

EAST BETHEL CITY COUNCIL MEETING

January 3, 2018

The East Bethel City Council met on January 3, 2018, at 7:00 p.m. for the regular City Council meeting at City Hall.

MEMBERS PRESENT: Steve Voss Tim Harrington Brian Mundle
Randy Plaisance Tom Ronning

ALSO PRESENT: Jack Davis, City Administrator
Mark Vierling, City Attorney
Craig Jochum, City Engineer

1.0 Call to Order The January 3, 2018, City Council meeting was called to order by Mayor Voss at 7:00 p.m.

2.0 Pledge of Allegiance The Pledge of Allegiance was recited.

3.0 Adopt Agenda **Plaisance stated I'll make a motion to adopt tonight's agenda pulling item E from the Consent Agenda. Harrington stated I'll second.** Voss asked any discussion? To the motion, all in favor say aye. **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

4.0 Presentation
4.0A Erryn Magnusen - IUP Hearing
Davis presented the staff report. He stated Council was requested to conduct a hearing for the non-renewal of the IUP for Erryn Magnusen as provided by the City Code Appendix A, Section 2-6. He noted Mr. Erryn Magnusen owns and operates Loading Dock Specialists, 22050 Quincy St NE, East Bethel, MN. The property is zoned Rural Residential and all surrounding properties are of the same designation with the exception of one which is zoned Public/Institutional.

Davis noted Mr. Magnusen had been operating his business for a number of years at this location. Based upon complaints received by the City, Mr. Magnusen was notified that he was required to obtain an IUP for a Home Occupation per the City's Zoning Ordinance (Appendix A, Zoning, Section 4- 9, Section 10-19 and Section 42-5). Mr. Magnusen applied for the IUP, which was reviewed by the Planning Commission on October 27, 2015 and by a 4-3 vote, was recommended to the City Council for consideration of approval. The application was approved by City Council on November 18, 2015 with conditions for a period of one year.

Davis stated the renewal of the IUP was again considered by the City Council on November 16, 2016 and approved with conditions for an additional term of one year. He indicated since the issuance of the Interim Use Permit in 2015, Mr. Magnusen has had continual compliance issues with his IUP. These issues are and have been violations of the conditions of the permit and include:

- A continuing pattern of parking more than five vehicles on the property
- Employment of more than 3 people at the address
- Outdoor storage of commercial equipment
- Generation of traffic over that normally associated with a single-family residence
- Continuation of a land use and business that is inconsistent with the residential character of the neighborhood

4.0A

- Failure to comply with directives from City Council relating to screening and interior storage of commercial vehicles.

Davis stated in the past year, Mr. Magnusen's property was inspected on several dates and on all of these dates he was found to be in non-compliance with the IUP. Davis indicated Mr. Magnusen has received notices from the City regarding violation of conditions of his IUP and City Staff has met with Mr. Magnusen regarding these issues, but the pattern of noncompliance has not been abated since the issuance of the IUP in December 2015.

Davis stated Mr. Magnusen did not appear at either the October 24, 2017 Planning Commission Meeting or the November 1, 2017 City Council Meeting. Mr. Magnusen was notified by letter dated September 26, 2017 of both meetings. Colleen Winter met with Mr. Magnusen on October 24, 2017 as a reminder of the Planning Commission Meeting. Amy Norling called Mr. Magnusen on November 1, 2017 as a reminder of the IUP as agenda item for the Council Meeting. Ms. Norling spoke with Mr. Magnusen's assistant and was told that the message would be relayed.

Davis noted on November 1, 2017, City Council considered the renewal of Mr. Magnusen's IUP and did not approve the continuation or extension of the permit due to the continued pattern of noncompliance. He stated Mr. Magnusen was given until March 1, 2018, to cease his operations at this location. Mr. Magnusen was mailed a notice of Council's decision on November 7, 2017. Davis indicated Mr. Magnusen has requested a hearing regarding Council's decision to deny renewal of the IUP. He stated as provided under City Code Appendix A, Section 2-6. Mr. Magnusen provided notice as per the requirements of the Ordinance and is entitled to the appeal.

Davis stated staff recommends Council conduct the Appeal Hearing for the denial of the renewal of an Interim Use Permit for Erryn Magnusen, 2250 Quincy Street NE.

Voss opened the IUP Appeal Hearing at 7:06 p.m. and asked if Mr. Magnuson was in attendance.

Erryn Magnuson, 2050 Quincy Street NE. Mr. Magnuson stated he was told by Ms. Winters that they did not need to be present at the prior meeting on November 1 and that was the reason he was filing the appeal as he was not in attendance to represent himself. He indicated he did not understand where staff said they were generating more traffic than what normally comes out of a single-family home or around a residence. He asked if anyone knew how many cars went down the dirt road. He stated he believed it was 150 plus, so he did not understand why five vehicles would make a difference. He noted they were not huge vehicles and they lived within 150 feet of the corner and they were not holding up traffic.

Voss asked if five vehicles were more than they were allowed under the permit. Mr. Magnuson responded five or under was what he was supposed to have.

Mr. Magnuson stated with respect to the continual pattern of parking, he admitted there were times when they had more than five vehicles in their driveway, but he said he has also seen other areas in town where there were more than five vehicles parked in a driveway. He noted at the end of the evening, if they went by his home there was usually five vehicles there. He stated if he had somebody over for the evening, there might be six vehicles. He stated he was not going to hide vehicles in the garage. He stated everybody else could have

a life in the city by having more than five or six vehicles in their driveway. He stated his work vehicles were parked back behind by his pole shed and someone would have to physically go into his driveway to see them or stop and look through the trees. He indicated his property did not look like a used car lot.

Voss asked if he was disputing that they had more than five vehicles on the property on the six occasions noted. Mr. Magnuson responded he was not sure if there were six occasions, but he was not disputing there have been more than five vehicles in the driveway on occasion. He stated he has done some research on his own and for people who have IUP permits, that he found 75 violations that he could show them where people had more than five vehicles, junk vehicles, or vehicles that did not move. He understood keeping it to five vehicles, but believed if the City was requiring him to only have five vehicles, then it should be citywide.

Mr. Magnuson stated with respect outdoor storage he was not sure what they were talking about. He noted he had one bin outside, which was less than other people kept outside, that held scrap metal from the garage. He stated he did not see this as an issue. He has seen people with more things in their front yard that has been sitting there for years.

Ronning asked about the vehicles he has. Mr. Magnuson responded he had three commercial vehicles and the rest were personal vehicles.

Ronning asked what time they went to work, noting they did not put all the vehicles there and take a cab to work. He asked what time did the vehicles leave in the morning. Mr. Magnuson responded they usually left between 7:00 a.m. and 7:30 a.m.

Ronning asked what time did they come back. He stated there had to be sometimes when there were more than five vehicles. Mr. Magnuson responded the time varied. He indicated if they just came in and there was both their personal vehicle as well as the company vehicle, there of course would be more than five vehicles in the driveway.

Ronning asked if there was a typical workday. Mr. Magnuson stated there was not a typical day as it was a travelling job. He noted there were days when the guys left, and they did not get back all week, but then there are days they got back at noon. On those days, they would take their personal vehicle and leave the company vehicle. He stated there would be more than five vehicles when somebody was picking up their vehicle, but it was not a situation of a vehicle sitting all day long.

Voss asked how many commercial vehicles were there. Mr. Magnuson responded he had three commercial vehicles. Voss asked if they had three company vehicles and six employees who left their vehicles there, where was the exchange? Mr. Magnuson responded they did not have six employees. He noted they had three full time employees, himself and his brother, and one seasonal employee.

