

REGULAR BROOKLYN PARK CITY COUNCIL MEETING

Monday, March 25, 2019
7:00 p.m.

Brooklyn Park Council Chambers
5200 85th Avenue North

CALL TO ORDER – Mayor Jeffrey Lunde

PRESENT: Mayor Jeffrey Lunde; Council Members Tonja West-Hafner, Susan Pha, Terry Parks, Mark Mata, Wynfred Russell and Lisa Jacobson; City Manager Jay Stroebel; City Attorney Jim Thomson; Community Development Director Kim Berggren; Police Chief Craig Enevoldsen and City Clerk Devin Montero.

ABSENT: None.

Mayor Lunde opened the meeting with the Pledge of Allegiance.

2A RESPONSE TO PRIOR PUBLIC COMMENT

City Manager Stroebel stated there was one public comment at the March 11 meeting related to a clarification on the definition of a distribution center versus a fulfillment center in the North Park Business Park. He stated he was following up on that and would be getting back to the resident. He stated that staff's update was that the provision regarding distribution had not changed for the North Park Business Park. If there were future applications to call that into question of the definition or application of the conditions of approval, they would be addressed at that time.

2B PUBLIC COMMENT

1. Collette Guyott-Hempel, 9277 Trinity Gardens. Concerned about 93rd Avenue and safety issues. Stated people were still not stopping at the 4-way stop and there was a gas pipeline sign that was hit in an accident. She stated potholes were like a washboard at 101st and from Zane to Regent and between Regent and Noble. She stated that northbound from Regent Parkway between 92nd Crescent and 93rd Avenue was a washboard too. She stated that people were not stopping because they were not bothering to stop at stop signs. She stated the fire trucks coming from the North Station were having to honk besides the sirens to give them the right of way at times. She stated the racers are back along 93rd Avenue. She stated that most people in the neighborhood, 10 had been in their homes for over 20 years and had given up on the Council because it took four of the Council to decide making it safe for pedestrians and bicyclist. She stated there was a teenager with a backpack walking in the snow and there was no shoulders on that road and no sidewalks and expected to compete with cars going 50 miles per hour. She stated that on average there were 750 cars going 60 plus miles per hour on that road in the summer. She asked the Council to do something about it, either the speeding or finishing off that road.

3A. MOTION WEST-HAFNER, SECOND JACOBSON TO APPROVE THE AGENDA AS SUBMITTED BY THE CITY CLERK. MOTION PASSED UNANIMOUSLY.

4.0 MOTION WEST-HAFNER, SECOND JACOBSON TO APPROVE THE FOLLOWING ADMINISTRATIVE CONSENT ITEMS:

4.1 TO WAIVE THE READING AND ADOPT RESOLUTION #2019-47 ACCEPTING BIDS AND AWARING CONTRACT IN THE AMOUNT OF \$2,813,611.03 TO NORTHDAL CONSTRUCTION COMPANY, INC. OF ALBERTVILLE, MINNESOTA FOR 2019 STREET RECONSTRUCTION PROJECT, CIP 4003-19.

4.2 TO RELEASE THE TRAVELERS SUBDIVISION PERFORMANCE BOND #106737137 (\$1,309,100), REDUCE THE CASH BOND BY \$63,900 AND REDUCE THE ENGINEERING ESCROW BY \$43,000 FOR SATISFACTORY PROGRESS OF THE "CSM BUILDING #2 – 610 COMMERCE CENTER 4TH ADDITION" PROJECT #17-103 LOCATED AT 9350 WEST BROADWAY FOR CSM CORPORATION.

4.3 TO APPROVE AN OFF-SALE 3.2 PERCENT MALT LIQUOR LICENSE FOR KNOWLAN'S SUPER MARKETS, INC DBA FESTIVAL FOODS, 8535 EDINBURGH CENTER DRIVE NORTH.

4.4 TO APPROVE A TEMPORARY ON-SALE LIQUOR LICENSE FOR BROOKLYN PARK LIONS BEER TENT AT TATER DAZE TO BE HELD JUNE 14-15, 2019 IN THE PARKING LOT OF THE COMMUNITY ACTIVITY CENTER, 5600 85TH AVENUE NORTH.

