which would be for 2015. He stated that 2014's was last years. They didn't say the current year they had; they said the current year's tax returns. Rainville claimed that wasn't what the motion said. Bettinger doesn't understand what the problem is. It is a simple short form to submit.

Reighard feels that to make this issue simple and go away, that the Heritage Festival just supplies the City with the 2015 tax returns. He agrees with Pilon that in the future they need to be more specific on their motions, so everyone is clear on what is expected. Reighard made the assumption that they requested the 2015 tax returns. Pilon said the Heritage Festival complied with what they had and supplied it to us. Reighard said to make this easily go away, he assumes the Heritage Festival has the 2015, just supply the City with it. Pilon says the question is, does the City hold the check until the City gets that because that was not the requirement at the time.

Scheffler asked if the 2015 tax returns are available. Rainville said they are. Scheffler said that may be what was intended and not requested, but now it is. Pilon said very specifically, it was not requested at the time, but they did supply what the most current returns they had. Scheffler feels that if the taxes are available now, he doesn't see a problem with asking for that information. Do we have to make a motion every year to look at them? It should be expected of them to provide that information to us since we have asked for it already.

Rainville stands corrected. She read the February 2016 City Council Meeting Minutes and they said, "**Reighard made a motion to donate \$2,500 and the use of City Staff time for the Heritage Festival and that the Heritage Committee provide a copy of their 2015 tax records to the City; Scheffler seconded. All in favor; motion carried.**"

Rainville apologized and said that the Heritage Festival will get the 2015 tax returns to the City right away. Going forward, that should be a requirement of all nonprofits, Pilon agrees. Rainville wanted it on the record that his statement that the Heritage Festival is trying to hide something, is very inappropriate. They have never attempted to hide anything. Their books are open. For him to even make that comment without having any reason is inappropriate. Bettinger said there is reason; the Heritage Committee hasn't submitted the returns. Rainville said that was an error, it is not because they are hiding anything.

**Scheffler seconded Bettinger's motion to hold the Heritage Festival donation check until the 2015 tax returns are received.** Reighard said that this motion was made because the original motion wasn't followed. **All in favor; motion carried.**

**Bettinger made a motion to approve Consent Agenda items 1.2 through 1.6; Pilon seconded. All in favor; motion carried.**

8). **Council Items:**

- a). **Audio Recording of Meetings – Bids received – Bettinger made a motion to have the AV Committee (LaDoucer, Pilon, Reighard) move forward with reviewing the bids and the purchasing of the Audio Video Equipment, to record meetings, with an amount not to exceed \$22,000.00; Scheffler seconded.** Rainville has a hard time supporting this because she hasn't had a chance to review the bids further. Reighard said that is part of the motion to let the appointed committee review this and tweak it if necessary. Bettinger said that all the estimates that have come in are all under \$22,000 and if we need a cabinet he knows someone that will donate it. Pilon thinks it reasonable to give the other candidates what was proposed and why they think their equipment is better. **All in favor; motion carried.**
- b). **Employee Evaluation Review Forms – Scheffler made a motion to approve the use of the Evaluation Review Forms that were provided by staff and to discuss who will be doing the reviews at a later date; Bettinger seconded. All in favor; motion carried.**
- c). **November City Council Meeting Date Change – Due to Elections/Canvass – Pilon made a motion to approve changing the November City Council Meeting date to Tuesday, November 15, 2016 at 7:00 PM; Rainville seconded. All in favor; motion carried.**

- d). **Allen Axelson** – *Adverse Possession of park land* – **Bettinger made a motion to deny the request of Adverse Possession of a piece of the Park Land at Twin Lakes Park, as recommended by the Attorney and the DNR; Scheffler seconded. All in favor; motion carried.**
- 9). **Introduction of New Items:** - Scheffler said the preliminary plans for the recycling center have been received. He asked the Council if there were any other changes to be made at this point. Once we approve the preliminary plans, the engineer will finalize the plans. **Scheffler made a motion to approve putting a bid packet together with staff, send out RFP's on the bids and present the bids to the Council at the September meeting; Bettinger seconded.** Staff will submit a copy of the whole bid packet to the Council, when it is complete and ready to go out. **Three in favor; Rainville and Pilon opposed. Motion carried.**

**Bettinger made the motion to adjourn the meeting at 8:50 PM; Rainville seconded. All in favor; motion carried.**

Respectively submitted by:

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Corrie LaDoucer, City Clerk

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Mayor Jeffrey Pilon