Voss asked how were there seven to nine vehicles. Mr. Magnuson responded he owned a Mustang, a truck, and another vehicle. Those vehicles were personal vehicles.

Voss stated it was fair to say that at that time those vehicles were not employee vehicles if the commercial vehicles were there. Mr. Magnuson responded all the vehicles that came in and out of the driveway if it was a company vehicle had a logo.

Voss asked what was allowed under the permit. Davis responded five vehicles.

Erryn

Magnusen -
IUP Hearing

Ronning stated it was unlikely the vehicles would be there all day and he has driven by his place and taken pictures and he has not seen vehicles like that. He noted this was over 312 days with six incidents. How many days did staff go by and things were okay. Davis responded other than the six inspections listed, there were no other inspections.

Ronning stated some of the inspections were on the way to work and done as drive-byes. Davis responded those inspections were all done between the hours of 8:00 a.m. to 3:00 p.m. He stated on two occasions there was a City Council member with him when he drove by. He indicated they were all done during the work day. He stated on the one day when there were nine vehicles, it appeared there were three employee vehicles, three commercial vehicles, and probably three of Mr. Magnuson's personal vehicles.

Mr. Magnuson stated he did not have any further information right now. He indicated he would like to continue to have his IUP permit. He noted other people who had IUP's were doing the same thing, but there was less attention to their permits than there was for his permit.

Voss stated there might be more attention to him due to complaints received and his history of not complying with the IUP. Mr. Magnuson stated he understood that.

Plaisance stated an IUP is a temporary permit and he believed when the original process was taking place, the idea was that they would be at this location on a temporary basis and eventually there would come a time when they could get a commercial location. He indicated during this entire process, there doesn't seem to be any plan to make that happen. He stated he has not seen any interest to make a move to a commercial location. He noted he would like to be understanding, but his concern was that he was thinking of this as a permanent situation. He asked what his long-term plans were.

Mr. Magnuson responded he was planning on this location for the long-term. He noted this was not a large company with three trucks coming in and out. He did not see the point in spending \$2,000 on a building just to drop off and pick up vehicles. He noted they did not make a product or do any manufacturing at this location. He stated it was basically a park and ride. He indicated in other areas of the city, there was traffic coming in and out all day, but they did not have that. They had traffic come in and it stayed all day.

Plaisance stated he appreciated his concern that he was seeing this at other homes, but in this situation, they were granting him a permit to operate his business and there were certain stipulations as a part of the permit that are required for it. He stated from his standpoint, it doesn't matter what anybody else in the City was doing and they were talking today about him and not other permits. He stated he was waiting to hear a solution to the problem and he was having some difficulties with this.

Mr. Magnuson stated he did not know what the solution would be. He indicated they were not manufacturing and there were only three company vehicles going in and out. He stated that was the reason he had moved to the area 20 plus years ago to have some freedom, but now he was under the gun because somebody complained about it. He stated what they were doing so any different than what anybody else was doing.

Plaisance stated this did not make it right. He stated they only had so much staff time and a lot of this stuff was complaint driven and that is why he was here and not others because

nobody complained about them.

Mundle indicated they had rules and statutes they had to comply with to ensure that he complied. He stated he has been before them at least twice and he was made aware that there were things he needed to correct a year ago when the IUP was renewed and those issues were brought up again and he was made aware of them and indicated he would correct them. He stated now he was before them again and this was not a surprise at this point.

Mr. Magnuson stated things had been corrected. He indicated the spare vehicles were gone and there was a few things a couple of years ago that were out there sitting by the pole shed that are gone. He stated when people drive by their house, it is a lot neater than other home in the neighborhood as there was not a bunch of junk sitting out. The only thing they had was the three work trucks. Otherwise, they had complied with everything else and made things look presentable. He indicated everything was parked below out of the public eye. He stated he could build another pole shed, but that wasn't taking them off the property.

Mundle asked if there were different rules for vehicles being inside versus outside. Davis responded if they were inside they are in a garage, they were not counted as exterior storage.

Voss noted the City supported home occupations with the hope that they would grow and succeed into the commercial district. He stated there were many home businesses that had done that.

Mundle stated what they were looking at was a business that should not be located in a residential area and that was one aspect of what they were looking at.

Voss stated in 2015 he received an IUP and agreed to the conditions. Mr. Magnuson responded that was correct. Voss noted in 2016 when it was time to renew the IUP, there were issues that were brought up and again he agreed to abide by the conditions of the IUP. Mr. Magnuson stated that was correct and they took care of the things outside.

Voss responded he did not disagree he took care of some of the things that they asked to be corrected. He stated he had asked in 2016 as to how they were assured he would abide by the conditions of the IUP, and a year later they had six violations for the six times they inspected. He was not giving them the confidence level that he was abiding by what he said he would do. Mr. Magnuson stated they were keeping it down to the three company vehicles.

Voss asked if he had more than five vehicles on the property on the six days the City did their inspection. Mr. Magnuson responded he had. Voss stated he had five opportunities to correct that. Mr. Magnuson responded he had, but there were other days when he had two vehicles in the driveway.

Voss stated he wanted him to be in compliance 365 days a year. Mr. Magnuson stated he agreed with that but that was not a reality. People who don't even run a business have more than five vehicles in their driveway sometimes. He stated over the holidays, or when they have guests, there are more than five vehicles.

condition and if he was not intending to follow that that should not have been told to them he would.

Ronning stated when they had discussed this previously, part of the discussion was vehicles and equipment being counted twice. He asked if this was the same thing where there were vehicles and equipment being counted more than once. He stated in his opinion that was what gave him the break last time. He noted he was in favor of helping people and what do they do to fix this. He indicated if they were going to fix one, they had to fix more than just one. He stated there were hundreds of these out there and he's driven by with staff. He stated Mr. Magnuson was not the worst guy in the city.

Mundle stated there were a lot of other people not following the rules and he did not want to take away an IUP, but there were set rules he agreed to abide by and he hasn't and that was what they were looking at. He indicated if they could find a way to help him comply, he had non-issues re-granting an IUP, but there were the rules.

Ronning asked what would it take for him to comply. Voss noted this was the same conversation they had in 2016 and these were the same issues. He stated some of them reluctantly approved to give him another chance. He indicated at that meeting, they had told him they would be inspecting the property, so he shouldn't be surprised to see an inspection.

Magnuson stated he wasn't surprised. He indicated in 2016, he had suggested adding a fence to put vehicles behind, but that was not approved. He stated if there was a fence put up, the vehicles would not be seen. He stated he had a pole shed with 8-foot side doors, but his vehicles and equipment would not fit in the doors.

Voss asked if the shed could be modified. Mr. Magnuson stated it was possible, but it wasn't that large of a shed. Voss stated he would fit in six vehicles easily and that was why they had relaxed some of the ordinances on pole barns, so people could get their things inside. Mr. Magnuson stated he would be happy to purchase a fence and put it up. Mundle responded they were not talking about a fence and the City wanted thing inside.

Voss asked if there was anyone else who wanted to make comment. Hearing none, Voss closed the appeal hearing at 7:30 p.m.

Voss asked the City Attorney for guidance. Vierling stated the motion that was made was relative to the permit that existed at the time. He noted the compounded issue was that the existing IUP expired at the end of December 2017, and he did not know if there was any application to re-apply for that permit. He stated they had one permit that had been suspended, but that one would have expired by its terms at the end of December. He indicated Council could take action to either affirm or change their decision relative to the revocation, but even if the Council changed its position, the old IUP expired and would need to be re-applied for.