4.5 TO WAIVE THE READING AND ADOPT RESOLUTION #2019-48 TO APPROVE THE COOPERATIVE AGREEMENT FOR THE POLICE MENTAL HEALTH INITIATIVE.

4.6 TO APPROVE THE MINUTES OF THE BROOKLYN PARK CITY COUNCIL MEETING OF JANUARY 8, 2018, AS PRESENTED BY THE CITY CLERK.

4.6 TO APPROVE THE MINUTES OF THE BROOKLYN PARK SPECIAL CITY COUNCIL MEETING OF MARCH 5, 2018, AS PRESENTED BY THE CITY CLERK.

4.6 TO APPROVE THE MINUTES OF THE BROOKLYN PARK BOARD OF APPEAL AND EQUALIZATION MEETING OF APRIL 9, 2018, AS PRESENTED BY THE CITY CLERK.

4.6 TO APPROVE THE MINUTES OF THE BROOKLYN PARK SPECIAL CITY COUNCIL MEETING OF APRIL 30, 2018, AS PRESENTED BY THE CITY CLERK.

4.6 TO APPROVE THE MINUTES OF THE BROOKLYN PARK CITY COUNCIL MEETING OF JANUARY 14, 2019, AS PRESENTED BY THE CITY CLERK.

4.6 TO APPROVE THE MINUTES OF THE BROOKLYN PARK CITY COUNCIL MEETING OF FEBRUARY 4, 2019, AS PRESENTED BY THE CITY CLERK.

MOTION PASSED UNANIMOUSLY.

5.1 City Engineer Jesse Struve briefed the Council on the improvements and preparation of plans and specifications for the Construction of the Highway 169 / 101st Avenue Interchange, CIP 4042-19.

5.1 Mayor Lunde opened the public hearing to consider the improvements and preparation of plans and specifications for the Construction of the Highway 169 / 101st Avenue Interchange, CIP 4042-19.

5.1 The following individuals addressed the Council:

1. Joe Boyd, 8601 101st Ave N., lead pastor of Grace Fellowship Church. He stated that as a church, the location was very vital and when they selected the location of the site they felt it was a good move because it had two entry points off of 101st Avenue. He stated that in the new proposal, they were no longer going to have two entry/exit points and had one point with a change of address on new street.

He stated it created a great concern because they had thousands of people that went to the church. He stated they wanted to make sure they had entry points that were safe in and out and wanted to continue to serve the community in the same fashion they had. He stated the second thing was in the change of the address. He stated it changed their visibility and signage situation. With the new position, it was now being blocked by a ramp and it changed their name for visibility. He stated they had to have visibility and had to have signage, so people could find it, and get to exactly where they were going. He stated he was just asking for them to have a fair consideration that when they made the shift, it would make sense to extend that access road, Xylon, down and give them two entry points in exchange for the two entry points that were being taken away from them.

2. Mason Schmitz, 4713 107th Ave N., wanted to address the assessments. He stated the slide shown that in 2011 the full access off 101st Avenue was closed and that cutoff half of the access for people to get to the Crossroads Church. He stated they were not right on the highway and were back in the woods and hard to find them, but it made it hard for people to get to them because they couldn't get there off Highway 169. He stated that on the assessment process, they had three operating churches in that area that used to utilize that interchange and were all proposed to be assessed. He stated building that bridge was only restoring what was taken away from them. It was not benefitting them but only restoring what already had been taken away eight years ago. He stated their church was not big and ever since that happened, the church lost half of the people. He stated they did not have 100 members and the \$60,000 assessment for the church, they could not pay for that. He asked the Council to look at what they could do as a Council to help out all of those churches who had continued to operate since the access was taken away.

5.1 Mayor Lunde closed the public hearing and returned the item back to the table.

Council Member Jacobson stated she was concerned about those churches being tax exempt and were going to be assessed equally with all the other businesses. She asked if they were able to pull them out of the equation.

City Engineer Struve stated that under the 429 process, that once they defined a boundary for benefit, they could exclude certain properties in that benefit area. He stated that once they had that defined boundary all properties in there, they needed to be treated equally.

City Attorney Thomson stated they had to treat all similarly situated property the same and were some leeways. For example, it might be fair to assess certain property on a square footage basis, others on a front footage basis. He stated that as long as they treated the same type of property the same, treated all residential the same and all commercial the same, but to exclude parcels they would need to take a much closer look at that at the assessment stage. He stated if it was determined that a particular parcel of land wasn't benefitted by the amount of the assessment, they couldn't assess it or they couldn't assess all of it. He stated it was too premature to decide that now but possible that institutional property might not be benefitted the same way as commercial property. He stated they didn't know that right now and it would not be appropriate to at least exclude them in the proposed assessment area. He stated that how much was fair and reasonable was something to be determined at the next stage.

Council Member Jacobson clarified that tonight they were voting on the entire piece of area but they could come back and have the conversations of exclusion of the institutional pieces later.

City Attorney Thomson stated they had to be careful on using the word exclusion. He stated the item before the Council tonight was whether the Council wanted to go forward with the project and that was the decision before the Council tonight. He stated the assessment issue came later but as proposed right now, they could see what the proposed assessments were but were not carved in stone. He stated they could be changed but they had to be done fairly and uniformly.

Council Member Jacobson stated that her understanding of the value of the properties would increase by the proposed interchange.

City Engineer Struve stated when they said benefit, the benefit was access to the highway and how that improved property values of the parcels and that was where the benefits to the property was through the improved access to the highway.

Council Member Jacobson stated that if a change of address and the change of access was not actually proven to be a benefit specially to institutional properties, the property value most likely was not going up.

City Engineer Struve stated they would have to have more conversations with the city attorney on how some of the other properties were perceived as benefitted and what was a fair and reasonable cost associated with that benefit.

Council Member Jacobson stated she was concerned about the tax exempt properties because they were a religious institution, and were now going to be forced to pay at the same as large companies who were not tax exempt because the property values were going to go up. She did not agree those properties would be improved by the interchange and the access might not be better but might be worse and was concerned about that.

Council Member Mata stated the Gita Ashram Church at Oxbow Creek and Noble Avenue, when the City wanted to put a trail sidewalk on the northside of the street, it abutted their property. They came with attorneys and presented the City with a lawsuit and said they were an institution that did not pay taxes to the city and putting a sidewalk there did not benefit their parishioners. He stated they owned a large piece of land that surrounded their facility and parking lot and the thought was that maybe down the road they would sell that property and put

in something different because of how the land was set. He stated that out of the whole assessment that went on Oxbow Creek, they were not assessed taxes and was confused how they thought about assessing those three different properties. He stated he didn't think the laws had changed on nontaxable entities and what they were proposing to build was not something that was going to benefit them. He stated it was not on their property and instead of pushing it back and thinking about it, he was saying it couldn't be done. He stated all they had to do was just say they were thinking of presenting a lawsuit to the attorney of the City and it would change.

City Engineer Struve provided a history on the Gita Ashram parcel in 2003. He stated that property was assessed \$208,877 and was broken down to \$117,000 for street improvements, \$17,000 storm sewer, \$35,000 sanitary sewer, and \$38,000 for watermain. He stated ultimately there was a lawsuit filed and the result of that was that Gita Ashram paid \$87,000 in 2006 and the remaining balance of \$121,000 was still going to be repaid if they redeveloped that property and got paid immediately. He stated they had an opportunity to extend it at zero interest until the balance was due on March 1, 2015 but they also had an opportunity to extend it 10 years and exercised that option. He stated that remaining balance of \$121,000 was due on March 1, 2025.

Council Member Mata stated they were a nontaxable entity and did not pay county, school, and city taxes. He asked if the City was going to win a lawsuit against that entity when that 10 years expired. He asked how much money it would cost the City to do that over the \$100,000 they would owe.

City Attorney Thomson stated the Gita Ashram Church followed the exact same process that would be followed in this case later on when the assessments were levied against the churches. He stated it was a special assessment appeal and the fact that an entity didn't pay property taxes didn't exempt them from special assessments and were not considered taxes because they were based on increased value of the property. He stated nonprofit, nontaxable groups, be it a church or any other type of nonprofit, still needed to pay assessments. He stated the question was, was the property benefitted in the amount of the assessment and that had to be determined by looking at the exact property whether owned by a church or anything else. He stated in the Gita Ashram situation, the City settled that case and entered into a binding agreement by which they paid a portion, deferred a portion until 2015, and the city had a binding settlement agreement with them. He stated if they didn't pay it they were in breach of the settlement and the City didn't have to go through the benefit analysis all over again because they already agreed to that. He stated they did agree to pay \$80,000 whether they receive a similar appeal from the church or from any other properties, they couldn't predict that right now and had to wait and see what the assessments came down at.