Mundle noted there had been extension to the end of February. Vierling stated that wasn't an extension of the permit, but an extension relative to the enforcement action.

Davis stated the permit expired on December 8, and the Council in their motion gave Mr. Magnuson until March 1, 2018 permission to continue operating his business to give him additional time to relocate or find an alternative solution. He indicated this wasn't an

extension of the permit, but rather granting him a 90-day period to remain there and keep operating until violations or citations be reissued.

Voss stated it appeared the applicant needed to reapply. Vierling replied it was certainly that, but the Council could deal with the revocation of the permit which occurred prior to the end of 2017. He stated if they wanted to rescind that action, they could do it by the filed appeal, but it wouldn't preclude the requirement that the permit had to be reapplied for even if they took that action.

Voss stated if Council wanted to rescind that, the mechanism was for the Councilmember who made the motion to rescind the motion. Vierling noted any member of the Council could make that motion.

Davis stated if this was looked at as a revocation, there couldn't be a reapplication for a year. Vierling responded if the revocation stood, that was correct.

Voss stated they did not revoke it, but they just didn't renew it. Davis responded that was correct.

Voss asked what action Council wanted to take on this.

Ronning stated he would like to see him stay in business.

Mundle agreed, but stated they needed him to come into compliance somehow.

Ronning stated a fence could be a solution. Mundle responded a fence was not sufficient and it had to be some kind of interior storage.

Ronning stated the permit stated it had to be on the property. It didn't say it had to be inside.

Mundle stated five vehicles on the property was outdoor storage, but if it was inside then it was now inside storage and that was okay.

Magnuson stated with respect to the issue of the pole shed doors being too small, they would be willing to tear those doors down or talk to somebody from the City to see if they could get additional storage to help resolve the issue.

Voss stated he could do that with another reapplication for an IUP.

Ronning stated it seemed the City's headache was the commercial vehicles. Davis stated that was part of it, but it was the total vehicles and the commercial vehicles are two of the issues. He noted there was also the storage of materials that were equipment, no privacy fence for the waste container, and the company's equipment must be stored away from view. He stated those were the main issues, but there were other issues also, but if those three were taken care of that would correct the others.

Ronning asked what kind of waste bin did they have the issue with. Davis responded it was a half yard or so waste bin, but he was not sure of the exact size. Mr. Magnuson stated it was approximately twice the size of a normal garbage can.

Ronning asked what would he do to reapply. Mr. Magnuson stated they would have to

figure out how to hide some vehicles. Ronning asked if he had any room in his garage. He stated he did not have any additional room in his garage.

Plaisance stated one of the other concerns was that they were continuing a land use and business that was inconsistent with the residential character of the neighborhood and how much of a concern was that for the Council. He stated they basically had a commercial business in a residential neighborhood. Davis responded if they could store the commercial vehicles, that would take care of the problem.

Ronning stated when he asked in November how many complaints had there been, the response was there was one complaint. He believed this was a harsh response for one complaint. He stated they couldn't have hundreds of people doing things wrong and if they were aware of one of those and didn't do anything about it, then they were wrong.

Voss pointed out that when they granted the last permit, it was noted there would be City inspections to ensure compliance.

Ronning stated they were a governing body and they had to treat things equally and not pick and choose. Voss agreed, but noted they were not looking at other issues right now and this was the issue they were dealing with. He noted they should not be dealing with this unless they were dealing with the hundreds of other issues at the same time.

Ronning stated that was not it, they needed to look as far as the ordinances were. Voss responded they knew what the ordinances are, but this was more than just an ordinance issue; this was an agreement the applicant signed. Voss stated what is being asked was to renew an agreement that they knew was not being complied with and how was that being prudent as a City.

Ronning stated the only reason they were here with him was because he got a letter and not because they didn't know of other ones. Voss stated that was not the main argument. Ronning stated his argument was if they were going to be a governing body, they couldn't pick and choose.

Mundle stated the only way to solve his was to hire additional staff people, which they couldn't afford to do, or they deny all home IUPs.

Voss noted they decided at the work meetings that they could do code enforcement as reactionary, and now what Ronning was suggesting was that everything should be ignored. Ronning stated that was not what he was saying. He indicated what he was saying was that they could not pick and choose which ones they should do. Voss stated they were not picking and choosing. He noted they had a whole list of ones they were going after.

Plaisance stated they were going in a circular argument and the point was that they went through a permitting process and during that permitting process that was in place there was a complaint made to the City and therefore, just like any other issue that was brought to their attention they all took an oath that they would comply with City, State, and National ordinances and laws. He indicated if it was brought to their attention that something was being broken, it was now incumbent upon them to deal with that issue. He noted not every issue that they knew about or were concerned about, but in this case, this was brought to their attention and now they had to focus on the issue. He stated during this process, negotiations with Mr. Magnuson were made including inspections and to this point they

were still in disagreement with compliance. He indicated it never should have gotten to this point, but now they had to come to a conclusion about what they were going to do. He stated they could not treat this differently than any other issue that came to the Council and it had to be dealt with as the ordinances defined. He noted this was not about fair, it was about what was the meaning of the ordinances and how to comply with them.

Ronning stated fair doesn't work anymore. Plaisance stated he would love to help Mr. Magnuson expand his business, but this was brought before the Council today for dealing with.

Mr. Magnuson noted the City did not have the manpower to get everyone who was in violation, but he did not have garbage on his property and things were picked up. He stated he tried working with the City. He noted there was not stuff stored on his property. He indicated the issue was the vehicles.

Voss stated that would not change his situation. He stated they either needed action tonight or he needed to reapply for an IUP.

Ronning asked what would be a proper motion. Vierling asked what would the Council like to accomplish. Ronning responded to give Mr. Magnuson a door to open to resume his business and comply with what the ordinances were.

Vierling responded the only way for that to happen was if there was a reapplication.

Ronning stated if Mr. Magnuson reapplied, it would be nice if he had a general idea of what the Council was thinking so he doesn't come back and get it denied.

Voss stated he believed they had been clear at the issues and he could work with staff. He stated they were not here tonight to frame the application.

Ronning asked if a couple of things could be suggested. Voss responded that was not germane to the discussion and Mr. Magnuson has not reapplied.

Mr. Magnuson stated they would not have allowed the IUP to expire except they were told that they did not need to be at the November 1 or November 8 meetings. Voss noted that was his decision to not attend.

Mr. Magnuson stated he did not even know about the meetings until that day. Voss stated he tended to disagree with him based on the information provided by staff. Mr. Magnuson stated he would not even have known he was supposed to be here today, if he had not talked to the City Administrator.

Davis stated Mr. Magnuson had called and requested this issue be taken off the agenda on December 20 and he was informed at that time that it would be rescheduled for January 3. He indicated was Mr. Magnuson's notification. He noted he also had an email sent to him that told him it would be rescheduled to this date. Mr. Magnuson stated he did not receive the email, but agreed that was the conversation he had.

Voss stated Mr. Magnuson knew when the IUP was up for renewal and that was his responsibility.

Ronning asked Mr. Magnuson to get his thoughts together on how to fix this and get

together with staff to discuss.

Ronning stated I'll make a motion to state the December 20 action applied to the December 20th only, and does not forego any further application for an IUP and reasonable consideration thereof. Voss asked any discussion?

Vierling stated the December 20 action did not revoke the IUP, the IUP just lapsed and he Mr. Magnuson was not precluded from applying again. Davis noted it was on November 1 that they considered this.

Plaisance stated if they revoked that action, that would also revoke the extension to March.