Council Member Mata asked about the TIF district 3 and what area of city did that encompass because that was where they were pulling out the remainder of \$4.5 million.

City Engineer Struve stated that 101st Avenue was the boundary and the amount to be financed for the project was from \$400,000 to \$3.9 million depending on the gap funding.

Council Member Mata stated that in a TIF district, if a business inside the TIF district had to pay a third of taxes, a third goes to the school, a third goes to the County and third goes to the City. He asked if the portion of his third of taxes for the City got pulled out of his property taxes and put in the TIF District.

Community Development Director Berggren stated what he described was accurate for the use of TIF. She stated that in that situation they were using TIF District 3 funds, which was a pool of TIF cash that had been accumulated over time across the City. She stated it was an old district that dated back to 1989. She stated it was a different situation than what they would traditionally consider a TIF. She stated it would be considered similar to the EDA General Fund in the sense they had a pool of cash that had been saved up over time and could spend it in that manner. She stated the reference to district and geography was actually referenced to a different type called a Development District and that was a geography where they could spend pooled TIF funds and was not an actual TIF district in a traditional sense.

Council Member Mata stated he knew it needed a two thirds majority, 6 to 1. He stated he would be the one who would vote no to the project. He felt they were prematurely building it. He suggested a stop light on 101st and was no different than the six stop lights that were running through Champlin. He stated there was no point to put a bridge and assess everyone for it in the area. He stated they had a bunch of farmers farming the land, St. Stevens owned land and was a large piece of land that was the trail for Three Rivers Park District. He stated he was confused why they were jumping to build something when there was nothing there. He stated they could assess everyone and then the project could sit there for 10 to 20 more years and there was a bridge that was built and not being used. He stated Maple Grove would use it and 101st Avenue went across Maple Grove. He stated that 101st Avenue stopped at Winnetka and was not going any further and going to connect to other roads. He stated that was why Jefferson Highway was supposed to be a bridge, on and off of TH610 when TH610 came through. He stated the Brooklyn Park residents were faced with burden of a bridge as opposed to Maple Grove having half of it if when it was supposed to be put at Jefferson Highway and TH610. He thought 105th Avenue or the road that played out and came out on Highway 169 needed to be a stop light and over use the stop light. He stated that once it was over used, then they could build a bridge. He stated right now they had no idea what the traffic was going to be, who was going to use it and there was no end user to charge them.

He stated that on the Grace Fellowship Church access, he asked if there was an easement toward Winnetka at all or anywhere through the back. He looked at Google maps and could see a dirt road that came up on the south end and didn't know if that was private property or if there was an easement there, but somewhere so that they could put the two cuts back if six votes took away one of them. He stated if there was a second easement, they could do something to help them out because they were big and growing. He stated he was a no vote on it.

Council Member Parks stated he would vote for it tonight to move it forward. He stated one of the comments that was made was that they were assessing those benefitting from project and had yet to figure out how the churches would be benefitting by the project. He stated when they came back and talked about the assessments, he wanted to know other options besides the assessments so they had everything in order to look at and if there was EDA funds they could use. He just wanted to make sure they were doing the right thing. He stated the project started out with \$32 million and got it down to \$28 million and had \$3 million left.

5.1 MOTION LUNDE, SECOND PARKS TO WAIVE THE READING AND ADOPT RESOLUTION #2019-49 ORDERING IMPROVEMENTS AND PREPARATION OF PLANS AND SPECIFICATIONS FOR THE CONSTRUCTION OF THE HIGHWAY 169 / 101ST AVENUE INTERCHANGE, CIP 4042-19.

Mayor Lunde stated tonight was to get the project moving and shared sentiments of the Council to find ways to pay for it. He stated they had a \$32 million bill and thanks to staff who found \$23 million and also found a way to save a million. He stated that spoke to their desire to make it as cheap as possible. He stated at one point they looked at it being \$16 million that the City would have to come up with.

He stated that one reason to plan for development in advance was that when development came, the City was ready. He gave the example of Olympus who made the decision to come to the City because they could be in the ground as soon as possible, have the place up and running in six months; if not for that, they would not have come to the city. He stated that having those plans, companies make decisions and were not going want to wait for four years for the City to get funding from the state government to get grants to find out what the plans were going to be. He stated they would just go somewhere else. He stated they knew it had been the plan for many years and was how to get development in there. He stated he was keen on lowering people's tax burden by bringing in corporate users. He stated the City depended on residents for too many of their tax dollars. The City was heavy on residential and the only way to try to fix that was to bring in more corporate users.

He stated that on 101st Avenue, it wasn't a safe intersection and looked at opening up that intersection again and restoring it because people could go north and south and get off at 101st Avenue to both sides and not just to one side. He thought it would be a good thing and was fine with the process and the assessment was a different piece and would have to address it.

Council Member Russell asked if they figured out how much the church was going to be assessed. He stated he was conflicted about it and was also willing to move the process forward and see if there was any way to reduce or eliminate the burden of tax exempt on the religious institutions.

City Engineer Struve stated that the proposed assessment was based on \$3.5 million if it was fully assessed. He stated the Grace Fellowship Church had an assessment of \$121,758.49, Crossroads Church, \$60,117.72, and the other church was in the \$2,000 range.

Council Member Pha stated she would vote for it to move it forward. She stated it would benefit all of the properties and parcels in the area. She stated she understood about the churches on how it benefited them and the tax amount and was open to more discussions on it. She stated she believed if all parcels were benefitting from that interchange that all needed to participate on the cost of the interchange. She stated the church and all properties would have access to Highway 169 and TH 610 but was open to that discussion to see what could be done.

Mayor Lunde called for a roll call vote.

5.1 THE MOTION PASSED ON A ROLL CALL VOTE AS FOLLOWS: YES – PHA, WEST-HAFNER, RUSSELL, JACOBSON, PARKS, LUNDE; NO – MATA.

6.1 Planning Director Cindy Sherman briefed the Council on the Replat #19-103 of Current Residential Property to Add New Land Acquired from the City at 10214 Regent Avenue North.

Council Member Mata stated he was not going to support the motion to give the parcel of land

because in previous discussions they had with that piece of land, he voted against what they were no going to do. His thought was to give the homeowner all the land up to the trail. He stated there was no reason for the City to own a sliver of land on two sides of the trail because then the homeowner would now own the land to the trail. He stated there were other neighborhoods they had in the City that touched sidewalks and they didn't occupy land on the side of them. He stated if the City was into maintaining that land and had so much resources into it, they would have known long time ago that a fire pit on the patio was built on the property of the city. He stated he would rather give it all back to the abutting owners, which meant Outlot A would go back to the owner; then the trail had another piece of land on the other side of it that was not colored on the map, and would go over to that owner. He stated it was worthless land in the City's hand when it could be used to upgrade a resident's land and then the City could tax them at the end of it because it was a bigger piece of land. He stated that was why he would vote no on it and wanted the City to give all the land back.

6.1 MOTION JACOBSON, SECOND WEST-HAFNER TO AUTHORIZE THE MAYOR AND CITY MANAGER TO ENTER INTO A PURCHASE AGREEMENT FOR SALE OF CITY PROPERTY ADJACENT TO 10214 REGENT AVENUE NORTH. MOTION PASSED. (6 TO 1) MATA VOTED NO.

6.1 MOTION JACOBSON, SECOND WEST-HAFNER TO WAIVE THE READING AND ADOPT ON FIRST READING AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CITY OWNED PROPERTY. MOTION PASSED UNANIMOUSLY.

6.1 MOTION JACOBSON, SECOND WEST-HAFNER TO WAIVE THE READING AND ADOPT RESOLUTION #2019-50 APPROVING PRELIMINARY PLAT OF "WINDCHIME TRAIL 4TH ADDITION" SUBDIVIDING 1.6 ACRES INTO ONE SINGLE-FAMILY LOT AND ONE OUTLOT AT 10214 REGENT AVENUE NORTH. MOTION PASSED UNANIMOUSLY.