Voss stated there were two things. He noted the IUP was not renewed, so how could they revoke something Mr. Magnuson chose not to renew. The other thing was getting an extension to remove the stuff from the property. He indicated was the only actionable thing from the 20th.

Plaisance stated he believed Mr. Magnuson had until March to reapply for this IUP to take care of the issues that were discussed.

Voss asked if there was a second to the motion.

Motion failed for lack of a second.

Voss stated Mr. Magnuson had until the stated date in March, but he would have to have the IUP in place. Vierling stated theoretically Mr. Magnuson would not wait until that date and he would apply immediately.

Davis stated with the timeframe involved, that application needs to go back to the Planning Commission and they needed to receive it at their January meeting because if they receive it at the February meeting the Council could not act on it until after March 1. He noted the reapplication should be made and submitted for the January Planning Commission meeting. He stated Mr. Magnuson had until March 1 and the Planning Commission met on the fourth Tuesday of the month. He stated it appeared they were on the way to some resolution to this and if Mr. Magnuson agreed to a reapplication, they could sit down with him and try and lay out compliance items for submission at the January Planning Commission meeting. He noted then they could reconsider this at the first or second Council meeting in February.

Voss stated if they saw progress and it was going somewhere, they had the option to extend the March 1 date, but they don't need to act on that now. Vierling stated Council needed to take action to either grant or deny the appeal.

Mundle asked would granting or denying the appeal affect his reapplication. Vierling responded it would not.

Ronning asked if they could take the appeal under advisement pending his reapplication. Vierling responded they could.

Ronning stated I'll make a motion to table. Mundle stated I'll second. Voss asked any discussion? To the motion, all in favor say aye. **All in favor.** Voss asked any opposed?

The motion passes. **Motion passes unanimously.**

4.0B
Potentially
Dangerous
Dog Hearing

Davis reviewed the staff report. He stated the requested action was to determine by hearing if a potentially dangerous dog determination issued by the City Administrator to Jessica Zagaros should be maintained, modified or removed. He indicated the request for the Hearing relates to a dog bite incident that occurred on November 28, 2017.

Davis stated the Anoka County Sherriff's office reported that a black and white Corgi dog owned by Jessica Zagaros approached in a threatening manner and bit Shadrach Walsh in front of the home at 18548 Everglade Dr NE.

Davis noted since the incident was either unprovoked and/or not under control by the owner, a Potentially Dangerous Dog notice was issued relating to this incident by the investigating deputy pursuant to Chapter 10 of the City Code. He noted a review of City records indicates that Ms. Zagaros's dog was not licensed at the time of the incident, however the owner has obtained a license on November 29, 2017. He stated the dog was current with its rabies vaccinations at the time of the incident.

Davis stated the owner has submitted written request to appeal the decision of the potentially dangerous dog declaration. He indicated pursuant to City Code Chapter 10, Article II, Dogs, Section 10-72, an animal owner is allowed to contest the potentially dangerous dog determination. He stated in this case, Jessica Zagaros, the animal's owner, has requested a hearing before Council.

Davis indicated the City Council can consider three different actions in this matter.

1. Conduct the hearing allowing the owner to present reasons why the potentially dangerous dog determination should be removed;
2. If the potentially dangerous dog determination is sustained, identify the action to be taken.
3. If the potentially dangerous dog determination is not sustained, make a determination that the animal is to be released without further action from or by the City Council.

Davis stated staff recommends City Council conduct a hearing relating to the potentially dangerous dog determination and issue a decision regarding this incident pursuant to City Code Chapter 10, Animals, Article II. Dogs, Division 3 and any requirements for the keeping of the dog.

Voss opened the Potentially dangerous dog hearing for Jessica Zagaros for 18548 Everglade Drive NE. at 7:55 p.m.

Jessica Zagaros, 18548 Everglade Dr., stated a dangerous dog was unprovoked, but her dog was provoked. She indicated she has had her dog for 7½ years and never had an issue. She indicated she has a fully fenced in yard. She noted she gets a lot of people coming to the door and she has never had an issue. She stated when the Dominos driver came in he was in a bad mood and when she took the box from him, the dog ran outside and jumped on him because the dog likes the attention and being a small Corgi, the dog wanted to be petted. She stated her dog jumped up on him and he kneed her, she barked a little bit and he kicked her, so she nipped him. She noted if he had not have kicked her, this would not have happened.

Potentially
Dangerous
Dog Hearing

Ms. Zagaros stated she has a letter from a friend who has an autistic son who comes over weekly to play with the dog. She indicated she was willing to read the letter to Council. She noted the autistic boy does not know how to play with animals, but plays fine with her dog. She stated she also has friends who fish on their lake and cut through their yard without incident. She also indicated she has a one-year old nephew who has food in his hands constantly, and pulls and tugs on the dog's ears, and the doge has never nip, barked, or made any sign of aggression towards him. She presented pictures of the dog. She stated her doge was 30 pounds and she was a sweetheart. She handed the letter to Council to read.

Voss asked if she was there the entire time of the incident. Ms. Zagaros responded she was there and saw what happened. Voss asked if this was inside or outside. Ms. Zagaros responded it was outside, but it was inside her fence on the patio right in front of her door.

Ronning asked if the dog was controlled and contained within the fence. Ms. Zagaros responded it was. She stated it was a four-foot-high fence and the dog barely comes up past her ankle.

Voss stated she had mentioned the delivery driver was upset. Ms. Zagaros stated he was in a bad mood. She stated she was sure the Council had been to places where a dog would jump up to be petted. She noted dogs were social creatures and the driver kicked her. She noted there was no reason her dog would ever had bit somebody. She noted the dog did not bite her one-year-old nephew to try and get his food, she would not bite somebody who came into her yard. She indicated she was a good dog. She stated in August, the dog will be eight years old and she has never had an issue with her. She asked if Tammy Gimpl could come up and speak on her behalf. She indicated Ms. Gimpl was with animal control when her doge was taken into quarantine.

Tammy Gimpl, 22359 Bataan Street, stated they picked up the doge, Lola, on November 28 in the evening and Ms. Zagaros was very emotional, which usually will cause a dog to do something, but Lola did not do anything. She indicated she brought Lola home that evening and she was perfectly good, happy go lucky little dog. She encouraged Ms. Zagaros to speak with the City and to ask for the 10-day quarantine to be at home as the dog was not dangerous. She stated the dog is a nice, little dog.

Mundle asked if she saw anything aggressive about the dog. Ms. Gimpl responded she did not see anything aggressive. She stated she was a normal, happy dog. She indicated you can tell an aggressive dog and they will be aggressive with just about anyone, but Lola wasn't aggressive at all. She stated again when they picked the dog up, Ms. Zagaros was very emotional, and it is normal for a dog to pick up on that, but Lola did not show any emotion. She stated a dog will read off their owner, but she did not do that. She felt confident that this would not happen again, and that the dog is not an aggressive dog.

Ronning stated if something happened to excite the dog and the same day the Sheriff's department responded, the Sheriff's department noted the dog was friendly. He believed that a dog is either friendly or not friendly. He stated he would have to lean toward what Ms. Zagaros said and that some action as taken to provoke the dog. He indicated the dog was on it's property and contained within the fence as it was supposed to be.

Voss asked if there were any other parties in attendance to comments. Mr. Davis noted Mr. Walsh had indicated he would be in attendance, but apparently, he was not at the meeting.

Voss closed the hearing at 8:02 p.m.

Ronning stated I'll make a motion to dismiss the potentially dangerous dog charge. Harrington stated I'll second. Voss asked any discussion?

Voss stated he believed the picture drawn in the testimony is what happened, and he could see this happening as described.

Mundle stated if they took out the pizza delivery guy and put in a senior citizen and having a dog jump on a senior citizen could be an issue.

Voss responded he could see that, but if that person did something the key is if they were provoked or not.

Ronning stated part of the definition is if they are off the property. Davis stated it could be either on or off the property. He noted the key here is the provocation. He indicated even State Statute says if there is provocation then this declaration can be dismissed.

Voss stated whatever action that was taken by the person caused the dog to react. He noted the dog did not just come up and bite someone.

Davis stated another thing that distinguishes this case from another, is in this case the owner had an enclosure for the dog, it happened at the door step and it didn't happen on the street. He noted that was the distinction with a difference also.

To the motion, all in favor say aye. **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

**5.0
Public
Forum**

Renee Beckman, 4650 229th Avenue NE, stated she was in attendance regarding Dukes of Coon Hound. She requested a safeguard be put in place. She stated the dog was released to Gratitude Farms who adopted him out, but won't say who adopted the dog. She asked what happened with the adoption funds. She stated there was a financial incentive for Gratitude Farms to take the dogs and then adopt them out, so Gratitude Farms was getting paid by the City as well as getting the adoption fees. Vierling replied Gratitude Farms gets paid by the City through the impound date and not beyond the period of the impound.

Beckman stated a dog is personal property and therefore there is due process that needs to be followed. She also stated by not saying who adopted the dog, they are in violation of data practices. Vierling responded they are not in violation of data practices.

Voss stated the City had released all the information they have in their possession.

Davis stated Ms. Gimpl had not been paid for anything associated with this incident to date.

Beckman asked in the future should a dog be taken. She asked does Gratitude Farms have the right to adopt a dog out and keep the money. Davis responded they do not regulate Gratitude Farm's business beyond that point.

5.0 Beckman asked if Gratitude Farms did not contact the owner, then can Gratitude Farms keep any proceeds she collects from the adoption. Davis responded the statute says at the

end of the impound period, the dog becomes her property.

Beckman disagreed. Davis responded it was okay if she disagreed.

**6.0
Consent
Agenda**

- Item A Approve Bills
- Item B Meeting Minutes, November 29, 2017 City Council Special Meeting
- ~~Item C Meeting Minutes, December 20, 2017 City Council Meeting~~
- Item D Resolution 2018-01 Designation of Official Newspaper
- ~~Item E Resolution 2018-02 Setting Meeting Dates for 2018~~
- Item F Resolution 2018-03 Establishing Bank Depositories
- Item G Resolution 2018-04 Check Signatory Approval
- Item H Resolution 2018-05 Setting Local Board of Appeals & Equalization Date
- Item I Resolution 2018-06 CBDG Grant Application Authorization

Plaisance stated I'll make a motion to adopt the Consent Agenda removing Item E.

Voss asked any discussion? Voss requested **Item C be removed from the Consent Agenda.** To the motion, all in favor say aye. **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

6.0.E
Resolution
2018-02
Setting
Meeting
Dates for
2018

Plaisance stated this item was setting the meeting dates for 2018 and there was a couple of dates he wanted to highlight. He noted there was a City Council meeting on July 5. He asked if they keep that date, do they move it, or do they eliminate it from the schedule? He would prefer if they move the meeting from the current schedule, so there was one meeting in July.

Mundle stated they could move it to the next week and hold it in a different location.

Davis stated they cannot schedule a meeting for July 4. He noted if they want to have two meetings in July, they could have it on the 3rd or the 5th. He indicated the following Wednesday there is a Park's Commission meeting. He stated later in the month there are also conflicts.

Voss asked if they should move both meetings to the 11th and 25th. He indicated he was concerned with only having one meeting in July. Davis stated the issue with the July meetings there was an HRA meeting as well as that is the time when they start presenting budgets.

Voss recommended to shift the meetings to the 11th and 25th. He stated on the 11th, they should have an idea of what will be on the agenda on the 25th and they could decide at that time if they need an additional meeting.

Plaisance stated he was open to that, but he did see a lot of long weekends around that time.

Mundle stated he did not have an issue of setting it for the 11th and 25th. The Work Meeting could be before the Council meeting.

Davis stated if they needed to, they could move the HRA meeting.

Harrington stated I'll make a motion to change the July Council meeting dates to July 11 and July 25. Mundle stated I'll second. Voss asked any discussion? To the motion, all in favor say aye. **All in favor.** Voss asked any opposed? That motion passes. **Motion**

6.0.E

passes unanimously.

Plaisance stated he also had a concern with the December work meeting on December 26. He noted this would be a short week, this was a work meeting and not a Council meeting, and he did not believe there would be too much to discuss as it was an election year.

Plaisance stated I'll make a motion to cancel the work meeting on December 26 Harrington stated I'll second. Voss asked any discussion?

Mundle asked if they could reschedule the meeting if it was needed. Voss responded they could reschedule it.

To the motion, all in favor say aye. **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

Harrington stated I'll make a motion to approve the 2018 meeting schedule with corrections. Plaisance stated I'll second. Voss asked any discussion? To the motion, all in favor say aye. **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

Voss noted on page 74 of the packet page 3 of December 20th meeting minutes, third paragraph. He requested the word "reviewed" be stricken and insert, "The City has reviewed this issue."

Voss stated I'll make a motion to approve the December 20, 2017 City Council Meeting Minutes as amended. Ronning stated I'll second. Voss asked any discussion? To the motion, all in favor say aye. **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

7.0 New Business

Commission, Association and Task Force Reports

7.0A. Planning Commission

None.

7.0A.1. Final Plat Sauter's Commercial Park 3rd Addition

Davis presented the staff report, requesting Council consider approval of the Final Plat for Sauter Commercial Park 3rd Addition. He indicated Mr. Tom Sauter of T&G Land Inc. was proposing to plat two lots, Lot 1, Block 1 Sauter 3rd addition with an Outlot. He noted all required documents, including wetlands delineation, as outlined in our Subdivision Ordinance Chapter 66, Article III have been submitted and are in order.

Davis stated a portion of Lot 1, Block 1 is located in the floodplain and the applicant has been advised to complete a Letter of Map Amendment and submit it to FEMA as the boundaries of the FEMA map do not accurately depict the floodplain.

Davis indicated this lot is served by city sewer and water service and is currently zoned Light Industrial. He stated at the December 19, 2017 Planning Commission Meeting, the Commission reviewed this proposal and voted unanimously to recommend that City Council consider approval the Final Plat for Sauter Commercial Park 3rd Addition.

7.0A.1. Davis stated there were two recommendations:

Final Plat
Sauter's
Commercial
Park 3rd
Addition

Recommendation 1: The Planning Commission and Staff recommends that the City Council consider approval of Sauter Commercial Park 3rd Addition Final Plat, PIN 32-33-23-22-0005 subject to the approval of a Developer's Agreement with Tom Sauter (T&G Land Inc).

Recommendation 2: Staff recommends that the City Council approve the Developer's Agreement for Sauter Commercial Park 3rd Addition.