7.1 Mayor Lunde briefed the Council on the appointment correction to the Budget Advisory Commission. He stated he nominated the wrong person for selection. He stated they had had a tie in the East District, however, the person they were appointing tonight received a vote as an at large member. He stated that under the rules, they had three East District votes for one and three East District votes for the other which was a tie. He stated that traditionally he always nominated the incumbent because they could be up and running. He stated the person they were appointing tonight actually received a fourth vote but in different category and the only thing to do was to fix it. He stated he did leave messages to both applicants to talk about it.

He thought the Council might want to consider getting rid of the district requirement and make everyone at large and would be a conversation for another time.

7.1 MOTION LUNDE, SECOND PARKS TO APPOINT TRELAWNY GRANT TO THE BUDGET ADVISORY COMMISSION REPRESENTING THE EAST DISTRICT EFFECTIVE APRIL 1, 2019 FOR A THREE-YEAR TERM TO EXPIRE APRIL 1, 2022.

Council Member Pha stated they had multiple commissions and people applied for multiple commissions and the voting system they had in place became very complex. She suggested the Council look at the way they appointed commissioners, their voting system and see if they could find a better way of doing that.

7.2 THE VOTE ON THE MOTION PASSED UNANIMOUSLY.

9A COUNCIL MEMBER REPORTS AND ANNOUNCEMENTS

Council Member Mata asked the City Manager if he had spoken to the person who gave public comment at the last meeting prior to updating the Council tonight.

City Manager Stroebel stated in that staff had not and spoke with Planning Director Sherman this afternoon to see if they followed up with the resident. He stated he tried to make it a priority to follow up to ensure staff followed up with the residents soon after they gave their public comment and then come back and report to the Council. He stated they had not follow up yet and their intention was to reach out to the resident with clarification regarding their question. He stated, normally the appropriate staff in the back of the room would follow up with the resident after they were done speaking at the podium.

Council Member Mata thought it was something they should formalize if they were going to have public comment. He stated staff had not spoken to that person and if that person came back and commented again, they were out three more weeks to bring back a concern they had. He stated if the Council was going to allow public comment, their voice needed to be heard, and if it didn't happen, they were allowed at the next week meeting to come back and speak again to the Council. He stated he would like to formalize something, so they could make sure that it happened.

9B CITY MANAGER REPORTS AND ANNOUNCEMENTS

City Manager Stroebel stated the North Metro Mayors Day at the Capitol was last week and had a very good afternoon visiting with several of the City's state delegation. He appreciated the North Metro Mayors taking the leadership in that work and stated it was good to advocate on what Brooklyn Park was interested in getting out of the session.

He stated that a couple days ago Council Member Jacobson, staff and himself met with a couple of food truck vendors to discuss how the City could be more of a food truck friendly community. He stated he didn't think they were completely out of par relative to the other comparable cities. He stated there were some ideas that came out of the conversation that staff was going to look into. He stated he brought it up to the rest of the Council's attention because if that was something that anyone had concerns about or supportive of, he would want to hear about it from the other Council Members because there would be a fair amount of staff involved and a number of departments looking into it.

He provided other events in the city:

- Thursday, April 4, from 10:00-11:30 a.m. was the Employee State of the City at the North Hennepin Community College.
- Thursday, March 28, was the Brooklyn Park Community Assembly in the Council Chambers at 5:45 p.m. to talk about the River Park and the Fire Department Strategic Plan.
- Wednesday, April 3, at 5:15 p.m. was the Commissioners Orientation in the Council Chambers.
- Thursday, April 4, from 6:30-8:00 p.m., at Park Center High School, a neighborhood

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open house in the Forum Room 18H to discuss the potential changes to their internal road network and the potential of the new practice fields and possibility of adding lights and dome at Park Center.

Mayor Lunde stated he would be adjourning the meeting but the Council would reconvene in a Work Session in the Steve Lampi room. He stated that session was audio recorded and not televised.

ADJOURNMENT – With consensus of the Council, Mayor Lunde adjourned the meeting at 10:20 p.m.

JEFFREY JONEAL LUNDE, MAYOR

DEVIN MONTERO, CITY CLERK