Mundle stated I'll make a motion to approve Sauter Commercial Park 3rd Addition Final Plat, PIN 32-33-23-33-0005 subject to the approval of a Developer's Agreement with Tom Sauter (T&G Land Inc.). Harrington stated I'll second. Voss asked any discussion. To the motion, all in favor say aye. **All in favor.** Voss asked any opposed. That motion passes. **Motion passes unanimously.**

Harrington stated I'll make a motion to approve the Developer's Agreement for Sauter Commercial Park 3rd Addition. Mundle stated I'll second. Voss asked any discussion. To the motion, all in favor say aye. **All in favor.** Voss asked any opposed. That motion passes. **Motion passes unanimously.**

7.0A.2.
Site Plan -
Advantage
Construction

Davis presented the staff report, requesting Council consider approval of the Site Plan for Advantage Construction, 18750 Buchanan St NE, Lot 1, Block 1 of Sauter Commercial Park 3rd Addition. He noted Advantage Construction is a roofing and siding company that is proposing to build a 10,050 SF facility in the Sauter Commercial Park on Lot 1, Block 1 of Sauter Commercial Park 3rd Addition.

Davis stated the site is adjacent to and north of Second Generation Chimneys on the Buchanan Street portion of the new service road. He indicated the property is zoned I – 1, Light Industrial, and this use is a permitted under this zoning classification.

Davis stated the Planning Commission discussed this application at their December 19, 2017 meeting and was of the opinion that the Site Plan met the requirements under Appendix A, Zoning, Section 4-12, subject to the conditions listed in the Recommendations for this agenda item. He noted the review addressed the following:

- Site Zoning Requirements
- Street improvements and abandonment of on-site sewage treatment and well
- Exterior Storage
- Building Design and Architectural requirements for materials and glass
- Storm Water Retention
- Screening for adjacent residential areas, exterior storage and mechanical equipment
- Lighting
- Parking and paving
- Signage

Davis stated staff and the Planning Commission are recommending that City Council consider approval of the Site Plan for Advantage Construction, 18750 Buchanan St NE, subject to the following conditions:

1. The Final Plat of Sauter Commercial Park 3rd Addition must be recorded with Anoka County.
2. The City Engineers comments shall be addressed before any building permits are issued.
3. The owner shall enter into a Site Plan agreement with the City.

7.0A.2.

4. SAC and WAC fees will be due prior to the issuance of a Certificate of Occupancy for the Project.

Mundle stated I'll make a motion to approve the Site Plan for Advantage Construction, 18750 Buchanan St. NE, subject to conditions 1 through 4. Plaisance stated I'll second. Voss asked any discussion.

Mundle stated there was discussion at the Planning Commission regarding the sign and if it would be in compliance with the City's sign ordinance. He stated he would like to see the sign be in compliance with the ordinance. Voss stated the assumption is that the sign would be in compliance as it is right now.

Harrington stated he believed all storage would also be inside.

To the motion, all in favor say aye. **All in favor.** Voss asked any opposed. That motion passes. **Motion passes unanimously.**

7.0A.3.
Admin.
Subdivision
and Variance
request - Janet
and Larry
Taff

Davis presented the staff report, requesting Council consider approval of two variance requests and an Administrative Subdivision for Janet and Larry Taff.

Davis stated Janet and Larry Taff own a 5.13-acre parcel on Thielen Blvd that fronts Coon Lake and are requesting approval to split the property into two lots. He noted this lot is addressed as 4360 Thielen Blvd NE, PIN 36-33-23-21-0001. He indicated the property is currently zoned R-1, Single Family Residential, and per current City zoning regulations, any new parcels that are created and not connected to city sewer and water must be 10 acres in size. He stated the basis for this density regulation was directed in the 2030 Comp Plan that projected the extension of city sewer and water to service those neighborhoods along Coon Lake.

Davis stated due to a revision of the municipal utility extension plans, which resulted in a contraction of the service areas, water and sewer service are not proposed in the City's 2040 Comprehensive Plan for this area. He noted Coon Lake is now outside the City's Growth Management Plan and properties abutting Coon Lake will have their own land use designation and this district will have separate regulatory and zoning to manage this unique locale. He stated this land use reclassification separates Coon Lake from the 2040 Growth Management Area and would allow gross density regulations that would enable the creation of net 2 ½ acre lots provided the gross overall density does not exceed the 1 per 10 ratio for those districts outside the Growth Management Corridor.

Davis stated the Taff's proposed lot split would be conforming with the overall 2 ½ acre average lot size. He indicated Parcel A is proposed at 3.11 acres with a buildable area of 23,773 SF and the Parcel B is proposed at 2.02 acres with a buildable area of 47,972 SF. Parcel A of the proposed lot split meets the street frontage requirement for the R -1 District, but Parcel B does not.

Davis indicated the proposed split is shown in the attached Certificate of Survey and was divided in order to provide buildable sites on each lot, maximize lake exposure for both parcels and allow practical access from Thielen Boulevard. Soil borings and a wetland delineation have been completed and this information supports the division of the parcel.

7.0A.3. Davis stated in order to consider the Lot Split, the Taff's would require approval of the

following variance requests:

- a. A variance from the current minimum lot size requirement of one unit per 10 acres in an R-1 zoning district to an allowance that would conform to the proposed densities that are to be part of the 2040 Comprehensive Plan, and;
- b. A variance from the street frontage requirement of 300 feet in an R-1 zoning district for Parcel B of the proposed division. Parcel B does not meet the 300 feet of street frontage, but would be accessed by Thielen Blvd., have right of way access and frontage as required by a cul-de-sac lots and is within the range of frontages of existing lots in this neighborhood.

He indicated the variance requests require consideration of a three-factor test:

1. Reasonableness – The request for the variances to support the Administrative Lot Split is reasonable as the two new lots would be larger than those in this neighborhood. The proposed street lot width for Parcel B is 67 feet +/- . The street front footage for lots in the neighborhood average 66-75 feet.
2. Uniqueness – The 2030 Comp Plan density was one lot per 10 acres in the R-1 district. The City water and sewer extension plan was scaled back in 2012 and this area is not part of the municipal utilities service area as proposed in the 2040 Comp Plan. The Taff's request is consistent with the proposals in the 2040 Comp Plan for densities for this area.
3. Essential character – The proposed lot split will not alter the character in the neighborhood as the land use continues as residential and lot widths at the street are equal or greater than those in the neighborhood.

Davis noted the Taffs are requesting a Simple Lot Split, which allows the division of a lot where there is an existing home on a metes and bounds property and no new public roads are required. He stated contingent on approval of the two variance requests, this division complies with requirements of City Code, Subdivisions 66-134 (C) which requires:

- a. The lot split will result in only two lots, one of which has an existing home; and,
- b. The lot split does not require the creation of new roads and all lots (new and old) created by the proposed split have the minimum frontage required for lots within that zoning district on an established public street subject to the request for the variance for Lot B. Both lots meet all other underlying zoning requirements.

Davis noted recommendation 1: At the December 19, 2017 Planning Commission Meeting, the Commission unanimously approved to recommend that City Council consider approval of a Variance from the 10-acre density requirement, for the purpose of permitting a subdivision of a 5.13-acre parcel into two parcels, one being 3.11 acres and the other being 2.02 acres, for an average of 2.56 acres per lot, located at 4360 Thielen Blvd., PIN 36-33-23-21-0001.

Plaisance stated I'll make a motion to approve a Variance from the 10-acre density requirement, for the purpose of permitting a subdivision of a 5.13-acre parcel into two parcels, one being 3.11 acres and the other being 2.02 acres, for an average of 2.56 acres per lot, located at 4360 Thielen Blvd., PIN 36-33-23-21-0001. Mundle stated I'll second. Voss asked any discussion.

Voss stated he didn't have any issue with the mechanics of this, but he questioned on the basis of the variance that they had the tests, but the way they were going to prove this was on the basis on the fact that they have a direction they are going on the process of changing

the Comprehensive Plan that would allow this. He asked if this was a legal basis for a variance. He stated he did not have a problem with the recommendation, but was concerned they were going against the Ordinance.

Vierling responded the purpose of the variance was to allow the Council to vary from the existing Ordinance, and even though they were intending to amend the Comprehensive Plan and Ordinance, those intents in the future do not justify the variance. They needed to look at the reasonableness, uniqueness, and essential character factors which they had and as long as those are incorporated, they met the variance standard.

Voss stated to the motion, all in favor say aye. **All in favor.** Voss asked any opposed. That motion passes. **Motion passes unanimously.**

Davis reviewed Recommendation 2: At the December 19, 2017 Planning Commission Meeting, the Commission unanimously approved to recommend that City Council consider approval of a Variance from the normal 300 feet street frontage to the frontage as shown in the E.G. Rud & Sons Inc. Certificate of Survey dated 12/11/2017 for Parcel B, current address 4360 Thielen Blvd., PIN 36-33-23-21-0001.

Mundle stated I'll make a motion to approve a Variance from the normal 300 feet street frontage to the frontage as shown in the E.G. Rud & Sons Inc. Certificate of Survey dated 12/11/2017 for Parcel B, current address 4360 Thielen Blvd., PIN 36-33-23-21-0001. Harrington stated I'll second. Voss asked any discussion. To the motion, all in favor say aye. **All in favor.** Voss asked any opposed. That motion passes. **Motion passes unanimously.**

Davis reviewed Recommendation 3: At the December 19, 2017 Planning Commission Meeting, the Commission unanimously approved to recommend that City Council consider approval of an Administrative Lot Split for Janet and Larry Taff for the purpose of subdividing a 5.13-acre parcel into two lots, one being 3.11 acres and the other being 2.02 acres, 4360 Thielen Blvd., PIN 36-33-23-21-0001 as proposed by E.G. Rud & Sons Inc Certificate of Survey dated 12/11/2017 for this property.

Plaisance stated I'll make a motion to approve an Administrative Lot Split for Janet and Larry Taff for the purpose of subdividing a 5.13-acre parcel into two lots, one being 3.11 acres and the other being 2.02 acres, 4360 Thielen Blvd., PIN 36-33-23-21-0001 as proposed by E.G. Rud & Sons Inc Certificate of Survey dated 12/11/2017 for this property. Mundle stated I'll second. Voss asked any discussion.

Harrington asked what would happen to the existing home. Davis responded it would be demolished. Voss asked if all the structures would be demolished. Davis responded he assumed they would be, but there was a buildable lot and if that lot was sold, there would be a replacement lot on there.

Voss asked before they were issued building permits, they would need to come into compliance. Davis responded that was correct.

To the motion, all in favor say aye. **All in favor.** Voss asked any opposed. That motion passes. **Motion passes unanimously.**

7.0B. None.
Economic
Development
Authority

7.0C. None.
Park
Commission

7.0D. None.
Road
Commission

8.0 Department Reports

8.0A None.
Community
Development

8.0B. Jochum presented the staff report, requesting Council Approve Resolution 2018-07
Engineer Resolution Receiving Report and Calling Hearing on Improvements Per Resolution 2017-
8.0B.1. 68, City staff has prepared a feasibility report for the proposed improvements for the East
Resolution Trunk Highway 65 Service Road project. He stated the project includes street reconstruction
2018-07 and extension of municipal sewer and water between 184th Avenue and 187th Lane. He
Receiving noted staff has conducted three separate meetings with the adjacent property owners
Report and regarding these improvements. He indicated the property owners have indicated support of
Calling the improvements. He noted the report provided to Council provided recommendations for
Hearing on construction, preliminary cost estimates, and estimated assessment and access charges. He
Improvements stated also provided were exhibits showing the proposed typical street section and
for the East benefitted area. He indicated the total estimated project cost of \$772,910.
Trunk

Highway 65 Jochum stated the report assumes that the benefitting property owners will be assessed for a
Service Road portion of the municipal sewer and water improvements. He noted based on a preliminary
assessment Nagell Appraisal, Inc., a total of \$284,805 is proposed to be assessed to the
benefitting properties. To allocate the assessment total to the individual properties, a front
footage assessment method and an adjusted gross area assessment method were used. He
indicated the final assessment for each property was based on the average of the two
assessment methods.

Jochum stated in addition to the assessment charges each property will receive a sewer
access charge from the City and the Metropolitan Council and a water and sewer access
charge from the City. He noted per Minnesota Statutes 429 an Improvement Hearing is
required to assess a portion of the project costs. He stated at the hearing, interested persons
may voice their concern and provide input. Resolution 2018-07 sets the improvement
hearing at City Hall on February 7, 2018, which is a regular scheduled City Council
meeting.

Jochum stated the outlined schedule assumes that all required project easements will be
provided by the owners and that the condemnation process will not be required. He stated

8.0B.1.
Resolution
2018-07
Receiving
Report and
Calling
Hearing on
Improvements
for the East
Trunk
Highway 65
Service Road

If the condemnation process is required it is anticipated that this project would not start until the spring of 2019. He stated staff recommends Council approve Resolution 2018-07 Receiving Report and Calling Hearing on Improvement.

Ronning stated I'll make a motion to approve Resolution 2018-07 Receiving Report and Calling Hearing on Improvement. Harrington stated I'll second. Voss asked any discussion?

Mundle noted these were estimated total project costs, but if the actual costs were over, would they need to go through any process like this again. Jochum responded they did not. Vierling stated once they adopted the assessment, the costs were locked in. Davis stated the assessment was independent of the project bids. Voss noted part of the funding was coming out of the road funds. Jochum stated now was the time to put the utilities in.

Voss stated with the numbers for the estimated assessments, how did this compare to the numbers provided previously. Davis responded the businesses had this information.

Voss asked how would the easements go. Davis responded all but two people were in favor. He noted they would need to meet with those two people. Harrington asked if there was a condemnation proceeding, would this push back the project. Jochum responded the project would not happen in 2018. Vierling stated any condemnation would be on a quick take. Practically speaking they were 90 to 120 days into the action before they could get the quick take order.

To the motion, all in favor say aye. **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

Jochum presented the staff report, requesting Council approve Resolution 2018-08 Calling for Hearing on Proposed Assessment. Per Minnesota Statutes 429 the council must conduct an assessment hearing to pass on the proposed project assessments to the benefitting property owners. He indicated the purpose of the assessment hearing is to give property owners an opportunity to express their comments and concerns about the actual assessment. He stated Staff recommends that the assessment hearing be conducted immediately following the Public Improvement Hearing discussed earlier with Agenda Item 8.0 B.1. He indicated the assessment hearing is proposed to be February 7, 2018 at 7:00 pm in the council chambers.

Jochum stated staff recommends Council approve Resolution 2018-08 Calling for Hearing on Proposed Assessment for the East Trunk Highway 65 Service Road.

Plaisance stated I'll make a motion to approve Resolution 2018-08 Calling for Hearing on Proposed Assessment for the East Trunk Highway 65 Service Road. Harrington stated I'll second. Voss asked any discussion?

Mundle asked if the hearing would be at the regular Council Meeting. Jochum responded that was correct, but it might be closer to 7:30 p.m. Mundle asked if they had a legal obligation at 7:00 p.m. Vierling responded there was no legal obligation and the official date for all hearings is at 7:00 p.m.

To the motion, all in favor say aye. **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

8.0C None.

City Attorney

8.0D None.

Finance

8.0F None.

Fire

Department

8.0G Davis presented the staff report, requesting Council consider appointments by the Mayor for Council Liaison and Commission/Committee assignments for 2018. Davis indicated appointments to Commissions, Committees, Authorities and WMO's are recommended by the Mayor and approved by the City Council. The following are the Commission, Authority, Committee and appointed positions by Mayor Voss for consideration:

8.0G.1 Commission

Liaison and

Committee

Appointments

Acting Mayor

Councilperson Mundle was the Acting Mayor for 2017 and is recommended for reappointment to this position for 2018.

Commission Assignments

Councilperson Mundle was the Liaison to the Planning Commission, Councilperson Plaisance was the Liaison to the Parks Commission and Councilperson Ronning was the Liaison to the Roads Commission in 2017.

Councilperson Ronning is recommended for appointment as the Council Liaison to the Planning Commission.

Councilperson Mundle is recommended for appointment as the Council Liaison to the Parks Commission.

Councilperson Plaisance is recommended for appointment as the Council Liaison to the Roads Commission.

Fire Department

Councilperson Harrington was the Liaison to the Fire Department in 2017.

Councilperson Plaisance is recommended for appointment as the Council Liaison to the Fire Department for 2018.

Police Department

Mayor Voss was the Liaison to the Police Department in 2017 and will continue in this capacity.

Economic Development Authority

Per EDA By-Laws, two Council members are appointed to this Commission.

Mayor Voss and Councilperson Plaisance were Council members serving on the EDA in 2017.

Mayor Voss and Councilperson Harrington are recommended for appointment as the Council members on the EDA for 2018.

Water Management Organizations (WMO's)

Sunrise River and Upper Rum River WMO:

Councilperson Harrington is recommended for appointment as the Council Liaison for the SRWMO and the URRWMO for 2018.

Committee Assignments

Cedar Creek Joint Advisory Committee:

Per City Council approval of a revised Memorandum of Understanding on April 15, 2015, no appointment is needed for this body.

Sandhill Crane Committee:

Councilperson Harrington served as the liaison to this committee in 2017 and is recommended for re-appointment to this Committee for 2018.

Finance Committee: Mayor Voss will serve on this Committee and an additional Councilperson will need to be named.

Booster Day Committee: Councilpersons Harrington and Ronning served on this Committee in 2017. For 2018, two Councilmembers will need to be named at this meeting.

Anoka County-Blaine Airport Advisory Commission

City Council re-appointed Ed Fiore as the official City member on January 6, 2016 for a term of two years. Mr. Fiore's appointment is set to expire on January 31, 2018. Council is also requested to appoint an alternate member. Councilperson Plaisance served as the alternate member of this committee in 2017.

Ed Fiore is recommended for re-appointment as the East Bethel Commission Member to the Anoka County-Blaine Airport Advisory Commission for a term of two years with the expiration of the term to be January 31, 2020.

Davis noted other appointments as alternates can be considered at this meeting.

North TH 65 Highway Coalition

It is recommended that Mayor Voss and the City Administrator be appointed to the Coalition. An additional Council Member can be appointed as an alternate for Mayor Voss.

Recommendation 1: Mayor Voss has recommended the appointments as listed in Attachment 1 and described above and requests approval from Council for these appointments.

Mundle stated I'll make a motion to approve the appointments as presented and described in Attachment 1. Plaisance stated second. Voss asked any discussion?

Voss noted he believed it was good for the Councilmembers to shift around on their appointments, so everyone knew what the Commissions did. He believed this would make the Council more rounded.

To the motion, all in favor say aye. **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

8.0G.1
Commission
Liaison and
Committee
Appointments

Davis reviewed Recommendation 2: Assignment of two appointments to the Booster Day Committee, one appointment to the Finance Committee, appointment of an alternate(s) to the Anoka County-Blaine Airport Advisory Commission, and an alternate to the North TH Hwy 65 Coalition are requested for consideration by Council.

Voss stated he would like to have the discussion before making a motion. He noted traditionally he has not made these appointments because he wanted to make sure who really wanted to be on these Committees.

Mundle stated he would volunteer to be on the Booster Day Committee, Finance Committee, and the alternate to the Highway 65 Coalition. Voss asked if anyone else wanted to be on the Booster Day. Harrington stated he would volunteer to be on the Booster Day Committee and the Finance Committee.

Davis asked if anyone wanted to be the alternate to the Anoka County-Blaine Airport Advisory Commission. Plaisance stated he liked the idea of Mundle being the alternate to the Highway 65 Coalition because he was the alternate if Mayor Voss was not at a meeting. He volunteered to be the alternate to the Anoka County-Blaine Airport Advisory Commission unless someone else wanted to be the alternate.

Plaisance stated I'll make a motion to appoint Harrington and Mundle to the Booster Day Committee, Harrington to the Finance Committee, Mundle as the alternate to the Highway 65 Coalition, and Plaisance as alternate on the Anoka County-Blaine Airport Advisory Commission. Mundle stated I'll second. Voss asked any discussion? To the motion, all in favor say aye. **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

9.0 Other
9.0A
Staff Reports

Davis stated there would be an HRA meeting prior to the Council meeting on January 17, 2018.

9.0B
Council
Report
Member
Harrington

Harrington reminded everyone of the Waffle Breakfast and Bake Sale on January 27, 2018. There would also be a helicopter coming in at 9:00 a.m.

Council
Member
Mundle

Mundle stated he was looking forward to this year and believed a lot of positive things were going to happen.

Council
Member
Ronning

Ronning had no report.

Council
Member
Plaisance

Plaisance had no report.

Mayor Voss

Voss believed this would be an interesting year and if the economy kept improving, good things would happen.

9.0C
Other

None.

9.0D
Closed
Session –
Purchase or
Sale of Real
Property
Minn. §
13D.0 3(c).
PID #
17-33-23-42-
0009

Vierling stated, for the benefit of the record, the City Council is about to go into Closed Session to review issues with the possible purchase or sale of real property within the City. Affecting PID # 17-33-23-42-0009 as recommended by legal counsel. This Closed Session will be tape recorded as required by Statute. The Council will come back into Open Session after having concluded its Closed Session and announce if there are any actions taken during the course of the Closed Session. With that being said, Mr. Mayor, I recommend that a motion be made to go into Closed Session for the purposes I've indicated.

Move to
Closed
Session

Plaisance stated make a motion to go into Closed Session at 8:57 p.m. for the purposes that City Attorney's indicated. Harrington stated I'll second. Voss asked any discussion? All in favor say aye? Voss asked any opposed? **Harrington, Plaisance, Ronning and Voss - Aye; Mundle - Abstain; motion passes.**

Reconvene
Open Session

Vierling stated thank you Mr. Mayor. For the benefit of the public and for the record, we note the Council's back into Open Session after having concluded a Closed Session conducted under Minn. Statute §13D.0.3(c) reviewing issues with the possible purchase or sale of real estate affecting PID #17-33-23-42-0009.

Vierling noted the Closed Session was attended by all members of Council with the exception of Councilmember Mundle who recused himself from the meeting. It was also attended by City staff in the form of City Administrator Jack Davis, professional consulting staff being City Engineer Craig Jochum, and himself as City Attorney. He indicated the Council began the closed session at 9:01 p.m. and concluded it at 9:30 p.m. He stated Council reviewed issued presented issues by staff and during the closed session a

Motion was made by Councilmember Plaisance, seconded by Harrington to authorize and direct the staff to review the site and begin discussions and negotiations with the property owner. The motion passed unanimously.

**10.0
Adjourn**

Harrington stated I'll make a motion to adjourn. Plaisance stated I'll second. Voss asked any discussion? To the motion, all in favor say aye. **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

Meeting adjourned at 9: 30 p.m.

Submitted by:
Kathy Altman
TimeSaver Off Site Secretarial, Inc.